

The Position of the Notary Supervisory Council in the Indonesian State Administration System

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ABSTRACT

This research aims to critically analyze and examine the position of the Notary Supervisory Council (Majelis Pengawas Notaris or MPN) within the state structure of the Republic of Indonesia, in accordance with the 1945 Constitution of the Republic of Indonesia. This article addresses an academic gap by providing an in-depth analysis of the MPN's position from the perspective of constitutional law and the separation of powers (trias politica), which previous studies have overlooked in favor of technical operational aspects or state administrative law. The methodology employed is normative legal research, utilizing statutory and conceptual approaches. Primary legal materials analyzed include the 1945 Constitution, the Law on the Notary Profession, and the Law on Government Administration, supported by secondary and tertiary legal materials. The status of the MPN is considered *sui generis* and fraught with paradoxes. Institutionally, the MPN is established through ministerial attributive authority; however, the form of authority delegation is unclear (delegation or mandate), creating legal uncertainty. Furthermore, the MPN is classified as a state administrative body/official, but its ambiguous legal status affects accountability and budgeting, resulting in supervisory inefficiencies. The MPN's unclear position within the state system may create conflicts of interest, as the executive supervises a judicial function (notaries), and hinder the realization of good governance. Therefore, reaffirming the MPN's legal status through regulatory revision is necessary to ensure legal certainty and effective supervision.

Introduction

A foundational legal document, often referred to as a constitution, is an essential requirement for the establishment and advancement of a sovereign state.¹ Because the aspiration for constitutional government is nearly universal among nations, the constitution emerged at the inception of global civilization as the

¹ Daniel Nkosingithi Mlambo and Mashupye H. Maserumule, "Constitutional and Legislative Frameworks for the Local Sphere of Government in South Africa: Analytical and Interpretive Perspective," *Insight on Africa* 16, no. 2 (July 26, 2024): 211–29, <https://doi.org/10.1177/09750878231211887>.

fundamental structure for political engagement.² The Constitution of Indonesia serves a dual purpose, functioning not merely as a legal document but also as a reflection of the nation's historical and political evolution.³

As the highest source of law within a state, a constitution does more than establish organs of government; it also defines the state's obligation to guarantee legal certainty and protection for its citizens through the institutions and public officials it recognizes. Within this constitutional framework, the notarial profession occupies a distinctive position. Although notaries are not civil servants in the strict administrative sense, the state appoints them and entrusts them with the authority to produce authentic deeds carrying binding evidentiary force under the law. Because exercising this authority directly affects the legal certainty and rights of citizens that the constitution is designed to protect, the state retains a constitutional interest in overseeing and supervising how notaries perform their public functions. It is against this backdrop, linking the constitutional guarantee of legal certainty to the concrete regulation of a public-facing legal profession, that Indonesia's specific statutory framework for the supervision of notaries can be understood.

Indonesia holds the distinction of being the world's largest archipelagic nation. With a populace exceeding 250 million individuals, it is recognized as one of the most ethnically varied societies within Southeast Asia. Additionally, it is considered one of the few relatively stable and functional democracies in this region.⁴ A form of democracy in Indonesia is the enactment of Law Number 30 of 2004, which was comprehensively amended by Law Number 2 of 2014 concerning the Notary Profession, regulating the entire scope of notary activities.

The notary, as the sole public official authorized to create deeds under the provisions of the Notarial Office Regulations, is no longer referenced in the Notarial Office Law. The inclusion of the phrase "solely" to denote general authority was not carried over to other officials.⁵ All other officials possess limited authority, meaning their powers do not extend beyond the creation of authentic deeds explicitly assigned to them by law.⁶

² Hirschl, "The Political Origins of the New Constitutionalism," *Indiana Journal of Global Legal Studies* 11, no. 1 (2004): 71, <https://doi.org/10.2979/gls.2004.11.1.71>.

³ Maghfira Nur Khaliza Fauzi, "Reflection of Political Law in the Development of State Constitution in Indonesia," *Constitutionale* 4, no. 1 (March 30, 2023): 71–84, <https://doi.org/10.25041/constitutionale.v4i1.2949>.

⁴ Holly Ann Garnett and Toby S. James, "Electoral Backsliding? Democratic Divergence and Trajectories in the Quality of Elections Worldwide," *Electoral Studies* 86 (December 2023): 102696, <https://doi.org/10.1016/j.electstud.2023.102696>.

⁵ Noelle Higgins, Delia Ferri, and Katie Donnellan, "Enhancing Access to Digital Culture for Vulnerable Groups: The Role of Public Authorities in Breaking Down Barriers," *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique* 36, no. 5 (October 18, 2023): 2087–2114, <https://doi.org/10.1007/s11196-022-09959-6>.

⁶ 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 21, 2024): 821, <https://doi.org/10.22373/sjhk.v8i2.17276>.

A notary as a public official appointed by the government has the authority to make an authentic deed, this authentic deed is a perfect evidence, where its perfection does not require additional evidence, unless the deed has been proven otherwise by the court. Because of the authority to make authentic deeds, notaries have quite a large influence in society as legal profession implementers in the field of legality and/or making deeds regarding all actions and agreements.⁷

From the inception of the Notary profession in Indonesia, regulatory oversight of Notaries has been consistently administered by judicial and governmental bodies. This supervisory function is intended to ensure that Notaries, in the execution of their responsibilities, adhere to all requisite standards pertaining to their professional duties. The objective is to safeguard public interests, as Notaries are appointed by the government not for personal gain, but rather to serve the populace.⁸

Considering the vital role of Notaries in the foundations of community life as mentioned above, Notaries in carrying out their duties and positions must always be supervised so as not to harm the community. Supervision of notaries in Article 67 of the Notary Position Law states that supervision of Notaries is carried out by the Minister, namely the Minister of Law and Human Rights. However, in carrying out supervision, the Minister forms a Notary Supervisory Council (Majelis Pengawas Notaris), including the Regional Supervisory Council (MPD) for the regions, Regional Supervisory Council (MPW) for the provinces, and the Central Supervisory Council (MPP) for the center. Each Majelis Pengawas Notaris member consists of 9 (nine) people from: 3 (three) people from the government, 3 (three) people from the notary element and 3 (three) people from the academic element.

Research on the Notary Supervisory Board has been conducted by different academics, utilizing diverse methodologies and investigative perspectives. It is crucial to contextualize the recent advances in previous studies to determine the uniqueness and innovative contribution of the research to be implemented.

An analysis by Dwi Suryahartati and Jefri Mahardika, titled “Reforming the Legal Framework of Notary Supervision in Indonesia: Towards a Digital Governance Model” indicates that Indonesia's current legal and institutional framework for notary supervision, as stipulated by Law No. 30 of 2004 and Law No. 2 of 2014, establishes a formal, hierarchical structure through the three tiers of Supervisory Institutions MPD, MPW, and MPP.⁹ These organizations are assigned responsibilities for both proactive and corrective oversight duties. However, their

⁷ Ratih Mega Puspa Sari et al., “The Role of Notaries in Civil Agreements Legality and Validity of Deeds,” *Jurnal Hukum Dan Keadilan* 2, no. 3 (April 28, 2025): 13–27, <https://doi.org/10.61942/jhk.v2i3.321>.

