

A Constitutional Analysis of Active-Duty TNI Personnel in Ministries and State Institutions under Law No. 3 of 2025

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Abstract

The amendment to Law Number 34 of 2004 concerning the Indonesian National Armed Forces through Law Number 3 of 2025 has generated debate over the constitutionality of expanding the positions that may be held by active-duty TNI personnel in ministries and state institutions. This amendment warrants examination because it potentially affects the principles of the rule of law, constitutional democracy, civilian supremacy, and the professionalism of the TNI as a state instrument in the field of national defense. This study aims to analyze the compatibility of the legal regulation governing the involvement of active-duty TNI personnel in positions within ministries and state institutions with the 1945 Constitution of the Republic of Indonesia and the principles of a democratic rule-of-law state. This study employs normative legal research using a statutory approach and a conceptual approach. The primary legal materials consist of the 1945 Constitution of the Republic of Indonesia, Law Number 34 of 2004, Law Number 3 of 2025, and relevant decisions of the Constitutional Court. Secondary legal materials include books, scholarly journals, and legal doctrines, while tertiary legal materials consist of legal dictionaries. Legal materials were collected through documentary research by identifying, inventorying, and examining relevant legislation, judicial decisions, and academic literature. The legal materials were analyzed qualitatively through grammatical, systematic, and constitutional interpretation. The findings indicate that the amendment to Article 47 expands the scope of positions that may be occupied by active-duty TNI personnel from 10 to 14 ministries and state institutions. Although the provision remains limitative, the expansion potentially broadens the military's role in the civilian governmental sphere and creates tension with the principle of civilian supremacy and the spirit of the Reform Era. Therefore, strict constitutional interpretation is necessary to ensure that the implementation of the provision preserves the professionalism of the TNI and does not revive the practice of military dual function.

Keywords: The Indonesian National Armed Forces, Civilian Posts, Civilian Supremacy

Abstrak

Perubahan Undang-Undang Nomor 34 Tahun 2004 tentang Tentara Nasional Indonesia melalui Undang-Undang Nomor 3 Tahun 2025 menimbulkan perdebatan mengenai konstitusionalitas perluasan jabatan yang dapat diduduki oleh prajurit TNI aktif pada kementerian dan lembaga negara. Perubahan tersebut penting dikaji karena berpotensi memengaruhi prinsip negara hukum, demokrasi konstitusional, supremasi sipil, dan profesionalisme TNI sebagai alat negara di bidang pertahanan. Penelitian ini bertujuan menganalisis kesesuaian pengaturan keterlibatan prajurit TNI aktif dalam jabatan kementerian dan lembaga negara dengan UUD NRI Tahun 1945 dan prinsip negara hukum demokratis. Penelitian ini menggunakan jenis penelitian hukum normatif dengan pendekatan perundang-undangan (*statute approach*) dan pendekatan konseptual (*conceptual approach*). Bahan hukum primer terdiri atas UUD NRI Tahun 1945, Undang-Undang Nomor 34 Tahun 2004, Undang-Undang Nomor 3 Tahun 2025, serta putusan Mahkamah Konstitusi yang relevan, sedangkan bahan hukum sekunder berupa buku, jurnal ilmiah, dan doktrin hukum, serta bahan hukum tersier berupa kamus hukum. Pengumpulan bahan hukum dilakukan melalui studi dokumenter dengan menelusuri, menginventarisasi, dan mengkaji peraturan perundang-undangan, putusan, serta literatur akademik yang relevan. Analisis bahan hukum dilakukan secara kualitatif melalui penafsiran gramatikal, sistematis, dan konstitusional. Hasil penelitian menunjukkan bahwa perubahan Pasal 47 memperluas ruang penempatan prajurit TNI aktif dari 10 menjadi 14 kementerian/lembaga. Meskipun bersifat limitatif, perluasan tersebut berpotensi memperluas peran militer dalam ranah pemerintahan sipil dan menimbulkan ketegangan dengan prinsip supremasi sipil serta semangat Reformasi. Oleh karena itu, diperlukan penafsiran konstitusional yang ketat agar pelaksanaan norma tersebut tetap menjamin profesionalisme TNI dan tidak menghidupkan kembali praktik dwifungsi militer.

