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Legislating civil-military relations in post-*Reformasi* Indonesia

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This article examines the legislative dynamics of Indonesia's 2024–2025 TNI Law revisions and the roles parliament and the executive should play in regulating civil-military relations. Analysing the revision process as a case study reveals an expanded military role in civilian governance and weakened legislative oversight. The executive accelerated reforms for political expediency while parliament failed to ensure transparency or meaningful public participation. The study also finds that legislation governing civil-military relations must adhere to three core principles: civilian supremacy, robust legislative policy, and deliberative democracy. These findings reflect broader global trends of eroding civilian control, underscoring the urgent need to institutionalize these safeguards. The article highlights the risks of militarization and calls for stronger democratic frameworks to protect civil-military boundaries.

Keywords: civil-military relations; civilian supremacy; legislative policy; deliberative democracy

1. Introduction

At the beginning of 2025, six months after the inauguration of President Prabowo Subianto, Indonesia faced intense political and legal dynamics following the ratification of the revision to Law No. 34 of 2004 concerning the Indonesian National Armed Forces (TNI Law).¹ The revision, passed on 20 March 2025 – coinciding with the fasting month of Ramadan – triggered widespread protests from students and civil society groups, who expressed concerns over the potential resurgence of military dominance in civilian life. This development evoked memories of the *Dwifungsi* (Dual Function) military doctrine during the New Order era.²

¹ Stefano Sulaiman and Ananda Teresia, 'Indonesia Parliament Passes Contentious Amendments to Military Law' (2025) <<https://www.reuters.com/world/asia-pacific/indonesia-parliament-passes-contentious-amendments-military-law-2025-03-20/>> accessed 22 March 2025.

² Amy Sood, 'Indonesia Military Law Protests Signal Deep Fears of Democratic Erosion under Prabowo' (2025) <<https://www.scmp.com/week-asia/politics/article/3304020/indonesia-military-law-protests-signal-deep-fears-democratic-erosion-under-prabowo>> accessed 28 March 2025.

These concerns extend beyond domestic realm. Global studies by Pion-Berlin and Dudley demonstrate that the expansion of military's role often erodes democratic governance, as evidenced in Latin American cases.³ Within the Indonesian context, the 2025 revision of the TNI Law serves as a critical test for civil-military relations in the post-1998 *Reformasi* era.⁴ Furthermore, this revision raises concerns about what role the legislature and executive should play in ratifying such sensitive issues and whether democratic guarantees can be upheld in this process.

Several studies have examined the appropriate role of the military and its relationship with civil society. Dahlberg and Dalgaard-Nielsen argue that in many countries, there is a growing tendency for military to increasingly engage in domestic affairs, taking on roles traditionally reserved for the police. The expansion of military functions remains a contentious issue in many nations. They argue that the boundary between military and law enforcement responsibilities is becoming increasingly blurred, requiring careful scrutiny of its broader implications.⁵

Pion-Berlin and Dudley emphasize that civil-military relations play a crucial role in ensuring state stability. An overextended military role – whether manifested in excessive military dominance or the preservation of authoritarian regimes – poses significant risks to a state.⁶ Furthermore, due to their isolation from civilian society, many military officers develop a perception of superiority over politicians, which may even lead to coup attempts.⁷

³ David Pion-Berlin and Danijela Dudley, 'Civil-Military Relations: What Is the State of the Field' in A Sookermany (ed), *Handbook of Military Sciences* (Springer International Publishing 2020).

⁴ *Reformasi*, an Indonesian term meaning 'reform' or 'reformation', refers both to the political movement that led to the resignation of President Suharto in May 1998 and to the subsequent post-Suharto era that marked a significant transition in Indonesia's political landscape.

⁵ Rasmus Dahlberg and Anja Dalgaard-Nielsen, 'The Roles of Military and Civilian Forces in Domestic Security' in A Sookermany (ed), *Handbook of Military Sciences* (Springer International Publishing 2020).

⁶ Pion-Berlin and Dudley (n 3).

⁷ *ibid.*

In light of the need for prudence in civil-military relations, it is important to consider the framework proposed by Bruneau and Matei, which emphasizes three key approaches: control, effectiveness, and efficiency. The control approach underscores the necessity for civilian institutions to exercise oversight over the military. Effectiveness relates to the military's capacity to fulfil its duties with competence and professionalism. Meanwhile, efficiency refers to the optimal allocation of resources in executing military functions.⁸ To implement these three approaches, strong oversight institutions and dedicated resource allocation are essential to monitor military interests. However, many democratic countries show limited awareness of the importance of such mechanisms or lack the political will to establish them.⁹

Huntington's classical theory remains highly relevant for analysing civil-military relations within the framework of civilian supremacy.¹⁰ On the crucial issue of civilian control over the military, Huntington argues that the ideal civil-military relationship requires a military that maintains strict professionalism, technical competence, political neutrality, and subordination to civilian authority. On effectiveness and efficiency, Huntington's theoretical framework emphasizes the vital role of civilian institutions in formulating policy decisions that the military subsequently implements.¹¹

Huntington's theory of civilian control, which advocates for a professional military subordinate to civilian authority, remains relevant to post-*Reformasi* Indonesia for two principal reasons. First, this theoretical framework aligns with the post-1998 democratization agenda that sought to limit the military's political role, as evidenced by the abolition of the Dual Function doctrine and subsequent constitutional amendments. Second, in the context of the revised TNI

⁸ Thomas C Bruneau and Florina Cristiana Matei, 'Towards a New Conceptualization of Democratization and Civil-Military Relations' (2008) 15 *Democratization* 909.

⁹ *ibid.*

¹⁰ Samuel P Huntington, *The Soldier and the State : the Theory and Politics of Civil-Military Relations* (Belknap Press 1957).

¹¹ *ibid.*

Law, Huntington's theory underscores the imperative of maintaining military professionalism without political interference – particularly when legislative revisions risk blurring the civil-military divide.

To actualize civilian control over the military as emphasized by Huntington, the legislative role becomes paramount. Auerswald's research demonstrates that parliamentary capacity and political will are crucial in regulating civil-military relations. Legislators, for instance, could assume a more vocal role in scrutinizing inappropriate military policies.¹² A concrete manifestation of this oversight function includes legislative measures that produce laws directing the military toward becoming a professional institution subordinate to civilian authority – precisely as envisioned in Huntington's ideal framework.