⁸ Rina Ariesandy, “The Role of the Notary as a Public Official in Ensuring the Fulfillment of Individual Constitutional Rights,” *Nurani Hukum* 8, no. 2 (October 29, 2025): 239, <https://doi.org/10.51825/nhk.v8i2.35546>.

⁹ 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 30, 2025): 89–110, <https://doi.org/10.14421/2xx8sn14>.

continued reliance on traditional, manual, and fragmented processes impedes their efficacy, openness, and collaborative efforts. Although the normative framework for regulatory oversight is adequate, its implementation is primarily administrative and procedural, lacking substantial integration of technological or data-centric monitoring. As a result, the current system does not align with the contemporary governance principles and public transparency required in the current digital era.

A study conducted by Nurin Dyasti Pratiwi, Dominikus Rato, and Moh Ali was published in the *Journal of Syntax Transformation*, with the title "Otoritas Dewan Pengawas Daerah terhadap Pentingnya Penyimpanan Protokol Notaris sebagai Arsip Nasional"¹⁰ This study investigates in depth the authority of the Regional Supervisory Board (MPN) in the context of storing notary protocols, which are considered national archives. The main findings of this study indicate that the MPN's authority is an attribution authority explicitly delegated by the Notary Law (UUJN). While this study provides a valuable contribution to understanding one dimension of the MPN's authority, it does not address the MPN's constitutional position within the comprehensive framework of the state system.

A comprehensive review of the existing literature reveals that scholarly engagement with the MPN remains fragmented and, in several important respects, underdeveloped circumstances that lend substantial urgency to the present study. Three specific gaps can be identified.

First, no study to date has examined the MPN through the analytical lens of constitutional organ theory or the concept of state assistance bodies (*staats hulporganen*), leaving its institutional character theoretically unanchored within the broader architecture of the state. *Second*, the constitutional consequences of the ambiguity surrounding the legal basis of the MPN's authority whether it is properly understood as attribution, delegation, or mandate have not been systematically analyzed, despite the significant implications this ambiguity carries for the validity and accountability of the MPN's exercise of power. *Third*, existing research has yet to ground the MPN's institutional status within the principles of checks and balances and constitutional accountability, leaving unresolved questions about how the MPN is positioned relative to, and constrained by, other organs of state power. Taken together, these gaps indicate that the MPN's constitutional standing has not been examined with the theoretical rigor and doctrinal precision the subject demands underscoring the necessity of the present study.

This gap is particularly striking in light of a substantial and growing international literature on hybrid and auxiliary bodies that perform public oversight functions from a position outside the classical branches of government. Recent comparative scholarship on "guarantor institutions" explains that such bodies derive

¹⁰ Nurin Dyasti Pratiwi, Dominikus Rato, and Moh. Ali, "Kewenangan Majelis Pengawas Daerah Terhadap Urgensi Penyimpanan Protokol Notaris Sebagai Arsip Negara," *Jurnal Syntax Transformation* 3, no. 02 (February 23, 2022): 290–307, <https://doi.org/10.46799/jst.v3i2.511>.

their legitimacy less from where they sit in a formal separation of powers chart than from the structural safeguards ensuring their independence from the very actors they are meant to check.¹¹ Building on this insight, work on judicial councils has argued that oversight bodies exercising quasi-judicial functions increasingly warrant recognition as a distinct “fourth branch” of government, precisely because neither the executive nor the judicial category adequately captures their institutional character.¹² A related strand of accountability scholarship has developed frameworks for measuring the accountability capacity of independent oversight institutions, showing that formal independence and effective accountability are not opposites but mutually reinforcing design variables.¹³ Recent empirical work extends this claim, finding that regulatory agencies structurally insulated from the ministries they oversee tend to build greater stakeholder trust precisely because that insulation is what makes their accountability credible.¹⁴ A parallel review of a quarter century of accountability research in public administration confirms that this literature has matured methodologically even as its core theoretical question, how to reconcile independence with answerability, remains unsettled.¹⁵ None of this comparative and theoretical literature, however, has yet been brought to bear on the MPN, and Indonesian constitutional scholarship itself has only recently begun to catalogue state auxiliary organs systematically, without extending that catalogue to notarial supervision.¹⁶

There is a deficit in comprehensive and structured research concerning the position of the Notarial Supervisory Council within Indonesia's state apparatus. Existing studies tend to focus narrowly on the technical, operational, administrative, and notarial legal aspects, without conducting a thorough analysis from the perspective of the separation of powers (*trias politica*) and the constitutional framework stipulated by the 1945 Indonesian Constitution. Furthermore, no studies have examined the constitutional and legal ramifications stemming from the ambiguous standing of the Notarial Supervisory Council in relation to the principles

¹¹ Dinesha Samararatne, “An Umbrella Body for Guarantor Institutions: A Necessary Condition or a Strange-Creature?,” *Comparative Constitutional Studies* 2, no. 2 (December 31, 2024): 292–314, <https://doi.org/10.4337/ccs.2024.0027>.

¹² David Landau, “Courts Are Not Enough: Independent Accountability Institutions and the Protection of Democracy in the United States,” 2025, <https://doi.org/10.2139/ssrn.5165178>.

¹³ Minga Negash and Seid Hassan, “Rethinking Accountability in Developing Countries: An Institutional Pillars Perspective,” *Management Research Review* 47, no. 4 (February 26, 2024): 643–70, <https://doi.org/10.1108/MRR-12-2022-0892>.

¹⁴ Tia Abdulai Robert Aziz et al., “Building Stakeholder Trust in Regulatory Governance: Evidence from Ghana’s Public Utilities Regulatory Commission,” *Utilities Policy* 98 (February 2026): 102082, <https://doi.org/10.1016/j.jup.2025.102082>.

¹⁵ Yangyang Fan, “Accountability in Public Organization: A Systematic Literature Review and Future Research Agenda,” *Public Organization Review* 25, no. 1 (March 30, 2025): 295–310, <https://doi.org/10.1007/s11115-024-00792-y>.

¹⁶ Elita Rahmi et al., “The Crossroad of Notary Organizations in Indonesia: Is There Any Government Guidance and Supervision?,” *JAPHTN-HAN* 5, no. 1 (January 30, 2026): 67–94, <https://doi.org/10.55292/japhtnhan.v5i1.207>.

of checks and balances and legal certainty. This ambiguity has broad implications, affecting not only the efficacy of notary supervision but also the administration of justice, citizens' constitutional rights, and the overall structure of the rule of law.