Kata Kunci: Tentara Nasional Indonesia, Jabatan Sipil, Supremasi Sipil

A. Introduction

In normative terms (*das sollen*), Indonesia affirms itself as a rule-of-law state under Article 1(3) of the 1945 Constitution, alongside popular sovereignty under Article 1(2). This constitutional framework requires state power, including TNI authority, to operate within constitutional limits that uphold democracy and the rule of law. Reformasi 1998 strengthened this framework through the separation of Polri from TNI and the reaffirmation of military

professionalism and political neutrality.¹ These principles were institutionalised in Law No. 34 of 2004, particularly Articles 2(d) and 47, which established civilian supremacy and restricted active-duty military personnel from civilian positions. However, the enactment of Law No. 3 of 2025 has expanded these positions, potentially blurring the institutional boundary between military and civilian governance.²

This legal reality (*das sein*) has become increasingly evident through calls to amend the 2004 TNI Act, particularly proposals to create additional positions for senior and middle-ranking officers without permanent assignments (*non-job*) and to establish a more structured role for the TNI in Military Operations Other Than War. These proposals were debated in early 2025 and subsequently enacted as Law No. 3 of 2025, which expanded the list of ministries and agencies in Article 47 from 10 to 14 institutions. This amendment indicates a significant shift from restricting the involvement of active-duty military personnel in civilian positions toward providing broader statutory authority for such appointments. Studies of the legislative process suggest that the deliberations proceeded relatively quickly and lacked sufficient public participation, raising concerns that the legislation reflected political compromise among the executive, parliament, and military rather than comprehensive technical and constitutional assessment.³ The amendment has therefore generated debate between supporters, who regard the policy as necessary for managing military human resources and utilising specialised expertise, and opponents, who argue that it may revive the dual function of the armed forces in a new form, weaken civilian supremacy, and create conflicts of interest. These concerns have

¹ rais Firdaus Handoko Dan Widhi Handoko, "Legal Certainty Dualism Of Civilian Positions Active Members Of The Indonesian Police," *Jurnal Hukum UNISSULA* 42, no. 3 (2026): hlm. 553.

² Sajida Sajida, "Social Sciences & Humanities Open The Expansion of Military Influence in Indonesia ' s Governance : A Corpus-Assisted Discourse Analysis of Media Narratives," *Social Sciences & Humanities Open* 13, no. December 2025 (2026): hlm. 428, <https://doi.org/10.1016/j.ssaho.2025.102428>.

³ Abdul Yani et al., "Tinjauan Yuridis Pengesahan Undang - Undang (UU) Nomor 3 Tahun 2025 Tentang Perubahan Atas Undang - Undang Nomor 34 Tahun 2004 Tentang Tentara Nasional Indonesia," *Jurnal Ilmu Hukum, Humaniora Dan Politik (JIHHP)* 6, no. 1 (2025): hlm. 648.

subsequently contributed to constitutional challenges before the Constitutional Court.⁴

This issue should be examined in the light of three mutually reinforcing constitutional principles. The rule of law requires that policies on the placement of military personnel in civilian posts be based on clear, unambiguous norms that can be tested through an independent judicial mechanism; democracy requires that defence policy remain subject to effective parliamentary oversight; whilst civilian supremacy is a fundamental prerequisite of constitutional democracy, as it places elected civilian authority above the military.⁵ These three factors are interrelated: the expansion of military powers without clear legal certainty has the potential to reduce accountability to the people's representatives, which in turn weakens civilian control over the military. Previous research has touched upon this issue from different perspectives: Djuyandi et al. (2025) examined civil-military relations historically but did not address the amendment to Article 47 of Law No. 3 of 2025;⁶ and Batara Gunawan (2024) highlighted the dynamics of civilian control only at the draft legislation stage, and thus did not cover the implications following its enactment.⁷

Based on the above, there is a research gap that needs to be addressed: previous studies have largely focused on the historical aspects of the TNI's dual function and the legislative process of Law No. 3 of 2025, whilst specific analysis of its constitutional implications remains limited. Therefore, research on "A Constitutional Analysis of Active-Duty TNI Personnel in Ministries and State Institutions under Law No. 3 of 2025" is important to address this gap, with the following research questions: (1) how is the legal framework governing the involvement of active-duty TNI personnel in positions within ministries and state institutions regulated following the entry into force of Law No. 3 of 2025, and (2) what is the constitutional assessment and implications of such

⁴ Rubiyanto Sri Hartati, "Implikasi Uji Materi Undang-Undang No 3 Tahun 2025 Terhadap Prinsip Pemisahan Kekuasaan Dan Wewenang Sipil Militer," *Jurnal Kolaboratif Sains* 8, no. 10 (2025): hlm. 6511, <https://doi.org/10.56338/jks.v8i10.8943>.