While parliamentary control through legislative instruments constitutes a critical issue, there remains a significant research gap in exploring this dimension, particularly within the Indonesian context. Existing studies have predominantly focused on parliamentary oversight mechanisms while neglecting the legislative aspect of parliamentary authority. Notable research on parliamentary oversight includes works by Lagassé and Saideman, which examine how intrusive versus reactive military oversight in the Canadian parliament is shaped by institutional structures and party preferences.¹³ The same scholars have also investigated parliamentary scrutiny of military affairs in Belgium and New Zealand.¹⁴ Meanwhile, Reykers analyses the parliamentary role in monitoring defence procurement decisions.¹⁵ In contrast, Ng and

¹² David P Auerswald, 'Legislatures and Civil–Military Relations in the United States and the United Kingdom' in Tapio Raunio and Wolfgang Wagner (eds), *Challenging Executive Dominance: Legislatures and Foreign Affairs* (Routledge 2018).

¹³ Philippe Lagassé and Stephen M Saideman, 'Public Critic or Secretive Monitor: Party Objectives and Legislative Oversight of the Military in Canada' in Tapio Raunio and Wolfgang Wagner (eds), *Challenging Executive Dominance: Legislatures and Foreign Affairs* (Routledge 2018).

¹⁴ Philippe Lagassé and Stephen M Saideman, 'When Civilian Control Is Civil: Parliamentary Oversight of the Military in Belgium and New Zealand' (2019) 4 *European Journal of International Security* 20.

¹⁵ Yf Reykers, 'Strengthening Parliamentary Oversight of Defence Procurement: Lessons from Belgium' (2021) 30 *European Security* 505.

Kurniawan's study on Indonesia discusses how cooperative oversight fosters harmonious working relations between parliament and the military to stabilize civil-military relations.¹⁶

The previous research demonstrates that the discourse on civil-military relations requires further scholarly examination of legislative roles in establishing ideal civil-military dynamics. This study addresses this research gap by focusing on the Indonesian context, particularly examining the evolving civil-military relations through the lens of legislative revisions to the TNI Law. While situated within the Indonesian context, this study differs fundamentally from Ng and Kurniawan's work: whereas their research analyses cooperative parliamentary oversight of the military, the present study specifically examines legislation as an instrument of control in civil-military relations.

Building upon this background, this article addresses two central research questions: First, what are the legislative dynamics surrounding civil-military relations in Indonesia, particularly in the context of the 2024-2025 TNI Law revisions? Second, given these dynamics, what roles should parliament and the executive assume in legislating matters pertaining to civil-military relations? The 2024-2025 TNI Law revision process serves as this study's empirical case for examining these questions.

To systematically address these issues, the article is organized into five analytical sections. The analysis begins with a historical examination of civil-military relations in Indonesia, focusing particularly on the Sukarno and New Order eras.¹⁷ This historical contextualization is essential for understanding the legislative dynamics of the TNI Law, which cannot be divorced from the Dual Function military doctrine developed by Nasution and

¹⁶ Jefferson Ng and Yudha Kurniawan, 'The Parliament and Cooperative Oversight of the Indonesian Armed Forces: Why Civil-Military Relations in Indonesia Is Stable but Still in Transition' (2024) 50 *Armed Forces & Society* 683.

¹⁷ The New Order (*Orde Baru*, commonly abbreviated as *Orba*) refers to the authoritarian regime of Indonesia's second president, Suharto, spanning from his rise to power in 1966 until his resignation in 1998. The term was coined by Suharto himself upon assuming office, intended to distinguish his administration from that of his predecessor, Sukarno, whose era was retrospectively labelled the 'Old Order' (*Orde Lama*).

subsequently institutionalized by Suharto to consolidate authoritarian rule with military support.

The subsequent two sections analyse the military's evolving position during the Reformasi era, specifically under Presidents Yudhoyono and Joko Widodo (popularly known as Jokowi). The legislative process concerning the TNI Law initially gained momentum during Jokowi's administration, particularly in its final years. The concluding sections examine the TNI Law's legislative dynamics under Prabowo Subianto's government until its eventual ratification, while formulating normative recommendations for parliamentary engagement in such legislative processes.

2. Civil and Military Relations in Indonesia

This section examines the evolution of civil-military relations in Indonesia, which has been fundamentally shaped by the Dual Function military doctrine. Dual Function formalized the military's dual roles in both defence/security and socio-political domains, thereby legitimizing military personnel's occupancy of civilian government positions. While commonly associated with the New Order regime, the doctrine's conceptual foundations emerged earlier during Sukarno's presidency and were actively implemented by the Indonesian Armed Forces (TNI) during that period. This historical trajectory aligns with Janowitz's perspective on civil-military relations, wherein nascent civilian governments in post-colonial states often seek strategic coalitions with military elites.¹⁸ The Indonesian case exemplifies this pattern, as both Sukarno and later Suharto instrumentalized military institutional power to consolidate political control, albeit through differing mechanisms and ideological frameworks.

¹⁸ Morris Janowitz, 'The Military in the Political Development of New Nations' (1964) 20 *Bulletin of the Atomic Scientists* 6.

The doctrinal origins trace back to Sukarno's declaration of martial law on 14 March 1957, enacted in response to the *Permesta* regional rebellion (initiated on 2 March 1957 by Lieutenant Colonel Ventje Sumual in North Sulawesi). This critical juncture created institutional opportunities for military expansion into governmental affairs at both national and regional levels.¹⁹ Military authorities subsequently exercised this expanded mandate through instruments such as Military Ruler Regulation No. PRT/PM-06/1957 – historically significant as Indonesia's first formal anti-corruption measure, demonstrating the military's early assumption of governance functions beyond traditional defence roles.

The military's expanding role extended beyond the political realm when, on 13 December 1957, following leftist attempts to seize Dutch-owned enterprises, General A.H. Nasution (Chief of Staff of the Indonesian Army) invoked martial law authority to place all Dutch companies under military supervision. These enterprises were subsequently nationalized in February 1959, with the Army deploying numerous officers to manage them.²⁰ Historical evidence indicates that this military managerial experiment proved largely unsuccessful, and in several instances, even precipitated conflicts with labour unions.²¹

During the graduation ceremony at the Military Academy in Magelang on 11 November 1958, Nasution delivered his seminal address (known as the 'Middle Way' doctrine) outlining the TNI unique societal position. Nasution articulated that the TNI's role differed fundamentally from Western militaries that functioned solely as 'government instruments', while also distinguishing it from Latin American militaries that monopolized political power. Instead, he

¹⁹ David Jenkins, 'The Evolution of Indonesian Army Doctrinal Thinking: The Concept of Dwifungsi' (1983) 11 *Asian Journal of Social Science* 15.