More specifically, this deficit resolves into three concrete gaps. First, no prior study has examined the MPN through the theory of constitutional organs or state auxiliary organs, the framework Indonesian constitutional scholarship ordinarily uses to classify institutions that sit outside the seven principal constitutional organs yet exercise public authority. Second, no research has analyzed the constitutional consequences that follow from the unclear legal form, whether attribution, delegation, or mandate, of the authority the Minister confers on the MPN, even though this classification determines who bears legal liability and legal standing when an MPN decision is challenged. Third, no study has connected the MPN's ambiguous constitutional position to the principles of checks and balances and constitutional accountability, the very principles that determine whether executive supervision of a function that is substantively judicial in character can be reconciled with Indonesia's constitutional design. The discussion below addresses these three gaps in turn.

Based on an extensive review of existing scholarly works, the novelty of the research titled "The Position of the Notary Supervisory Board in the Indonesian State Administration System" does not lie in its adoption of a constitutional and state administrative perspective as such, but in the normative construction it develops from that perspective. Previous research has been compartmentalized, focusing on areas such as digital governance for notary supervision, the effectiveness of supervisory measures and sanctions, and the expansion of the Notary Supervisory Board's (MPN) authority. However, no prior study has comprehensively positioned the MPN within the framework of the separation of powers (*trias politica*) and the state system established by the 1945 Constitution of the Republic of Indonesia, nor has any prior research thoroughly examined the legal consequences of the MPN's ambiguous position in relation to the principles of checks and balances and legal certainty. Building on this gap, the article's contribution is a new legal conceptualization: it classifies the MPN as a *sui generis* state administrative organ occupying an intermediate position between the constitutional state organs and ordinary executive instruments, and it derives from that classification concrete constitutional implications for the separation of powers and for the accountability of state administration. It is this normative construction and its derived implications, not the constitutional framing by itself, that constitute the scholarly contribution of this article.

Methods

This research is classified as normative legal research. Normative legal research is frequently conceptualized as focusing on codified law (law in books) or as encompassing rules and norms that serve as behavioral guidelines for individuals,

deemed appropriate.¹⁷ The rationale for selecting normative legal research for this study stems from its emphasis on applicable regulations and legislation pertaining to The Position of the Notary Supervisory Board in the Indonesian State Administration System.

The research employed a statute approach and a conceptual approach. The statute approach involved the examination of legislation pertinent to the study, encompassing a review of all laws and regulations that are both the focus of and related to the legal issues addressed herein.¹⁸ Specifically, this pertains to the statutes and regulations concerning the Position of the Notary Supervisory Board within the Indonesian State Administration System.

This choice of primary statutory materials is further supported by recent evaluative literature reassessing the implementation of Law No. 30 of 2014 in contemporary practice, which confirms that this statute continues to function as the principal reference point for questions of governmental authority of the kind raised by the MPN.¹⁹ It is also consistent with recent comparative work on the place of framework statutes within Indonesia's broader legislative hierarchy, which cautions that provisions of a general administrative statute cannot be read in isolation from later, more specific enactments without risking incoherent results.²⁰

The conceptual approach was utilized when the research was not grounded in existing legal provisions, due to the absence or lack of applicable regulations for the issue at hand.²¹ This methodology is necessary to ascertain the standing of the Notary Supervisory Board within Indonesia's state governance structure.

Both approaches are applied to a common set of three research questions, and each is analyzed with a distinct technique. The question of the MPN's legal basis and the qualification of its authority as attribution, delegation, or mandate is addressed through systematic legal interpretation, reading Article 67 of the Notary Law together with Law No. 30 of 2014 concerning Government Administration so that the two statutes are construed as a coherent whole rather than in isolation. The question of the MPN's constitutional classification is addressed through

¹⁷ Tunggal Ansari Setia Negara, "Normative Legal Research in Indonesia: Its Origins and Approaches," *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (February 2, 2023): 1–9, <https://doi.org/10.22219/aclj.v4i1.24855>.

¹⁸ Kasia Söderlund and Stefan Larsson, "Enforcement Design Patterns in EU Law: An Analysis of the AI Act," *Digital Society* 3, no. 2 (August 25, 2024): 41, <https://doi.org/10.1007/s44206-024-00129-8>.

¹⁹ Maja Brkan, "The Regulation of Data-Driven Political Campaigns in the EU: From Data Protection to Specialized Regulation," *Yearbook of European Law* 41 (June 30, 2023): 348–73, <https://doi.org/10.1093/yel/yeac006>.

²⁰ Dinoroy Marganda Aritonang et al., "Extensive Jurisdiction of State Administrative Courts in Indonesia: Interpretation and Legal Coherence Issues," *Public Integrity* 27, no. 3 (May 4, 2025): 287–99, <https://doi.org/10.1080/10999922.2023.2290750>.

²¹ Dina Hariani and Mohd Hafiz Hanafiah, "The Competitiveness, Challenges and Opportunities to Accommodate the Halal Tourism Market: A Sharia -Law Tourism Destination Perspectives," *Journal of Islamic Marketing* 15, no. 3 (February 19, 2024): 919–42, <https://doi.org/10.1108/JIMA-05-2023-0147>.

constitutional interpretation and doctrinal legal reasoning, situating the MPN within the theory of state organs and the theory of state auxiliary organs that Indonesian constitutional scholarship uses to classify institutions outside the seven principal constitutional organs. The question of whether executive supervision of a substantively judicial function is constitutionally sound is addressed through comparative legal analysis, situating Indonesia's model against the notarial supervision arrangements of the Netherlands, Germany, and France. The separation of powers (*trias politica*) and the theory of state administrative authority (attribution delegation mandate) were selected as the analytical framework because they correspond directly to the two constitutional defects this article identifies: an unclear allocation of authority between the Minister and the MPN, and an unclear allocation of function between the executive and the judiciary. A framework confined to notarial or administrative law alone could describe these defects but not evaluate their constitutional consequences, which is why the statutory and conceptual approaches are each anchored to a constitutional theory rather than left at the level of technical description.

Given that this is a normative research, the materials utilized in this study consist of legal materials. Several legal materials are employed to assist in addressing the research questions. The primary legal materials used in this investigation are those of a primary nature, possessing authoritative status. Primary legal materials encompass statutes, official records, or minutes pertaining to the legislative process, and judicial decisions.²² The primary legal materials utilized herein are Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Undang-Undang Nomor 30 tahun 2014 tentang Administrasi Negara, and Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris.

Secondary legal materials can be categorized into secondary legal materials in a narrow sense and secondary legal materials in a broad sense. In the narrow sense, these generally include legal texts containing teachings or doctrines, or *treatises*, as well as scholarly publications featuring articles that analyze legal topics or *law reviews*, and explanations of terms, concepts, or *phrases*, such as legal dictionaries or encyclopedias. In the broad sense, secondary legal materials include any written work that is not primary authority, encompassing all legal scholarly works, whether unpublished or published in popular newspapers or magazines.²³

²² Rian Saputra, M Zaid, and Devi Triasari, "Executability of the Constitutional Court's Formal Testing Decision: Indonesia's Omnibus Law Review," *Journal of Law, Environmental and Justice* 1, no. 3 (November 29, 2023): 244–58, <https://doi.org/10.62264/jlej.v1i3.18>.