⁵ Edi Nurrohman, "Urgensi Supremasi Sipil Dalam Konteks Demokrasi Di Indonesia," *Jurnal Hukum Dan Pembangunan* 50, no. 1 (2020). Hlm. 53.

⁶ Yusa Djuyandi et al., "Civil-Military Relations in Indonesia : Promoting a Professional Military Character from the New Order Era to the Reform Era," *Otoritas: Jurnal Ilmu Pemerintahan* 15, no. 3 (2025): hlm. 510.

⁷ Aditya Batara Gunawan, "Explaining Civilian Control of Militarisation in Indonesia : The Case of Military Law Amendment," *Jurnal Ilmu Sosial Dan Ilmu Politik* 28, no. 1 (2024): hlm. 35.

regulations when viewed from the principles of the rule of law, constitutional democracy, and civilian supremacy

B. Research Methods

This study is a normative legal study that examines the conformity of Article 47 of Law No. 3 of 2025 with the principles of the rule of law, constitutional democracy and civilian supremacy as enshrined in the 1945 Constitution of the Republic of Indonesia. A normative approach was adopted because the subject matter consists of legal norms and the consistency between provisions, thus requiring no empirical data. The study employs a statutory approach and a conceptual approach to examine the relationship between the 1945 Constitution of the Republic of Indonesia, Law No. 34 of 2004, and Law No. 3 of 2025, as well as to understand the concepts of civilian supremacy and constitutional democracy. The legal materials consist of primary legal sources in the form of legislation and Constitutional Court rulings; secondary legal sources in the form of books and academic articles; and tertiary legal sources in the form of legal dictionaries. The collection of legal materials was carried out through a documentary study by reviewing regulations, proceedings, rulings and academic literature. The analysis was conducted qualitatively through grammatical, systematic and constitutional interpretation to assess the alignment of the provisions of Article 47 of the 2025 TNI Act with the principles of the rule of law, constitutional democracy and civilian supremacy.

C. Discussion and Research Results

Constitutional Framework of Civilian Control over the Military

The principles of the rule of law and democracy are enshrined in the same article, namely Article 1 of the 1945 Constitution of the Republic of Indonesia. Paragraph (3) affirms Indonesia as a state governed by the rule of law (*rechtsstaat*), which means that the entire exercise of state power—including defence policy and the placement of military personnel in civilian posts—must be subject to the law, not the other way round (*nomocracy*, not *kratocracy*); thus, every policy must have a clear legal basis and be subject to judicial review. Paragraph (2) affirms that sovereignty resides with the people and is exercised in accordance with the Constitution, which, in the context of defence policy, is realised through the mechanisms of representation and oversight by the House of Representatives (DPR) over the formulation and amendment of the TNI Act.

The principles governing the President's powers are set out in Article 4(1), which establishes the President as the holder of executive power, and

Article 10, which specifically designates the President as the supreme commander of the Army, Navy and Air Force. These two articles constitutionally establish the President as the supreme commander of the Indonesian National Armed Forces (TNI); consequently, the policy of appointing TNI personnel to positions within ministries and agencies essentially falls within the President's authority as head of government and as the highest civilian authority over the military though this authority must still be exercised within the framework of legislation enacted jointly with the House of Representatives (DPR), and not solely on the basis of discretion.⁸

The principles of national defence are set out in Article 27(3), which affirms the rights and obligations of every citizen in the defence of the state, and in Article 30, which affirms the system of universal people's defence and security (paragraph 2) and the position of the TNI as an instrument of the state in the field of defence (paragraph 3). These two articles serve as functional boundaries, stipulating that the TNI's primary mandate is the defence of the state against external threats, not administrative or civilian bureaucratic matters; consequently, any expansion of the TNI's role into non-defence spheres requires strict constitutional justification. As a follow-up, Law No. 34 of 2004 reaffirms the professionalism of the TNI through three key points: its identity as a People's/Fighting/National Army (Article 2), its function as a deterrent against internal threats (Article 6), and military operations other than war (Article 7).⁹ None of these three provisions were amended by Law No. 3 of 2025 and they remain the fundamental framework for any expansion of the TNI's powers.