²⁰ *ibid.*

²¹ Robbie Peters, *Surabaya, 1945-2010: Neighbourhood, State and Economy in Indonesia's City of Struggle* (NUS Press Pte Ltd 2013).

positioned the TNI as a ‘people's fighting force’ operating coequally alongside other societal forces like political parties.²²

The general asserted that while the Army would not engage in partisan politics, it would not remain apolitical either. He advocated for officers’ systematic inclusion in governance structures, insisting they must hold positions across state institutions to participate in policymaking. Nasution issued a stern warning that institutional exclusion of military personnel could have destabilizing consequences.²³

Nasution’s doctrine ultimately assumed a central role in shaping Indonesia’s political trajectory. The transition from Sukarno’s government to the New Order regime witnessed an unprecedented expansion of military influence in governance. Suharto, the New Order’s principal architect and a career military officer prior to assuming the presidency (though he formally relinquished active military status upon inauguration), consolidated power through a coalition of military and civilian elements that had orchestrated Sukarno’s removal following the abortive 1965 coup attempt.

The regime institutionalized its authority by revitalizing Golkar (*Golongan Karya*), a corporatist organization originally established during the Sukarno era, transforming it into an electoral vehicle that operated in tandem with the bureaucratic elite. This strategic configuration – combining military dominance, pseudo-civilian political machinery, and bureaucratic authoritarianism – constituted the foundational framework that sustained Suharto’s authoritarian rule for three decades.

Within this civil-military coalition, the armed forces occupied a central position that granted their officers broad access to state resources and facilities. The military establishment

²² Jenkins (n 19).

²³ *ibid.*

further consolidated its influence by establishing effective control over state-owned enterprises.²⁴ Mietzner and Misol identify *Pertamina*, a state oil company, as a prime example of the armed forces' institutionalized rent-seeking, where the company functioned as a cash cow that significantly bolstered military coffers while benefiting its uniformed directors.²⁵ Notably, *Pertamina*'s first president-director under the New Order, Lieutenant General Ibnu Sutowo, left the corporation with huge debts and numerous unresolved financial irregularities following his tenure.²⁶

Beyond its commercial ventures, the New Order military systematically penetrated Indonesia's political sphere by occupying civilian government positions. Military officers routinely assumed governorships, regencies, and mayoralties across the archipelago. The armed forces further solidified their political dominance through guaranteed parliamentary representation – securing legislative seats without electoral contestation through the military faction (*Fraksi ABRI*). This institutionalized political privilege enabled the military establishment to significantly influence national politics, including the vice-presidential selection process, thereby ensuring that only military-aligned figures could serve as vice president.²⁷

The institutionalization of military Dual Function reached its formal apex in 1988 when Armed Forces Commander General L.B. Moerdani issued Armed Forces Commander Decree No. Kep/04/II/1988 concerning the *Catur Darma Eka Karma* (CADEK) Struggle Doctrine.

²⁴ Marcus Mietzner and Lisa Misol, 'Military Businesses in Post-Suharto Indonesia: Decline, Reform and Persistence' in Jurgen Rüländ, Maria-Gabriela Manea and Hans Born (eds), *The Politics of Military Reform: Experiences from Indonesia and Nigeria* (Springer 2013).

²⁵ Marcus Mietzner and Lisa Misol, "Military Businesses in Post-Suharto Indonesia: Decline, Reform and Persistence," dalam *The Politics of Military Reform: Experiences from Indonesia and Nigeria*, ed. Jurgen Rüländ, Maria-Gabriela Manea, dan Hans Born (Berlin, Heidelberg: Springer, 2013), 101–20.

²⁶ Peter McCawley, 'Some Consequences of the Pertamina Crisis in Indonesia' (1978) 9 *Journal of Southeast Asian Studies* 1.

²⁷ Jusuf Wanandi, *Menyibak Tabir Orde Baru: Memoar Politik Indonesia 1965-1998* (Penerbit Buku Kompas 2014).

This doctrinal framework established a hierarchical stratification of military's guiding principles, formally elevating Dual Function to the status of a core doctrine, alongside the National Defence and Security Concept and the National Welfare Concept.²⁸

The TNI's doctrine was reinforced by its territorial command structure, comprising twelve Military Regional Commands (*Komando Daerah Militer* or *Kodam*), each theoretically responsible for autonomous defence operations within designated archipelagic sectors.²⁹ Like the Dual Function concept, the theoretical foundations of this territorial system were formulated through military seminars during the 1950s and early 1960s. Under the New Order regime, the *Kodam* structure functioned as a critical apparatus for political control, serving dual purposes: (1) maintaining Suharto's authoritarian rule, and (2) surveillant potential dissident activities within religious organizations, student groups, labour unions, and other civil society actors.³⁰

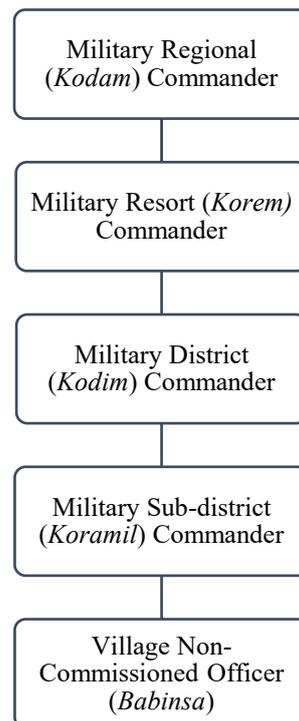
The military's penetration extended far beyond the *Kodam* level, with each Military Regional Commander assuming supervisory authority over a hierarchical structure that reached from provincial administrations down to village units. During the New Order regime, the systematic placement of military personnel at the village level proved particularly effective in monitoring political activities at the grassroots level. This comprehensive territorial command structure – spanning from *Kodam* to Village Non-Commissioned Officer (*Babinsa*) – functioned as an integrated surveillance apparatus, as illustrated in Figure 1.

²⁸ Andi Widjajanto, 'Evolusi Doktrin Pertahanan Indonesia' (2010) 29 *Prisma*, 3.

²⁹ Angel Rabasa and John Haseman, *The Military and Democracy in Indonesia: Challenges, Politics, and Power* (RAND Corporation 2002).