²³ Denise M. Rousseau, "Reviews as Research: Steps in Developing Trustworthy Synthesis," *Academy of Management Annals* 18, no. 2 (July 2024): 395–402, <https://doi.org/10.5465/annals.2024.0132>.

Tertiary legal materials serve to provide guidance or clarification regarding primary and secondary legal materials.²⁴ Tertiary legal materials in this study include dictionaries relevant to the research.

This research employs qualitative legal analysis. This approach involves a theoretical, critical, systematic, and comprehensive examination of legal materials gathered, encompassing primary, secondary, and tertiary sources. These materials are then processed, and a qualitative legal conclusion is derived. The qualitative legal analysis technique is elucidated as follows: it entails a discourse or exposition rooted in legal science, focusing on textual interpretation rather than numerical data, as a method to ascertain accurate conclusions or ideal conceptions.²⁵

Discussion

Basis in Law and the Jurisdictional Structure Governing the Notary Supervisory Council

The foundational regulations concerning the Notary Supervisory Board are comprehensively stipulated within Law Number 30 of 2004 regarding the Notary Profession, as amended by Law Number 2 of 2014 (hereinafter referred to as UUJN). Fundamentally, Article 67, Paragraph (1) of the UUJN establishes that the Minister of Law and Human Rights (the Minister) supervises Notaries. Nevertheless, in its implementation, the Minister is empowered to establish a specific institution known as the Supervisory Board, as mandated by Article 67, Paragraph (2) of the UUJN.

Within the governmental framework of the Republic of Indonesia, as stipulated in Law Number 30 of 2014 concerning State Administration, recognized theories of attribution, delegation, and mandate exist. Authority derived from attribution originates unequivocally from legal mandates, directly and explicitly stated within specific legislative provisions or articles. Furthermore, the recipient of an attribution may expand the scope of that attribution and establish new authorities, provided these do not exceed the designated domain of authority. Attributive authority remains intrinsically linked as long as the relevant legislation is not amended. The responsibility and accountability are unequivocally vested in the recipient of the attribution. This establishes a legal relationship of authority between the legislator and the governmental body or official. In contrast, delegation does not create or expand existing authority; it transfers authority from one governmental body, entity,

²⁴ Muthia Sakti and Dwi Aryanti Ramadhani, "Halal Certification of Micro and Small Enterprises' Food Products for Consumer Protection," *Amsir Law Journal* 5, no. 1 (October 30, 2023): 23–36, <https://doi.org/10.36746/alj.v5i1.296>.

²⁵ Juliane E. R. Ford, Dakota Wing, and Marlon Hurt, "Artificial V. Expert Intelligence: The Risk of Ethical, Constitutional, and Evidentiary Violations in Representing Artificial Intelligence as Linguistic Expertise in the Legal System," *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique*, June 30, 2026, <https://doi.org/10.1007/s11196-026-10526-6>.

or official to another. Legally, the responsibility associated with a delegated authority shifts from the delegator to the delegate.²⁶

The establishment of the National Police Commission (Majelis Pengawas Notaris) represents an exercise of attributive authority granted by law to the Minister, enabling the creation of a supporting body to enhance the optimization of administrative and technical oversight functions.

Applying the theory of state administrative authority to each element of Article 67 in turn shows why this attributive framing does not, by itself, settle the matter. Paragraph (1), which vests supervisory authority in the Minister directly from the statute, is a clean instance of attribution: the Minister holds an original grant of power, accountable to no intermediary. Paragraph (2), however, which lets the Minister “form” the MPN to “carry out” that same supervision, does not attribute a new, independent authority to the MPN; it moves an existing ministerial function outward to a body the Minister creates and can dissolve. That operation matches the statutory definition of delegation or mandate far more closely than attribution, yet Article 67 supplies no accompanying provision, of the kind ordinarily found in Indonesian administrative law, specifying which of the two applies or what legal consequence follows for accountability. This gap is not merely a drafting oversight: because delegation transfers legal responsibility to the delegate while mandate leaves it with the mandator, the absence of an explicit choice means that every MPN decision carries an unresolved question of who is legally answerable for it, generating exactly the inconsistency in Indonesia's public administration system that Law No. 30 of 2014 was designed to prevent.

Law No. 30 of 2014 concerning Government Administration (“UU AP”) does not merely name attribution, delegation, and mandate as background theory; it defines each as a distinct legal category and treats them as mutually exclusive routes by which a Badan and/or Pejabat Pemerintahan may acquire Kewenangan (authority).²⁷ Article 12 sets out three cumulative conditions for attribution: the authority must be regulated in the 1945 Constitution and/or a statute; it must be new authority or authority that did not previously exist; and it must be conferred directly on the relevant body or official, whose responsibility for its exercise cannot subsequently be delegated absent express constitutional or statutory permission.²⁸ Measured against these criteria, Article 67(1) UUJN is unproblematic: it satisfies all three conditions in a single statutory sentence, and the resulting responsibility for supervision sits, without residue, on the Minister.

²⁶ Kenny Chng, “Re-Examining Judicial Review of Delegated Legislation,” *Legal Studies* 44, no. 1 (March 27, 2024): 81–98, <https://doi.org/10.1017/lst.2023.7>.

²⁷ Oliver Butler, “Algorithmic Decision-Making, Delegation and the Modern Machinery of Government,” *Oxford Journal of Legal Studies* 45, no. 3 (August 29, 2025): 727–52, <https://doi.org/10.1093/ojls/gqaf018>.

²⁸ Stephen Glen Ochieng, “Kenya’s Democratic Space under Constitutional Scrutiny: Applying the Command Responsibility Doctrine in Police Brutality, Extra Judicial Killings and Unlawful Arrests,” 2026, <https://doi.org/10.2139/ssrn.7325158>.

Article 67(2), by contrast, fails the second condition of Article 12 on its own terms. The power “to supervise Notaries” is not new; it is the identical power already attributed to the Minister one paragraph earlier. What Article 67(2) does is redirect the exercise of that pre existing power to a body the Minister himself creates, staffs, and may dissolve which is precisely the operation Article 13 of the UU AP describes as delegation, namely the transfer of an existing authority from a higher to a lower organ,²⁹ or, if responsibility is meant to remain with the Minister throughout, the operation Article 14 describes as mandate.³⁰ Because Article 11 of the UU AP presents attribution, delegation, and mandate as alternative, non overlapping bases of authority rather than as a composite one, Article 67(2) cannot simultaneously be read as “attributive” in the full sense of Article 12 while also performing the redirective function that only delegation or mandate are built to perform.³¹

This unresolved character is not merely an artefact of the present analysis; it is visible in how Indonesian notarial law scholarship itself has struggled to label the same clause. One line of academic commentary describes the Minister’s power under Article 67(2) as a form of “pendelegasian atributif” an “attributive delegation” a composite term that has no home in the UU AP’s own taxonomy, since Article 11 treats attribution and delegation as separate routes to authority rather than a single hybrid one. Other commentary describes the same clause in plainer terms as the Minister “delegating” (“mendelegasikan”) his supervisory authority to the Majelis Pengawas Notaris.³² Still other accounts simply restate that the Minister “forms” the Board to carry out supervision, without characterizing the transaction in attribution/delegation/mandate terms at all.³³ Three competent readings of one clause an oxymoronic hybrid, a straightforward delegation, and an uncharacterized formation power is not evidence of a settled doctrinal position; it is evidence that the statute itself supplies no answer, leaving scholars to reconstruct one from first principles and arrive at different places.