Regulation of Active-Duty TNI Personnel under Law No. 3 of 2025

Prior to the amendment, Article 47 of Law No. 34 of 2004 provided as follows: paragraph (1) set out general rules on mandatory retirement outside the list; paragraph (2) contained an exhaustive list of 10 agencies. Following Law No. 3 of 2025, the order of the clauses was reversed — paragraph (1) now contains an expanded list of 14 agencies, whilst paragraph (2) sets out the general rules — not 24, as has been erroneously circulating in the public domain. Four new areas have been added: border management, disaster

⁸ Sujono Bastari R, "Analisis Pasal 10 , 11 , 12 Undang-Undang Dasar 1945 Terkait Kewenangan Presiden Selaku Kepala Negara Terhadap Tentara Nasional Indonesia," *J-CEKI : Jurnal Cendekia Ilmiah* 4, no. 4 (2025): hlm. 283.

⁹ robbyanandri Pratama, "Implementasi Filsafat Ilmu Pertahanan Dalam Kebijakan Pertahanan Dan Penyelenggaraan Pertahanan Negara," *Jurnal Dwija Kusuma* 12, no. 2 (2024): hlm. 92.

management, counter-terrorism and maritime security, alongside the reaffirmation of the Attorney General's Office and the cyber sector, which has been merged with state cryptography.

In terms of eligibility criteria, personnel in the 14 agencies are not required to resign, but their competence and track record will still be assessed by the High-Ranking Officers' Promotion and Appointment Board (Wanjakti) before they are appointed.¹⁰ Outside of this list, the obligations regarding retirement or resignation remain unchanged. To strengthen accountability, the amendment confirms that military personnel in these 14 posts may still face criminal proceedings through the Attorney General's Office should they break the law.¹¹ Inconsistencies have also been identified with the Civil Service Law, which permits the transfer of TNI/Polri personnel without an open, competence-based selection mechanism, as set out in Article 19(2) of Law No. 20 of 2023. A comparison of the old and new provisions is summarised in the following table:

Aspect	Law No. 34 of 2004 (prior to revision)	Law No. 3 of 2025 (as amended)
Number of ministries/agencies	10 ministries/agencies	14 ministries/agencies (including 4 new areas)
Structure of Article 47	Paragraph (1): General rules regarding mandatory retirement outside the list. Paragraph (2): List of 10 agencies.	Paragraph (1): a list of 14 agencies. Paragraph (2): general rules requiring resignation or retirement for those not on the list.
Fields that can be filled in	Coordinator for Political, Legal, and Security Affairs; National Defense; the Presidential Military Secretariat; State Intelligence; State Cryptography; the National Defense Institute; the National Defense Council; National Search	The ten agencies listed above (including mergers and nomenclature adjustments), plus: border management, disaster management, counterterrorism, maritime security, and the Attorney General's Office of the Republic of

¹⁰ Utami Argawati, "Prajurit TNI Yang Ingin Duduki Jabatan Sipil Tertentu Ikuti Sistem Meritokrasi," Mahkamah Konstitusi Republik Indonesia, accessed August 5, 2026, <https://www.mkri.id/berita/prajurit-tni-yang-ingin-duduki-jabatan-sipil-tertentu-ikuti-sistem-meritokrasi-24714>.

¹¹ Hammam Izzuddin, Andi Adam Faturahman, Antara, "UU TNI Disahkan, Kejagung Bisa Proses Prajurit Di 14 Jabatan Sipil Yang Terjerat Pidana," TEMPO, accessed August 5, 2026, <https://www.tempo.co/politik/uu-tni-disahkan-kejagung-bisa-proses-prajurit-di-14-jabatan-sipil-yang-terjerat-pidana-1222466>.

	and Rescue; the National Narcotics Agency; the Supreme Court.	Indonesia; the scope of cybersecurity is also emphasized alongside national cryptography.
Requirements	Active-duty military personnel may serve directly in 10 agencies without resigning; outside of those, they are required to resign or retire.	Active-duty military personnel may directly assume positions in 14 agencies without resigning; outside of these agencies, they are still required to resign or retire (the rule remains unchanged).