³⁰ *ibid.*

Figure 1. Integrated Surveillance Army Apparatus



Source: Leonard C. Sebastian, *Realpolitik ideology: Indonesia's use of military force*, 2006

During the political upheaval of 1998, when demands for reform reached their peak, the military became a primary target of reformist movements. Student protesters not only demanded President Suharto's resignation but also called for comprehensive military reform. Their demands specifically included: (1) the military's withdrawal from politics and return to barracks, (2) cessation of its business activities, and (3) separation of the police force from the armed forces to establish a civilian law enforcement institution comparable to international standards.

Following Suharto's resignation on 21 May 1998, these reform demands were increasingly directed at his successor, B.J. Habibie. The military reform process proceeded

gradually, requiring six years of institutional restructuring before culminating in the passage of the 2004 TNI Law, which formally codified these transformative changes.

3. Legislation of the TNI Law and its Implementation in the Yudhoyono Era

Prior to examining the widespread public opposition to the 2024 TNI Law revisions, it is essential to review the trajectory of the 2004 TNI Law during President Yudhoyono's administration (with subsequent discussion of President Joko Widodo's era to follow). During Yudhoyono's decade-long presidency (2004-2014), observable patterns emerged indicating systematic neglect of key reform mandates established by the 2004 legislation.

To properly contextualize this development, we must first consider the pre-2004 reform period. Following Suharto's resignation, Indonesia witnessed strong democratic aspirations to depoliticize the military. Constitutional amendments explicitly stipulated that parliamentary representation (both in the House of Representatives/DPR and Regional Representative Council/DPD) would be exclusively filled through electoral mechanisms – either via political parties or individual provincial candidates. This reform definitively abolished the military's institutional representation in the legislature (previously known as the *Fraksi ABRI*).

Similarly, MPR Decree No. VII/MPR/2000 explicitly mandated TNI's political neutrality by prohibiting involvement in practical politics [Article 5(2)]. Furthermore, it stipulated that active military personnel could only assume civilian government positions after formal resignation or retirement from military service [Article 5(5)]. This legislative instrument represented a significant milestone in Indonesia's democratic consolidation.

In 2004, the Indonesian government and DPR included the TNI Bill as one of the priority legislative proposals for deliberation. Since the bill's initial discussion in 2003, it had

faced substantial criticism from civil society coalitions who feared it would perpetuate the territorial command structure and revive the military's Dual Function.³¹ Susilo Bambang Yudhoyono, a retired general who then served as Coordinating Minister for Political and Security Affairs and was later elected president in the 2004 elections, had from the outset expressed opposition to abolishing the territorial command system. Yudhoyono argued that this structure constituted an integral part of Indonesia's total people's defence and security system (*Sistem Pertahanan dan Keamanan Rakyat Semesta*) – a distinctive national framework – that could not be dismantled.³²

During the parliamentary deliberations, several civilian politicians attempted to include provisions mandating the gradual dissolution of the territorial command structure.³³ However, the bill's drafters softened this intent by inserting a clause in the law's explanatory notes stating that the TNI's organizational structure would not follow civilian administrative divisions. It should be noted that the enacted law contained no explicit articles regulating the territorial command system.³⁴ In September 2004, the parliament ultimately passed the TNI Bill into law despite failing to meet quorum requirements, with only 239 of 496 members present during the ratification vote.

Despite facing significant criticism, the 2004 TNI Law achieved several crucial progresses in military reform:

³¹ Hukum Online, '10 Pembahasan RUU Paling Kontroversial Sepanjang 2004' (2005) <<https://www.hukumonline.com/berita/a/10-pembahasan-ruu-paling-kontroversial-sepanjang-2004-ho111923/>>.

³² Ikrar Nusa Bhakti, Sri Yanuarti and Mochamad Nurhasim, 'Military Politics, Ethnicity and Conflict in Indonesia' (2009) 62.

³³ Marcus Mietzner, *The Politics of Military Reform in Post-Suharto Indonesia Elite Conflict, Nationalism, and Institutional Resistance* (East-West Center Washington 2006).

³⁴ DetikNews, 'Tim Perumus RUU TNI Sepakat Komando Teritorial Dihapus' (2004) <<https://news.detik.com/berita/d-215502/tim-perumus-ruu-tni-sepakat-komando-teritorial-dihapus>> accessed 20 March 2025.

- The law divides the TNI's duties into two categories: wartime military operations and military operations other than war (MOOTW). While retaining authority over wartime activities, its scope is strictly limited to 14 specified functions (Article 7).
- The TNI Commander's appointment and dismissal by the President requires parliamentary approval, contingent upon thorough evaluation of the candidate's professional record and merit-based qualifications (Article 13). This institutionalizes civilian oversight over military leadership transitions.
- The 2004 TNI Law establishes comprehensive prohibitions against military personnel's: formal affiliation with political parties, participation in practical politics (including non-partisan political activities), engagement in commercial enterprises, and candidacy in general elections (Article 39).
- The law explicitly stipulates that military personnel may occupy civilian government positions only after formal resignation or retirement from active service (Article 47). This provision essentially reverses the New Order paradigm, wherein active-duty officers routinely held civilian appointments across all levels of government – from regional administrations to central ministries.
- Article 76 of the 2004 TNI Law requires the government to take over all business activities owned or managed by the military, either directly or indirectly, within five years of the law being enacted. The takeover of military businesses was driven by the growing view that TNI involvement in business was contrary to democratic standards, civilian supremacy, and military professionalism. In addition, civil society increasingly demanded oversight and control over TNI finances, further weakening the justification for military businesses.³⁵

³⁵ Mietzner and Misol (n 24).

The most significant reform in the TNI Law lies in its prohibitions that definitively close opportunities for military personnel to broadly exercise Dual Function in both political and business spheres, as was prevalent during the Sukarno and New Order eras. Ultimately, military personnel must now exercise patience and restraint until retirement before engaging in political activities. Regarding this matter, Aminuddin argues that military reform can be achieved by creating political channels for retired military personnel. In Indonesia, retired military officers have the opportunity to establish political parties. However, this must be accompanied by strengthened civilian control to ensure the complete elimination of military influence in Indonesian politics.³⁶

The presidential appointment of the Armed Forces Commander with parliamentary approval introduces significant changes in executive-legislative-military relations. This new mechanism replaces previous legislation that granted the president unilateral authority to appoint the commander without legislative consent. The revised provision establishes a system of checks and balances between the executive and legislature regarding military leadership selection. While this framework theoretically prevents executive misuse of military power without parliamentary oversight, it simultaneously creates potential for political bargaining between the executive and legislative branches in determining military appointments. The reformed procedure thus presents both institutional safeguards and new political considerations in civil-military relations.