The consequence is not academic. Under the UU AP’s own definitions, the three characterizations carry different legal outcomes for exactly the question that matters when an MPN decision is challenged: who bears responsibility for it. If Article 67(2) is attribution, responsibility for MPN’s supervisory and disciplinary

²⁹ Saiful Risky et al., “Repositioning Delegated Authority and Binding Power of Ministerial Regulations in Indonesia,” *Jurnal Hukum IUS QUILA IUSTUM* 32, no. 2 (July 4, 2025): 287–308, <https://doi.org/10.20885/iustum.vol32.iss2.art2>.

³⁰ João Pedro Quintais, Naomi Appelman, and Ronan Ó Fathaigh, “Using Terms and Conditions to Apply Fundamental Rights to Content Moderation,” *German Law Journal* 24, no. 5 (August 11, 2023): 881–911, <https://doi.org/10.1017/glj.2023.53>.

³¹ Anoushka Sharan, “Towards a Cyber Resilient Critical Informational Infrastructure of India,” 2026, <https://doi.org/10.2139/ssrn.6692739>.

³² R Cameron, “The Evolution of Management Delegation in the South African Public Service,” *Administratio Publica* 32, no. 3 (September 2024): 45–65, <https://doi.org/10.61967/adminpub.2024.32.3.4>.

³³ Erik-Jan van Dorp, “The Minister Wants It: Self-Politicisation and Proxy Politics among Senior Civil Servants,” *Public Policy and Administration* 38, no. 4 (October 13, 2023): 424–44, <https://doi.org/10.1177/09520767221078093>.

decisions rests with the MPN itself as an independent holder of power. If it is delegation, responsibility has fully shifted from the Minister to the MPN as delegate. If it is mandate, responsibility never left the Minister, and the MPN acts only as his instrument. Because the UUJN never specifies which of these applies, a Notary contesting an MPN sanction, or a court reviewing it, cannot determine with certainty whether the proper respondent is the Board or the Ministry a question that ordinary administrative litigation needs answered before it can even begin.

This is exactly the outcome Law No. 30 of 2014 was enacted to foreclose. The statute's own stated purpose is to secure accountable government administration, and it elevates legal certainty to the first of its General Principles of Good Governance.³⁴ A supervisory body whose founding provision leaves open whether it holds attributive, delegated, or mandated power has an accountability structure that, by the statute's own diagnostic categories, is indeterminate. That indeterminacy does not disappear because the Board has functioned for two decades without the question being litigated to a definitive answer; it simply means the inconsistency has been latent rather than absent. The more defensible legislative choice, consistent with the UU AP's framework, would have been for Article 67(2) to state expressly whether the Minister delegates or merely mandates supervisory authority to the Board a one-clause fix that the current text does not supply, and whose absence is the substantive defect this analysis identifies.

An Examination of Membership Demographics, Organizational Hierarchy, and the Doctrinal Discourse Pertaining to Authority Delegation

The membership composition of the Notarial Supervisory Council reflects the principle of *checks and balances* within the notarial profession. Article 67, Paragraph (3) of the Notary Law stipulates that the Supervisory Council consists of nine individuals from three distinct groups: three representatives from the Government, three from the Notary Organization, and three from the Expert/Academic sector.

In its Decision Number 014/PUU-III/2005, the Constitutional Court reviewed the constitutionality of this composition in relation to Article 27, Paragraph (1) and Article 28D of the 1945 Constitution of the Republic of Indonesia. The Court concluded that the council's membership, which includes academics and representatives of professional organizations, ensures objective and professional supervision. Furthermore, it was deemed not to conflict with the principle of equal standing before the law, as positions within the council necessitate specific academic capabilities and integrity that cannot be filled indiscriminately by any citizen.

This conclusion, however, answers a narrower question than institutional independence requires. Decision 014/PUU-III/2005 tested only whether including academics and professional representatives on the council violates equal treatment

³⁴ Novran Harisa and Tao Wang, "Strengthening Legal Certainty In Public Services: An Analysis Of Good Governance Principles In Government Administration," *Irpia : Jurnal Ilmiah Riset Dan Pengembangan* 11, no. 2 (June 27, 2026): 84–92, <https://doi.org/10.71040/jirp.v11i2.325>.

before the law; it did not ask whether that composition secures the council's independence from the very Minister whose conduct, through the notaries the Minister appoints, the council exists to check. A critical reading of the ruling in light of that question yields a more qualified answer. Even with six of nine members drawn from outside government, the MPN's day-to-day operation, its budget, its facilities, and, most importantly, the ultimate authority to dismiss a notary, remain concentrated in the Minister under Article 77(d) of the Notary Law. A membership formula can diversify who deliberates without altering who decides and who pays; on the criteria used to assess independence in the literature on independent regulatory agencies, ownership of the enforcement power and the budget line, and not only the composition of the deliberating body, is what determines whether an oversight institution is genuinely insulated from the entity it supervises. Measured against that standard, the Constitutional Court's 2005 reasoning resolves the equality objection but leaves the independence question substantially open.

The 2005 ruling should also be read against the broader trajectory of the Constitutional Court's institutional jurisprudence in the two decades since. Studies of the Court's handling of constitutional complaints note that Indonesia's constitutional system still lacks a dedicated complaint mechanism through which an individual notary, or a body such as the MPN, could challenge a specific administrative decision on constitutional grounds, leaving such disputes to ordinary administrative litigation instead.³⁵ Research on the Court's responsiveness in politically sensitive domains, such as local election disputes, likewise finds that the Court's institutional posture varies with the stakes involved, a pattern relevant to assessing how a future challenge to the MPN's structure might be received.³⁶ Post Omnibus Law scholarship examining the Court's review of the Job Creation Law demonstrates the Court's continuing willingness to police the formal and substantive adequacy of administrative and regulatory arrangements even where the underlying statute enjoys strong executive backing, a precedent of some relevance to any future challenge to the MPN's own statutory basis.³⁷ Work assessing the conformity of the Court's rulings with human rights paradigms in Indonesian legislation similarly documents a jurisprudence more attentive to procedural fairness and legal certainty than the bare 2005 equal treatment holding might suggest.³⁸ Finally, research on the

³⁵ Lindo Hadebe, "Defective Administrative Decisions and Collateral Challenges: The Constitutional Court's Confusing Approach in *Merifon (Pty) Limited v Greater Letaba Municipality*," *South African Journal on Human Rights* 41, no. 1–2 (April 3, 2025): 26–47, <https://doi.org/10.1080/02587203.2025.2605202>.