Based on the comparison table, the amendment to Article 47 through Law No. 3 of 2025 introduces substantive changes to the placement of active-duty TNI personnel within ministries and state agencies. These amendments expand the scope from 10 to 14 ministries/agencies, with the addition of the fields of border management, disaster management, counter-terrorism, maritime security, the Attorney General's Office, and national cyber and cryptography. The structure of the provisions has also changed, with the list of posts set out in paragraph (1), whilst the obligation to resign or retire from posts not included on the list is regulated in paragraph (2). This expansion increases the overlap between defence functions and civilian governance and must therefore be assessed in light of the principles of civilian supremacy, TNI professionalism, the rule of law, and constitutional democracy.

Constitutional Assessment

The constitutional review of Article 47 of Law No. 3 of 2025 is based on four key concepts, each of which also serves as a benchmark for its application. Firstly, the concept of constitutional supremacy is closely linked to the normative-legal nature of the Constitution. Constitutional supremacy cannot be separated from its normative binding force: if the Constitution cannot be applied, then it is useless; and if it does not hold the highest position (supremacy), then it is not a Constitution. This is the prevailing paradigm today: the Constitution holds the highest position and is normative in nature.¹² In Indonesia, the supremacy of the constitution, which establishes the 1945 Constitution of the Republic of Indonesia as the supreme law limiting the powers

¹² Claudio Alvarado Rojas and Luis Alejandro Silva Irrarázaval Trabajo, "Supremacía Constitucional y Derechos Sociales: ¿Hacia La Judicialización de La Política?," *Revista Ius et Praxis, Universidad de Talca (Chili)*. 26, no. 2 (2020): hlm. 54.

of the state; and also legal certainty and justice for citizens.¹³ Furthermore, this principle is reinforced by the doctrine of constitutionalism, which affirms that state power is limited not only procedurally but also substantively through democracy, the rule of law, and the protection of human rights.¹⁴ From this perspective, the validity of Article 47 of Law No. 3 of 2025 cannot be assessed solely on the basis of the legality of its enactment, but must be tested against the constitutional limits of the TNI's authority, in particular Article 30 of the 1945 Constitution of the Republic of Indonesia concerning the defence mandate.¹⁵

Secondly, civilian supremacy is a key principle in the defence system of a democratic state, which places civilian authority in control of the government.¹⁶ In a state that upholds the sovereignty of the people, the constitution derives its legitimacy from the people as the holders of supreme power.¹⁷ This principle is in line with Article 1(2) of the 1945 Constitution of the Republic of Indonesia, which affirms that sovereignty resides with the people, whilst Article 30(3) designates the Indonesian National Armed Forces (TNI) as the state's instrument in the field of defence. Therefore, the appointment of active-duty TNI personnel to civilian posts, as regulated in Article 47 of Law No. 3 of 2025, must be strictly limited in order to continue to guarantee civilian supremacy, prevent the expansion of military functions, and uphold the principle of popular sovereignty.

Thirdly, a professional military. Drawing on Samuel P. Huntington's theory of objective civilian control, a professional military is characterised by being politically neutral and subject to objective civilian control. Recent studies indicate a shift towards 'hybrid professionalism', whereby the TNI maintains its political neutrality whilst also playing a role in non-defence tasks on the basis of clear decisions by civilian authorities.¹⁸ The deployment of active-duty personnel outside the framework of clear decisions by civilian authorities has

¹³ Febra Anjar Kusuma et al., "Analisis Peran Konstitusi Dalam Sistem Hukum Tata Negara," *Indonesian Journal of Law and Justice* 2, no. 2 (2024): hlm. 10.

¹⁴ Muhammad Mutawalli Mukhlis et al., "Guardian Of The Constitution: Reviewing The Role Of The Constitutional Court," *Diponegoro Law Review* 10, no. 2 (2025): hlm. 217, <https://doi.org/10.14710/dilrev.10.2.2025.217-233>.