Although the TNI Law restricts military involvement in politics by prohibiting active personnel from contesting elections, it simultaneously creates exceptions allowing military

³⁶ M Faishal Aminuddin, 'The Purnawirawan and Party Development in Post-Authoritarian Indonesia, 1998–2014' (2017) 36 *Journal of Current Southeast Asian Affairs* 3.

officers to occupy positions in certain ministries/institutions. Article 47(2) specifies ten permissible offices related to: Political and Security Affairs Coordination, National Defence, Presidential Military Secretariat, State Intelligence, State Cryptography, National Resilience Institute, National Defence Council, National Search and Rescue, National Narcotics Board, and Supreme Court. This provision allows active-duty personnel to occupy such positions without having to resign, subject to: an official request from the leadership of the respective ministry/institution and real institutional needs. Notably, the law's explanatory notes explicitly exclude the Defence Minister position from this exemption.

The provisions of Article 47(2) appear to create significant opportunities for military personnel to play major roles in the Ministry of Defence. During President Yudhoyono's two presidential terms, the position of Defence Minister was exclusively allocated to civilians. However, strategic positions within the Ministry's bureaucratic structure remained dominated by military personnel. From 2004 to 2014, over 90 percent of top-level positions at the Ministry of Defence were occupied by active-duty officers.³⁷

Furthermore, the implementation of provisions prohibiting military personnel from running in regional head elections did not proceed entirely smoothly. During President Yudhoyono's administration, the interpretation of these regulations shifted when the TNI Commander issued Telegram Letter No. STR/222/2005 on 13 April 2005, concerning the provisions, procedures, and TNI neutrality in regional head elections. The telegram stipulated that active TNI members and civilian TNI employees could be nominated as candidates in regional elections under the condition that they would be temporarily released from their duties – without having to retire from military service – during the election process. This interpretation

³⁷ Aditya Batara Gunawan, 'Under The Shadow of Army Domination: Defense Transformation in Indonesia' (Universität Heidelberg 2021).

by the TNI Commander effectively allowed military candidates who lost elections to return to active duty – which clearly deviated from the original intent of the TNI Law.

The telegram was subsequently revoked by TNI Commander's Telegram No. STR/546/2006 dated 22 August 2006, which revised the procedural guidelines for TNI members participating in regional elections. This new directive explicitly required TNI personnel intending to contest general or regional elections to submit formal resignation from active duty (retirement) prior to the election implementation phase. An exemplary implementation of this TNI Law provision occurred in 2017 when Agus Harimurti Yudhoyono (son of former President Yudhoyono) formally resigned from military service to register as a gubernatorial candidate in Jakarta's regional election. This case demonstrated proper adherence to the statutory requirement of complete military separation before political participation.

During President Yudhoyono's administration, the takeover of military businesses did not proceed smoothly. Although the deadline was set for 2009, TNI Commander Endriartono Sutarto stated in 2005 his intention to accelerate the schedule and complete the transfer within just two years.³⁸ This declaration ostensibly demonstrated the military's internal willingness to expedite reforms at that time. However, President Yudhoyono appeared less enthusiastic about accelerating the business takeover process. According to Baker, Yudhoyono seemingly held the view that the military, as an institution with unique historical circumstances and special needs, should be permitted to maintain autonomous revenue streams.³⁹

The implementation of MOOTW reveals that despite being limited to only 14 designated activities, the interpretation of MOOTW remained broad during Yudhoyono's

³⁸ Marcus Mietzner, *Military Politics, Islam and the State in Indonesia: From Turbulent Transition to Democratic Consolidation* (ISEAS Publishing 2009).

³⁹ Jacqui Baker, 'Professionalism without Reform: The Security Sector under Yudhoyono' in Edward Aspinall, Dirk Tomsa and Marcus Mietzner (eds), *The Yudhoyono Presidency* (ISEAS Publishing 2015).

administration. Field operations could be adapted to serve the immediate interests of those in power. According to Haripin, such expansive implementation of MOOTW poses long-term risks to civil-military relations and threatens the sustainability of Indonesia's military professionalization reforms.⁴⁰ Furthermore, Haripin argues that through MOOTW implementation under President Yudhoyono, the TNI regained legitimacy to maintain its territorial command structure by emphasizing its utility in executing MOOTW. This development potentially undermined efforts to establish full civilian control over the military.⁴¹

The developments during President Yudhoyono's administration demonstrate the challenges faced by Indonesia's first directly-elected government in implementing legislative mandates for military reform. The stagnation of these reforms stemmed from Yudhoyono's apparent ambivalence in enforcement, likely influenced by his military background shaped during the New Order era.

However, a civilian presidency does not inherently guarantee consistent implementation of the TNI Law's provisions. The following section will illustrate how President Joko Widodo (popularly known as Jokowi) instead expanded the military's role during his administration.

4. Expansion of the Military's Role in the Jokowi Era and TNI Law Revision

Since taking office in 2014, Jokowi has adopted a largely hands-off approach to daily military affairs and defence policy management.⁴² Meanwhile, the leadership composition of the Ministry of Defence under Jokowi's administration reveals a notable increase in officials with military backgrounds compared to the Yudhoyono era. An analysis of the Ministry's internal

⁴⁰ Muhamad Haripin, *Civil-Military Relations in Indonesia: The Politics of Military Operations Other Than War* (Routledge 2020).

⁴¹ *ibid.*

⁴² Evan A Laksmiana, 'Civil-Military Relations under Jokowi: Between Military Corporate Interests and Presidential Handholding' (2019) 14 *Asia Policy* 63.

structure further indicates that these retired military defence ministers systematically appointed military-affiliated personnel to strategic positions, thereby expanding military influence within the institution.⁴³ This pattern suggests underlying apprehensions and distrust toward civilian leadership among defence policymakers.⁴⁴

President Jokowi's administration allowed the placement of military personnel in various ministries and agencies beyond those permitted under Article 47 of the TNI Law. Towards the end of Jokowi's term, it was identified that 2,569 TNI officers were holding civilian positions in ministries/institutions which, based on Article 47 of the TNI Law, should not be held by military personnel.⁴⁵ In previous years, research institutions and civil society organizations had repeatedly warned about the dangers of involving military personnel in civilian institutions because such practices could undermine civilian supremacy in national political leadership, lead to maladministration – particularly the abuse of authority – and create problems in policymaking processes.⁴⁶

The expansion of military roles during Jokowi's administration became particularly evident during the COVID-19 pandemic. Like several other governments, Indonesia incorporated the military into its pandemic response framework. The armed forces were even tasked with administering vaccinations.⁴⁷ Notably, their involvement in implementing large-scale social restrictions fell outside the scope of authorized MOOTW as defined in the TNI Law. According to Honna, TNI elites employed patriotic propaganda to justify their expanded

⁴³ Muhamad Haripin, Adhi Priamarizki and Sigit S Nugroho, 'Quasi-Civilian Defence Minister and Civilian Authority: The Case Study of Indonesia's Ministry of Defence during Joko Widodo's Presidency' (2023) 8 *Asian Journal of Comparative Politics* 164.