³⁶ Firdaus Arifin et al., "Institutional Configuration and Competence of the Special Judiciary for Regional Election Disputes: A Comparative Study and Prospects for Implementation," *Jambura Law Review* 7, no. 2 (July 30, 2025): 493–520, <https://doi.org/10.33756/jlr.v7i2.30949>.

³⁷ Petra Mahy, "Indonesia's Omnibus Law on Job Creation: Legal Hierarchy and Responses to Judicial Review in the Labour Cluster of Amendments," *Asian Journal of Comparative Law* 17, no. 1 (July 12, 2022): 51–75, <https://doi.org/10.1017/asjcl.2022.7>.

³⁸ Pabe Mia, "Medical Ethics and Criminal Responsibility in Mental Health Care: A Doctrinal and Comparative Jurisprudence Analysis Across Asian Jurisdictions," 2025, <https://doi.org/10.2139/ssrn.5556320>.

post-amendment distribution of judicial review authority in Indonesia confirms that questions of institutional independence, as raised by the MPN's structural position, continue to fall into gaps between the Constitutional Court's jurisdiction over statutes and the Supreme Court's jurisdiction over sub-statutory regulations.³⁹ Read together, this body of jurisprudential scholarship suggests that the constitutional avenue for testing the MPN's independence remains as unsettled today as it was in 2005.

The MPN operates with a tiered, hierarchical structure, comprising the Regional Supervisory Council (MPN, MPD) at the regency/city level, the Provincial Supervisory Council (Majelis Pengawas Wilayah, MPW) at the province level, and the Central Supervisory Council (Majelis Pengawas Pusat, MPP) at the national level. This structure is intended to facilitate effective supervision across the entire Indonesian territory, although it may, in theory, result in an extensive supervisory bureaucracy.

In administrative law, the delegation of authority from a Minister to the National Consultative Council has sparked doctrinal debate regarding its legal qualification, specifically whether it constitutes a *delegation* (transfer of authority with accompanying responsibility) or a *mandate* (assignment without transfer of responsibility). Article 67, paragraph (2) of the Notary Law (UUJN) stipulates that the Minister "forms" the Supervisory Council to "carry out supervision." The phrase "carry out" suggests a delegation of authority, yet the UUJN does not explicitly define the legal form of this delegation.

A critical analysis indicates that the delegation of authority to the MPN does not entirely conform to the characteristics of a pure delegation. Primarily, the MPN is not an "other organ" within the governmental structure (such as a department or directorate general), but rather an *ad hoc body* whose members are external to the government.

A delegation is typically conferred upon public legal entities or state organs with established structures. Conversely, the MPN is not integrated into the organizational framework of the Ministry of Law and Human Rights and therefore lacks structural legitimacy. Furthermore, the accountability framework remains centralized with the Minister, particularly regarding the authority to dismiss for cause (Article 77, letter d of the UUJN), which the Minister may exercise only upon the recommendation of the Majelis Pengawas Pusat.

This indicates that the Minister's authority is not entirely relinquished, which is characteristic of a mandate rather than a delegation. The lack of clarity regarding these qualifications creates legal uncertainty, as in a legal dispute it would be unclear whether the party being sued is the Minister acting as the *mandans* or the Majelis

³⁹ Rajneesh Kumar et al., "River Pollution in India: Exploring Regulatory and Remedial Paths," *Clean Technologies and Environmental Policy* 26, no. 9 (September 3, 2024): 2777–99, <https://doi.org/10.1007/s10098-024-02763-9>.

Pengawas Notaris acting as the *delegataris*. This situation is termed "imperfect delegation" by S.F. Marbun, which is susceptible to formal procedural defects.⁴⁰

The Supervisory Function, Adherence to a Chain of Command, and the Ambiguous Status of the Notary Supervisory Council within the Governmental Framework

The authority of the MPN is extensive yet vertically constrained by its hierarchical levels and horizontally demarcated by divisions with other bodies, such as the Notary Honorary Council (MKN). Broadly, the MPN's responsibilities are categorized into three principal areas: (1) administrative functions, (2) routine inspections, and (3) the imposition of sanctions.

Recent research on the relationship between the MPW and the MKN in practice confirms that these two bodies' respective coaching and disciplinary functions are not always clearly demarcated in the field, generating occasional jurisdictional friction.⁴¹ A related study of the Honorary Council's own sanctioning authority further shows that the MKN's disciplinary power rests on the Indonesian Notary Association's internal code of ethics rather than on the UUJN itself, a distinct legal basis from the MPN's statutory authority that sharpens rather than resolves the boundary problem between the two bodies.⁴²

First, the MPD holds operational and technical authority. Pursuant to Article 70 of the Notary Law (UUJN), the MPD is authorized to conduct examination hearings for alleged violations, grant leave of absence for up to six months, appoint substitute Notaries, and receive public complaints. Ministerial Regulation Number 40 of 2015 elaborates on the MPD's administrative powers that do not require board approval, such as issuing deed copies older than 25 years and certifying photocopies. However, the MPN has a fundamental limitation: it lacks the authority to impose sanctions. This sanctioning power is exclusively held by the MPW and MPP. Empirical data from the field indicate that the absence of sanctioning authority at the MPN level leads to slow, bureaucratic supervision processes, as all detected violations must be escalated to the regional level.

Recent work proposing an electronic based model of notary office supervision argues that many of these bureaucratic delays stem less from the allocation of sanctioning authority as such than from the absence of an integrated digital case

⁴⁰ Ade Saptomo, Rocky Marbun, and Anis Mashdurohatun, "The Epistemological Errors in Regulation of Absolute Competence on Mortgage Disputes in Credit Contracts," *International Journal of Law Reconstruction* 7, no. 1 (April 18, 2023): 1, <https://doi.org/10.26532/ijlr.v7i1.29464>.

⁴¹ Pedro José Mercado Jaén, "The Architecture of Sporting Justice: Mapping the Judicial Bodies of International Sports Federations," *The International Sports Law Journal* 26, no. 3 (September 11, 2026): 240–60, <https://doi.org/10.1007/s40318-026-00337-z>.

⁴² Agung Iriantoro, "Ethics-Based Professionalism of Notaries and PPAT: The Main Pillar In Carrying Out Professional Duties," *Jurnal Sipakatau: Inovasi Pengabdian Masyarakat* 3, no. 3 (April 27, 2026): 1–6, <https://doi.org/10.66314/sipakatau.v3i3.595>.

management system linking the three tiers, a diagnosis that complements Suryahartati and Mahardika's call for a digital governance model discussed above.⁴³ A broader survey of the proliferation of notarial supervision policy instruments across ministerial regulations further finds that successive regulations have added procedural detail without resolving the underlying allocation of authority questions, producing a denser but not necessarily clearer regulatory landscape.⁴⁴

Second, the MPW serves as the initial administrative appeal level and has the authority to impose minor sanctions. In accordance with Article 74 of the Notary Law (UUJN), the MPW is empowered to issue sanctions such as oral warnings and written warnings, which are considered final and not subject to further appeal to the MPP. However, the MPW does not have the authority to dismiss a Notary; this power is vested in the MPP. Research in Palembang indicates that the MPW's limited authority often leads to a standstill in handling serious ethical violations. In such cases, the MPW can only make recommendations to the MPP, while the appeals process at the MPP is protracted due to the complexity of its procedures.