¹⁵ Saudara B.A. Lumbantoruan, "Politik Hukum Undang Undang Nomor 3 Tahun 2025 Tentang Tentara Nasional Indonesia," *Jurnal Media Akademik (Jma)* 4, No. 3 (2026): hlm. 18.

¹⁶ Siti Zaynul Rahmawati Sudarto, "Post-Reform Defense Sector Legal Policy: The Principle Of Civil Supremacy," *Jurnal Hukum UNISSULA* 42, no. 1 (2026): hlm. 96.

¹⁷ Jimly Asshiddiqie, *Konstitusi Dan Konstitusionalisme Indonesia* (Jakarta: Sinar Grafika, 2021), hlm. 18.

¹⁸ Shinjiro Yabuki, "Professionalism Of The Indonesian Armed Forces: New, Old, Or Hybrid Professionalism?," *JWP (Jurnal Wacana Politik)* 9, no. 2 (2024): hlm. 169.

the potential to blur the line between controlled hybrid professionalism and a return to the old dual-function model.

Fourthly, the separation of powers, referring to Montesquieu, who divided state power into the legislative, executive and judicial branches, and to John Locke, who emphasised the limitation of power to prevent its concentration in a single entity.¹⁹ As part of the executive branch in the field of defence, the TNI should ideally not undertake administrative, economic or civil bureaucratic functions outside that field; the legitimacy of the deployment of active-duty personnel is only fulfilled provided it is carried out within agencies strictly regulated by law, and outside of that, such deployment is potentially legally flawed.²⁰

Constitutional Implications

The constitutional implications of the extension of Article 47 of Law No. 3 of 2025 can be outlined in four interrelated and mutually reinforcing dimensions.

Firstly, the implications for the principle of the rule of law. The inconsistency between the TNI Act and the ASN Act also poses a serious problem, as the ASN Act opens the door to the transfer of status for TNI and Polri personnel without going through an open, competence-based selection mechanism, as is customary for civil servants in general. This situation has the potential to violate the principle of meritocracy—which is one of the pillars of bureaucratic reform—whilst also creating legal uncertainty within the state civil service system, as the two regulatory regimes governing military and civilian personnel operate under different standards of accountability yet ultimately lead to the same positions.²¹

Secondly, the implications for civilian supremacy and the risk of a new form of dual function emerging. The appointment of active-duty TNI personnel, without any obligation to retire, to strategic posts has the potential to give rise

¹⁹ Muhammad Adlan Kamil et al., “Legalitas Anggota TNI Aktif Dalam Rangkap Jabatan Sipil: Studi Terhadap Undang-Undang Nomor 34 Tahun 2004 Tentang Tentara Nasional,” *JOURNAL OF LEGAL RESEARCH* 4, no. 2 (2022): hlm. 287.

²⁰ Raditya Feda Rifandhana Melani Ema Gratsia, Supriyadi, Risky Febria Nurita, Moh Fahrial Amrullah, “Keabsahan Penempatan Anggota TNI Aktif Dalam Menduduki Jabatan Sipil,” *Bhirawa Law Journal* 4, no. 2 (2023).hlm. 81.

²¹ Dwi Julica Sari et al., “Perspektif Hukum Terhadap Ketidaksesuaian Prinsip Reformasi Dalam Undang-Undang ASN Terkait Pengisian Jabatan ASN Oleh TNI,” *Judge : Jurnal Hukum* 06, no. 02 (2025): hlm. 11.

to a new form of military dual function which, in substance, bears similarities to practices during the New Order era, albeit framed within a different legal framework and nomenclature. The existence of this TNI Act also has the potential to undermine the spirit of the Reform era, which sought to restore the TNI's duties and functions to the field of defence and to limit military involvement in the civilian sphere. Further involvement of military groups in civilian posts could be viewed as a step that risks eroding the ideals of the Reform era and the principle of civilian supremacy.²² Unlike previous regulations, which required resignation or retirement as a prerequisite for entering the civilian sphere, active-duty military personnel can now perform both military and administrative functions, thereby potentially undermining democratic control over the military and blurring the lines of accountability between the defence sector and the civilian government.²³