⁴⁴ *ibid.*

⁴⁵ Mis Fransiska Dewi, 'Di Era Jokowi, Ada 2,569 Perwira TNI Duduki Jabatan Sipil' (*Bloomberg Technoz*, 2024) <<https://www.bloombergtechnoz.com/detail-news/51195/di-era-jokowi-ada-2-569-perwira-tni-duduki-jabatan-sipil>> accessed 25 March 2025.

⁴⁶ Denny Indra Sukmawan and Rodon Pedrason, 'Kontrol Sipil Pragmatis: Implementasi Hubungan Sipil-Militer Di Masa Pemerintahan Joko Widodo' (2022) 13 *Politika: Jurnal Ilmu Politik* 274.

⁴⁷ Atalia Eureka Putri Taju and Kholifatus Saadah, 'Talking about Ideal Civil-Military Relationship: Comparison Cases between Military in Indonesia and India in Dealing with Covid-19 Pandemic' (2020) 2 *Journal of International Studies on Energy Affairs* 165.

pandemic role by invoking the spirit of Indonesia's independence struggle, thereby normalizing the military's encroachment into civilian domains.⁴⁸

The expansion of the military's role and its impact on pandemic management significantly influenced public trust in the institution.⁴⁹ Muhtadi's research revealed that the TNI enjoyed the highest level of public confidence compared to other political and social institutions. According to Muhtadi, this heightened public trust in the military correlated with growing popular support for military government and strongman leadership. This trend emerged amid Indonesia's democratic backsliding, Jokowi's weak ideological commitment to democracy, and the military's expanding involvement in civilian affairs.⁵⁰ The surge in public support for the military during the pandemic appears to have emboldened the Jokowi administration, with Defence Minister Prabowo Subianto playing a key role, to further expand military influence.

As his term neared its end, Jokowi demonstrated clear support for Prabowo Subianto to become the next president. Prabowo, a military figure who has consistently raised human rights concerns among activists since his first presidential bid in 2014, campaigned on a narrative of continuity – pledging to maintain Jokowi's policies. Given that Jokowi's administration had significantly expanded military involvement in civilian affairs during his presidency, it stands to reason that Prabowo – with his military background – would maintain, if not further extend, such military prerogatives.

A critical issue concerning the expanded role of the military in civilian life is the proposed revision of the TNI Law. Without rigorous oversight from civil society, this revision

⁴⁸ Jun Honna, *Health Security in Indonesia and the Normalization of the Military's Non-Defence Role* (ISEAS Publishing 2022).

⁴⁹ Burhanuddin Muhtadi, *The Indonesian Military Enjoys Strong Public Trust and Support: Reasons and Implications* (ISEAS-Yusof Ishak Institute 2022).

⁵⁰ *ibid.*

risks institutionalizing the militarization of civilian affairs. The initiative to amend the TNI Law originated from a constitutional challenge filed with the Constitutional Court by several active and retired TNI officers regarding Articles 53 and 71(a) of the TNI Law on retirement age. The petitioners argued that the current military retirement age falls significantly below the maximum productive age of 64 years, based on standards from Central Statistics Agency.

In December 2023, the petitioners withdrew their judicial review request after the government indicated that the TNI Law revision had been included in the 2024 National Legislation Program (*Prolegnas*).⁵¹ However, an examination of the 2024 Priority *Prolegnas* reveals no mention of a bill to revise the TNI Law. Despite its exclusion from the 2024 Priority *Prolegnas*, a bill to amend the TNI Law unexpectedly emerged as a parliamentary proposal in mid-2024, following the general elections. Notably, 2024 marked both an election year and the final year of Jokowi's presidency.

To ascertain the rationale behind the proposed revisions to the TNI Law, one must examine its accompanying Academic Paper (*Naskah Akademik*). Under Indonesia's legislative system, every draft bill must be accompanied by such a document – a research-based justification outlining the logical foundations for the proposed legislation. Since this TNI Law revision originates as a parliamentary initiative, the DPR's Research Body (*Badan Keahlian DPR*) should have completed the requisite Academic Paper prior to its submission.

The publicly available Academic Paper, accessible through the official website of the DPR, is a preliminary 28-page draft prepared in May 2024.⁵² This document recommends amendments to Article 47 (regarding the potential expansion of military personnel's eligibility

⁵¹ *Prolegnas* is a list of bills to be discussed by the government and the DPR in one government period. While Priority *Prolegnas* is a list of bills to be discussed by the government and the DPR for one year.

⁵² The Academic Paper is available at <https://berkas.dpr.go.id/akd/dokumen/baleg-RJ-20240903-080932-3747.pdf>.

for civilian positions across more ministries/institutions) and Article 53 (concerning the extension of retirement age). However, the Academic Paper fails to provide clear, evidence-based justifications for these proposed changes. The document contains only a few brief paragraphs addressing Articles 47 and 53, which lack supporting data and consequently appear to reflect merely the presumptions of its drafters.

Given the Academic Paper's failure to provide substantive explanations, alternative sources must be examined. A prominent hypothesis emerging in media discourse suggests a disproportionate surplus of TNI officers relative to available positions within the military hierarchy. This discussion predates the 2019 presidential election, when concerns first arose regarding the significant number of senior and mid-ranking TNI officers – generals and colonels – lacking formal posts.⁵³

Laksmana further underscored concerns regarding promotion bottlenecks within the TNI.⁵⁴ Laksmana identified a significant disparity between the institutional demand for personnel at the colonel and general ranks and the actual number of available officers during the period from 2011 to 2017. Similarly, the findings of Prakosa, et.al revealed a persistent mismatch at the general and colonel levels, highlighting an oversupply of officers relative to planned personnel requirements. Conversely, there remains a notable shortage of personnel at the ranks of lieutenant colonel, major, and lieutenant.⁵⁵

The identified officer surplus directly contradicts the Academic Paper's recommendation to extend the retirement age through Article 53 revisions. Such an extension

⁵³ Made Supriatma, 'Surplus Jenderal Dan Kolonel: Bagaimana Mengatasinya?' (2019) <<https://tirto.id/surplus-jenderal-dan-kolonel-bagaimana-mengatasinya-dg5F>> accessed 20 March 2025.