Third, the MPP possesses the ultimate authority in the supervisory domain. The MPP conducts appeal hearings for MPW decisions, imposes temporary suspensions (3-6 months), and proposes dishonorable dismissals to the Minister. Significant criticism has been directed at this authority because the MPP cannot decide a proposal for dishonorable dismissal directly; instead, it must be processed through the Minister. This procedure contradicts the principle of efficiency in administrative law, as espoused in Law Number 30 of 2014 concerning Government Administration, which advocates for *discretion* (*freies ermessen*) for officials or institutions conducting direct investigations.

The position of the Notary within Indonesia's state governance system is unique and intrinsically linked to the theory of separation of powers (*Trias Politica*) and the checks-and-balances system established by the 1945 Constitution of the Republic of Indonesia. Within the hierarchy of state powers, a Notary is a public official appointed by the state to operate within the broad (functional) sphere of the judiciary. However, the executive branch (the Minister) oversees Notaries. This arrangement theoretically creates a conflict of interest, as the executive branch supervises a function that is substantively judicial in nature (the creation of authentic deeds with absolute evidentiary power).

The stakes of this supervisory gap are heightened by the substantive weight the law attaches to what is being supervised. Recent doctrinal analysis of the perfect evidentiary value of notarial deeds confirms that this evidentiary status functions,

⁴³ Dwi Suryahartati and Jefri Mahardika, "Reforming the Legal Framework of Notary Supervision in Indonesia: Towards a Digital Governance Model."

⁴⁴ Preeti Dhuria et al., "'If Government Is Saying the Regulations Are Important, They Should Be Putting in Funding to Back It up.'- An in-Depth Analysis of Local Authority Officers' Perspectives of the Food (Promotion and Placement) (England) Regulations 2021," *BMC Medicine* 22, no. 1 (November 6, 2024): 514, <https://doi.org/10.1186/s12916-024-03720-5>.

absent proof to the contrary, as conclusive proof of the acts and statements the deed records, which is precisely why oversight of the notary who produces it cannot be treated as a routine administrative matter.⁴⁵ Complementary research on the legal status and responsibility of notaries and land deed officials (PPAT) for the instruments they execute shows that liability for a defective deed can attach personally to the notary independently of any MPN sanction, revealing a second, civil liability layer of accountability that operates alongside, and is not always well coordinated with, the MPN's own disciplinary track. A further study of the legal consequences flowing from a notary's failure to satisfy the formal requirements of Article 38 UUJN similarly finds that courts and the MPN do not always apply a consistent standard for when a formal defect downgrades a deed's evidentiary force, compounding the uncertainty already generated by the MPN's unclear institutional footing.⁴⁶

This claim rests on firmer ground than intuition once it is connected to established theory. Modern separation of powers scholarship no longer confines the judicial function to courts alone; it recognizes that anybody exercising quasi-judicial authority, the power to certify facts and legal acts with binding, presumptively conclusive effect, raises the same independence concerns as adjudication proper, which is precisely why independent regulatory agencies in comparative constitutional law are typically insulated from removal and budgetary control by the very branch whose conduct they oversee. Constitutional accountability theory adds a second layer: accountability is meaningful only when the reviewing body is structurally distinct from the body reviewed, so that supervision by an organ the Minister forms, funds, and can dissolve is accountability in name without full accountability in structure.

This grounding is reinforced by contemporary constitutional scholarship on the separation of powers. Ackerman's account of the "new separation of powers" shows that mature constitutional systems no longer confine themselves to the classical *trias politica*, but instead recognize a distinct branch composed of independent regulatory and integrity bodies whose legitimacy depends precisely on structural insulation from the ministries whose conduct they are meant to check.⁴⁷ Applied to the MPN, this scholarship implies that a supervisory body performing a quasi-judicial certifying function cannot simultaneously remain organizationally subordinate to the branch it supervises without forfeiting the independence that justifies its authority. Bovens's conceptual framework for accountability sharpens this point: genuine accountability requires an actor-forum relationship in which the

⁴⁵ Hustam Husain, Kahar Lahae, and Marwah, "Making A Notary Deed That Provides Legal Certainty," *Awang Long Law Review* 5, no. 1 (November 30, 2022): 180–88, <https://doi.org/10.56301/awl.v5i1.548>.

⁴⁶ Agung Iriantoro et al., "Supervision of the Notary Supervisory Board on the Use of First Copies as a Substitute for Minutes of Deeds," *Lex Publica* 12, no. 2 (December 31, 2025): 519–42, <https://doi.org/10.58829/lp.12.2.2025.305>.

⁴⁷ Lucas Lunardelli Vanzin Zwicker, "The Role Of Constitutional Courts And Crises Of Constitutional Democracy: Diagnoses And Perspectives From Brazil," 2025, <https://doi.org/10.2139/ssrn.5756522>.

forum is capable of posing questions and passing judgment independently of the actor being reviewed, a condition the MPN only partially satisfies so long as the Minister supplies both the personnel and the budget of the reviewing forum.⁴⁸

This theoretical claim finds further support in recent comparative constitutional scholarship examining how supranational courts constrain domestic separation of powers arrangements, which documents a broader international trend toward insisting that bodies exercising adjudicative or quasi-adjudicative power be insulated from the political branches that appoint or fund them, regardless of the label attached to those bodies in domestic law.⁴⁹ Work reconciling the theory and practice of the rule of law in the European Union reaches a convergent conclusion from a different angle, arguing that formal compliance with statutory procedure is insufficient to satisfy rule of law requirements where the body applying that procedure remains structurally dependent on the executive it is meant to check⁵⁰ Closer to home, research on “therapeutic governance” in Indonesian government auditor-auditee relationships shows that domestic oversight bodies routinely perform quasi-judicial, blame-allocating functions of exactly this kind while operating under administrative arrangements that were never designed with judicial-style independence in mind, a dynamic this article contends is equally present in the Minister-MPN relationship.⁵¹

The comparative picture sharpens further once common law notarial systems are placed alongside these civil law models. In England and Wales, the notarial profession is regulated not by a ministry but by the Master of the Faculties, a judicial officer who heads the Court of Faculties and who, together with the Faculty Office, exercises admission, inspection, and disciplinary authority over notaries entirely outside the executive hierarchy.⁵² Disciplinary proceedings are conducted before the Court of Faculties under dedicated procedural rules, and the regulator is itself subject

⁴⁸ Yusuf Iman Yustiawan and Raden Roro Fara Anissa Putri, “The Implementation of Authority and Resolution Efforts Undertaken by the Ministry of Law and Human Rights (Kemenkumham) in Addressing the Case of Dualism within the Indonesian Notary Association (INI),” *Journal of Private and Commercial Law*, January 17, 2025, 238–54, <https://doi.org/10.20885/JPCOL.vol1.iss2.art5>.