Thirdly, the implications for military professionalism. The expansion of the TNI's involvement in non-defence civilian posts risks shifting the TNI's institutional focus away from its core duties towards political and bureaucratic dynamics, which in turn could erode military neutrality and discipline—the foundations of professionalism since the 1998 Reform. Recent studies indicate that the implementation of Article 2(d) of Law No. 34 of 2004 on TNI professionalism remains ineffective due to the expansion of Article 47, as military personnel who should ideally be focused on defence are instead drawn into bureaucratic and practical political interests within civilian ministries and agencies.²⁴

Fourthly, the implications for the system of checks and balances. Without strengthening parliamentary oversight and effective mechanisms for judicial review, the expansion of powers regarding the deployment of active-duty military personnel has the potential to shift the balance of power between state

²² Afriman Oktavianus et al., "Implikasi Perubahan Undang-Undang TNI Terhadap Struktur Ketatanegaraan Indonesia ' Sebuah Kajian Terhadap Pengaruh Dwi Fungsi ABRI ' Kesatuan Republik Indonesia Yang Berdasarkan Pancasila Dan Undang-Undang Dasar," *Khatulistiwa: Jurnal Pendidikan Dan Sosial Humaniora Volume*. 5, no. 2 Juni 2025 (2025): hlm. 436.

²³ Suif Al-adawiyah, "Dwifungsi Gaya Baru ? Penempatan Prajurit Aktif Di Jabatan Sipil Dalam Revisi UU TNI 2025 Dan Dampaknya Terhadap Demokrasi," *Pemuliaan Keadilan* 2, no. 3 (2025): hlm. 18.

²⁴ Khalifa Nur Khaliq Pohan et al., "Demokrasi Di Bawah Militerisme : Kritik Sosial Terhadap Implementasi Uu TNI Dan Implikasinya Bagi Keamanan Nasional," *Indonesian Journal of Law and Justice* 3, no. 2 (2025): hlm. 15.

institutions, thereby threatening to weaken the principle of checks and balances that characterises a democratic state governed by the rule of law, particularly if the evaluation and accountability processes relating to such deployments are not conducted in a transparent and participatory manner.²⁵

Constitutionalism is the principle that state power must be exercised within the framework of the law, with respect for individual freedoms, the separation of powers, and the supremacy of the constitution.²⁶ In the context of the amendment of Law No. 34 of 2004 to become Law No. 3 of 2025, this principle serves as a key parameter for assessing the expansion of the authority to place active-duty TNI personnel in civilian posts. Although this amendment provides a legal basis for the placement of active-duty military personnel in certain ministries and agencies, formal legality does not automatically guarantee its compliance with the principle of constitutionalism. Such placements must remain within the limits of the TNI's constitutional mandate as an instrument of the state in the field of defence and must be subject to the principle of civilian supremacy. Therefore, the expansion of civilian posts for the TNI must be proportionately limited so as not to blur the separation of civilian and military functions, weaken democratic control, or undermine the principle of popular sovereignty in the administration of government.

D. Conclusion

In conclusion, the results of the analysis indicate the need for improvements in four areas. Firstly, implementing regulations are required to govern the mechanisms, criteria and duration of the secondment of active-duty military personnel to 14 ministries and agencies. Secondly, restrictions are needed in the form of term limits, a ban on holding multiple structural posts, and periodic evaluations to prevent the blurring of the boundaries between military and civilian functions. Thirdly, parliamentary oversight needs to be strengthened through working meetings, periodic reports and implementation evaluations. Fourthly, a constitutional review by the Constitutional Court is required should the implementation of Article 47 conflict with the rule of law, democracy and civilian supremacy. These measures are essential to ensure that

²⁵ Allivia Nabilla et al., "Juridical Analysis of Amendments to the Indonesian National Armed Forces Law and Civil-Military Balance," *Qaimuddin: Journal of Constitutional Law Review* 6, no. 1 (2026): hlm. 27, <https://doi.org/10.31332/qjclr.v6i1.13304>.

²⁶ Ridwan Syaidi Tarigan, *Konstitusi Dan Konstitusionalisme: Fondasi Hukum Dan Demokrasi Modern* (Yogyakarta: CV Selfietera Indonesia, 2025), hlm. 1.

the expansion of the TNI's powers remains within constitutional limits and to guarantee government accountability.

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