⁵⁴ Evan A Laksmana, 'Reshuffling the Deck? Military Corporatism, Promotional Logjams and Post-Authoritarian Civil-Military Relations in Indonesia' (2019) 49 *Journal of Contemporary Asia* 806.

⁵⁵ Chandra Ariyadi Prakosa, Mhd Halkis and Tarsisius Susilo, 'Kompetensi Digital Dan Manajemen SDM TNI Pada Era Digital Competence and TNI Human Resources Management in the Industrial Revolution 4 . 0 Era' (2024) 7 *Journal of Education, Humaniora and Social Sciences* 769.

would exacerbate the existing accumulation of high-ranking officers and institutionalize positional shortages. This incongruity reveals fundamental flaws in the proposed legal amendments to the TNI Law, while simultaneously raising substantive concerns that the revisions serve not merely to address personnel imbalances, but rather to systematically expand military influence within civilian structures.

The expansion of military influence is further evidenced by proposals to increase the number of ministries/institutions where military personnel may serve. The preliminary draft circulated in May 2024 proposes amendments to Article 47(2) of the TNI Law that would significantly broaden military eligibility for civilian positions. Whereas the current law restricts such appointments to ten specified ministries/institutions, the revised version introduces a new clause permitting active-duty personnel to occupy civilian posts in any ministry/institution where their ‘expertise and skills are required’, contingent upon presidential approval.⁵⁶

The dynamics of the TNI Law revision process sparked widespread opposition across regions from students, academics, and various civil society groups. Initially, criticism primarily targeted the Jokowi administration, which remained in office until October 2024.⁵⁷ However, resistance shifted to the Prabowo Subianto government when discussions on the law’s revision persisted into early 2025, despite its exclusion from the 2025 Priority *Prolegnas*. Opposition intensified as Prabowo’s administration was perceived to be reviving militarism in Indonesia.

The resurgence of militaristic tendencies under Prabowo Subianto’s administration has raised significant concerns regarding the expansion of military influence in civilian affairs. This expansion is evidenced by persistent non-compliance with the TNI Law, especially Article

⁵⁶ The initial draft can be accessed at: <https://icjr.or.id/wp-content/uploads/2024/05/BERSIH-PANJA-RUU-PERUBAHAN-UU-TNI-22052024-revisi.pdf>.

⁵⁷ Novali Panji Nugroho, ‘Koalisi Masyarakat Sipil Adukan Jokowi Dan DPR Ke Komnas HAM Soal RUU TNI-Polri’ (2024) <<https://www.tempo.co/hukum/koalisi-masyarakat-sipil-adukan-jokowi-dan-dpr-ke-komnas-ham-soal-ruu-tni-polri--29049>> accessed 20 March 2025.

47(2) of the TNI Law. For instance, in early 2025, the government appointed Lieutenant General Novi Helmy Prasetya, an active-duty officer, as President Director of *Perum Bulog* (the State Logistics Agency), a state-owned enterprise responsible for food logistics management. This appointment constitutes a clear violation of the TNI Law, as *Perum Bulog* is not among the ministries/institutions where military personnel may serve.⁵⁸

The bill was ultimately approved by the DPR and the government during a plenary session on 20 March 2025, or just nine days after Commission I of the DPR approved the formation of the TNI Law Revision Working Committee. The bill was then enacted as Law No. 3 of 2025 on 26 March 2025. Despite significant criticism regarding both the initial draft and the legislative process, several key modifications can be observed when comparing the 2004 TNI Law, the 2024 preliminary revision draft, and the final revised version.

The revisions notably expand the scope of MOOTW and reflect governmental accommodations regarding military appointments to civilian positions. The government and DPR agreed to add four new institutions, bringing the total number of ministries/agencies where military personnel may serve to fourteen. For positions outside these fourteen designated institutions, military personnel must first resign or retire from active service. This provision eliminates the initial clause that would have permitted military personnel to occupy positions across all ministries/agencies. While the proposal to authorize military involvement in business activities was ultimately excluded from the final revision, the government and DPR retained the provision extending the military retirement age as outlined in the initial draft (see Table 1).

⁵⁸ Novali Panji Nugroho, M Raihan Muzzaki and Daniel Ahmad Fajri, 'Dirut Bulog Mayjen Novi Helmy Masih Prajurit TNI Aktif, Ini Kata Panglima Dan KSAD' <<https://www.tempo.co/politik/dirut-bulog-mayjen-novi-helmy-masih-prajurit-tni-aktif-ini-kata-panglima-dan-ksad-1220592>> accessed 20 March 2025.

Table 1. Comparison of the 2004 TNI Law, Initial Draft, and Final Revision (Law No. 3 of 2025)

| 2004 TNI Law | Preliminary Draft (2024) | Final Revision (Law No. 3 of 2025) |
|--|--|--|
| <p>Article 7: The TNI’s responsibilities include wartime operations and MOOTW. While wartime operations are permitted, their scope is limited to 14 specific activities.</p> | <p>No proposed changes to Article 7 in the initial draft.</p> | <p>Expands the TNI’s core duties from 14 to 16 activities. The two additional tasks include cyber defence and the protection/rescue of citizens and national interests abroad.</p> |
| <p>Article 47: Active-duty personnel may hold civilian posts in 10 specified ministries/agencies without resigning.</p> | <p>Military personnel may hold civilian posts in 10 designated ministries/agencies, as well as in other institutions requiring their expertise—without resigning from active duty.</p> | <p>Military personnel may occupy civilian positions in 14 ministries/agencies without resigning. The four newly added agencies are:</p> <ul style="list-style-type: none"> • National Border Management Agency; • National Disaster Management Agency; • National Counterterrorism Agency; • Maritime Security Agency. <p>For positions outside these 14 institutions, resignation or retirement is mandatory.</p> |
| <p>Article 53: Retirement age set at 58 years for officers and 53 years for non-commissioned officers.</p> | <p>Raises the retirement age to 60 years for officers and 58 years for non-commissioned officers.</p> | <p>Extends retirement ages further, now based on rank-specific benchmarks.</p> |

5. How Should Legislation Regarding Civil-Military Relations Be?

Amidst the criticisms surrounding the revision process of the TNI Law, three fundamental principles were notably overlooked in the legislation, particularly concerning sensitive issues like civil-military relations. These principles – civilian supremacy, adequate legislative policy, and deliberative democracy – are essential not only for Indonesia's legislative context but also for any legal system addressing civil-military dynamics.