⁴⁹ Dipesh Singla, “Quantifying State Action: Integrating the Public Function, Nexus, Symbiotic Relationship, Coercion, and Entwinement Doctrines through the Integrated Public Function Matrix and State Actor Probability Index A Next-Generation Framework For&Nbsp;U.S. Con,” 2025, <https://doi.org/10.2139/ssrn.5784762>.

⁵⁰ Susan Rose-Ackerman, “Democracy and Executive Power: Administrative Policymaking in Comparative Perspective,” *Revista de Derecho Público: Teoría y Método* 6 (November 4, 2022): 155–82, https://doi.org/10.37417/RPD/vol_6_2022_978.

⁵¹ Dr Joseph Mithi and Douglas John Chikhowe, “The Challenges of Separation of Powers: Why Ministers Emerge from Parliament,” 2025, <https://doi.org/10.2139/ssrn.5582470>.

⁵² Morag Ellis, “The Office of Notary Public and the Church of England: A Legal Perspective – Ancient and Modern,” *Ecclesiastical Law Journal* 28, no. 2 (May 28, 2026): 178–224, <https://doi.org/10.1017/S0956618X26101409>.

to oversight by the Legal Services Board rather than by a government department.⁵³ The United States presents a different, and in some respects more executive centered, common law model: because most American notaries perform a narrow, ministerial function of witnessing signatures rather than the broad, discretionary, deed drafting role of a civil law notary, oversight is typically vested in an executive officer such as the state Secretary of State, with comparatively limited independent adjudicatory machinery.⁵⁴ Read together, these common law examples show that ministerial oversight of notaries is not inherent to the office itself but tends to track the scope of discretionary, judicial like authority the notary exercises: where that authority is broad and its output carries strong evidentiary force, as with both the Indonesian Notaris and the English notary, comparative practice favors housing supervision in a judicially insulated body rather than in the executive branch; only where the notary's function is reduced to a ministerial formality, as in most of the United States, does executive oversight raise no comparable independence concern.

In accordance with Law No. 30 of 2014 concerning Government Administration and Law No. 5 of 1986 concerning State Administrative Courts (as amended by Law No. 51 of 2009), the MPN should be categorized as a State Administrative Body or Official. A body is considered a State Administrative Official if it: (1) executes governmental affairs, (2) operates under statutory regulations, and (3) issues concrete, individual, and final decisions. The MPN's decision to impose a temporary suspension sanction satisfies these three criteria and thus constitutes a *beschikking* (an administrative decision) subject to judicial review by the State Administrative Court.

The unusual status of the MPN (unclear whether it is a state or private organ) leads to several significant legal and practical consequences within the state administration system. Firstly, there are consequences for accountability and budgeting. As the MPN is not legally part of the Ministry's structure (not included in the administrative organization), this institution lacks a clear budget allocation in the state budget (APBN). Field observations indicate that the MPN often operates without a permanent office, using borrowed facilities from the Regional Office of the Ministry of Law and Human Rights or even from the private notary offices of council members. This deficiency in facilities and infrastructure directly impedes the oversight function, particularly the examination of notary protocols, which should occur at least once annually. This situation undermines the principles of *good governance* and *clean government*, as oversight devolves into mere formality.

By contrast, the professional body of the notaries the MPN supervises has a comparatively well settled legal footing: recent research on the status of the Ikatan

⁵³ Sukhda Pritam, "Operationalising the Mediation Council of India A Policy Framework and Practical Roadmap for Building India's National Mediation Ecosystem," 2026, <https://doi.org/10.2139/ssrn.7219078>.

⁵⁴ Elizabeth Lee Thompson, "Mandamus as a Democracy Tool," 2025, <https://doi.org/10.2139/ssrn.5176025>.

Notaris Indonesia (INI) as a professional association confirms that INI operates squarely as a private law organization funded and governed by its own membership, with no APBN budget line and no expectation of one.⁵⁵ The contrast is instructive: INI's private status generates no accountability problem precisely because private status carries no public budget expectation, whereas the MPN performs unmistakably public, state-authorized functions, deciding suspensions and recommending dismissals with binding legal effect, while being administratively provisioned as though it, too, were merely private. This mismatch between public function and private-style provisioning, rather than ambiguity as such, is what the proposed reforms below are designed to correct.

Conclusion

The analysis developed in this article yields a single, integrated diagnosis: the MPN is not merely under-theorized in the literature, as the introduction observed, but is under-specified in the statute itself. Three defects converge on the same institution. First, Article 67 UUJN conflates attribution, delegation, and mandate in a single, unqualified verb (“membentuk”/“melaksanakan”), leaving the legal basis of the MPN's authority and therefore who bears legal responsibility for its decisions permanently indeterminate. Second, the 2005 Constitutional Court ruling that validated the MPN's tripartite membership addressed only an equal-treatment objection; it never tested, and therefore never resolved, whether that membership formula secures structural independence from the Minister who funds, houses, and ultimately staffs the body he supervises. Third, and most fundamentally, the MPN is asked to exercise oversight over a substantively judicial function the certification of authentic deeds with binding evidentiary force while remaining organizationally and financially embedded within the executive branch, a configuration that comparative constitutional theory and comparative notarial practice alike treat as structurally anomalous.

Taken together, these three defects support a single normative conclusion: the MPN cannot be adequately understood, nor can it function as intended, as an ordinary executive instrument exercising delegated ministerial power. Its supervisory decisions are individual, concrete, and final administrative acts (*beschikking*) reviewable before the State Administrative Court; its membership is deliberately drawn from outside the civil service; and its supervisory object is a quasi-judicial function, yet its budget, premises, and ultimate enforcement authority (dismissal under Article 77(d) UUJN) remain wholly the Minister's. This hybrid profile is precisely what the article's central conceptual contribution identifies: the MPN is best classified not as a subordinate unit of the Ministry nor as an independent constitutional organ, but as a *sui generis* state auxiliary organ (*staatsbulporgaan*), a body

⁵⁵ Deva Alfianto Supardi, “Budgetary Independence Of The Supreme Court In The New Era Of National Criminal Law: Towards Constitutionally Guaranteed State Budget Allocation,” *Bengkoelen Justice : Jurnal Ilmu Hukum* 16, no. 1 (May 31, 2026): 86–97, <https://doi.org/10.33369/jbengkoelenjust.v16i1.48403>.

that performs a public, quasi-judicial oversight function while institutionally occupying an intermediate position between the principal constitutional organs and ordinary executive instrumentalities. Recognizing this intermediate character is the necessary first step toward resolving the accountability ambiguity that the rest of the article traces back to Article 67.

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