In legislation governing civil-military relations, the substantive emphasis on civilian supremacy must serve as the paramount framework. When transitioning democracies emerge from periods of military influence, there is often significant reluctance to grant the military expansive authority. However, current circumstances necessitate those civilian politicians exercise heightened vigilance in enshrining civilian supremacy within all military-related legislation.

The imperative of civilian supremacy cannot be divorced from global trends. Crafting military legislation today requires confronting a worldwide phenomenon that increasingly undermines civilian control. Drawing on Daho and Klein's analytical framework, this paper highlights global challenges to civilian supremacy, demonstrating that similar patterns are evident in Indonesia. Consequently, civilian governments must exercise caution when legislating military roles to prevent erosion of democratic norms.

The first phenomenon is the growing tendency of governments to invoke emergency powers. Globally, there has been a marked trend of administrations utilizing states of emergency to manage crises, as exemplified by numerous countries during COVID-19 pandemic responses. Without proper safeguards, such policies risk eroding democratic norms and civilian

supremacy, as they may either prolong the military's expansive authority or be exploited by civilian politicians to entrench their power.⁵⁹

Indonesia has previously experienced this dynamic during Sukarno's implementation of martial law. Far from being a temporary measure, this military emergency became a gateway for armed forces involvement across multiple governance domains – even extending to military-directed anti-corruption regulations targeting civilian officials. This historical precedent demonstrates how emergency frameworks can institutionalize military overreach rather than resolve it.

The second phenomenon involves the political normalization of military institutional overreach. A paradigmatic example emerges from France, where the armed forces have been increasingly deployed for domestic affairs – including counterterrorism operations, securing government buildings during protests, and COVID-19 pandemic response. This visible militarization of civilian spaces has correlated with surging public approval for the military. No longer perceived as a threat to democracy, the institution has been rhetorically recast as a 'guardian of national values', signalling a dangerous reconceptualization of its constitutional role.⁶⁰

In the French context, this phenomenon may not yet constitute an immediate threat, as increased military visibility in public affairs has not escalated to coup attempts. However, each nation possesses distinct sociopolitical conditions that necessitate caution when assessing such trends.⁶¹ A parallel pattern is observable in Indonesia, where extensive military involvement in COVID-19 pandemic response efforts correlated with heightened public approval of the armed

⁵⁹ Grégory Daho and Luc Klein, 'Political-Military Relations. Civil Supremacy Under the Test of Sovereignty' in Grégory Daho and Yann Richard (eds), *War, State and Sovereignty* (Palgrave Macmillan 2023).

⁶⁰ *ibid.*

⁶¹ *ibid.*

forces. This underscores the importance of contextual analysis when evaluating militarization risks across different political systems.

The third phenomenon undermining civilian supremacy is the growing assertiveness of military actors in democracies, particularly their public criticism of civilian government policies. In the United States, for instance, 124 retired military officers in 2021 published an open letter challenging the Biden administration's decisions. Similarly, France's military chief resigned in 2017 over President Macron's defence budget cuts. Daho and Klein identify this as a global pattern wherein militaries, perceiving civilian leaders as inadequately versed in defence matters, increasingly seek to 'appropriate' policymaking authority in military-affairs domains traditionally reserved for civilian governance.⁶²

A comparable dynamic has emerged in Indonesia under the Jokowi administration, which has systematically facilitated military encroachment into traditionally non-military domains. The armed forces have increasingly asserted their expanded competencies vis-à-vis civilian institutions, as exemplified by the 2024 statement of the TNI Commander declaring the evolution from Dual Function to multi-function military roles. This rhetorical shift institutionalizes the military's self-perception as a cross-sectoral actor supporting government programs, thereby challenging the foundational principle of civilian supremacy in democratic governance.⁶³

One week prior to the ratification of the revised TNI Law, the Governor of West Java – affiliated with President Prabowo Subianto's political party – entered into a cooperation agreement with the military to jointly execute projects spanning infrastructure development,

⁶² *ibid.*

⁶³ Adhyasta Dirgantara and Dani Prabowo, 'Panglima TNI: Sekarang Bukan Dwifungsi ABRI Lagi, Tapi Multifungsi ABRI, Semuanya Kita' (2024) <<https://nasional.kompas.com/read/2024/06/06/13551111/panglima-tni-sekarang-bukan-dwifungsi-abri-lagi-tapi-multifungsi-abri>> accessed 20 March 2025.

slum area rehabilitation, water resource management, waste management, environmental crime prevention, and electrification. These functions traditionally fall under the purview of local governments, state-owned enterprises, and law enforcement agencies.⁶⁴

Two weeks before the bill's passage, the military also established a partnership with a public university, covering human resource development, data and information exchange, and national defence training programs. This collaboration has raised concerns among students about militarization in academia, as it potentially enables the deployment of active-duty soldiers as university students, military access to sensitive student admission data, and TNI oversight of national defence training and territorial indoctrination programs.⁶⁵

The fourth phenomenon concerns the resurgence of conventional warfare globally. The Russian invasion of Ukraine demonstrates how wartime crises centralize decision-making around presidents/prime ministers. In democracies, while war-related decisions constitutionally require parliamentary oversight, legislative bodies often lag in supervising executive actions due to the imperative for rapid military response. This temporal disconnect weakens democratic checks and balances, as parliaments cannot exercise real-time scrutiny over military decisions. Consequently, while military expertise becomes indispensable during conflicts, this necessity simultaneously diminishes democratic control, creating a paradox where security demands erode governance norms.⁶⁶

Beyond these four global phenomena, the Indonesian civilian government has further compromised the principle of civilian supremacy by expanding military eligibility for civilian

⁶⁴ Oyuk Ivani Siagian and Ahmad Fikri, 'Dedi Mulyadi Minta TNI Dan Polri Tanamkan Bela Negara Pada ASN Jabar' (2025) <<https://www.tempo.co/politik/dedi-mulyadi-minta-tni-dan-polri-tanamkan-bela-negara-pada-asn-jabar-1227094>> accessed 4 April 2025.

⁶⁵ Andi Adam Faturahman and Vedro Immanuel Girsang, 'Kerjasama TNI Dan Universitas Udayana, Kapuspen Klaim Tak Ada Militerisasi' (2025) <<https://www.tempo.co/politik/kerjasama-tni-dan-universitas-udayana-kapuspen-klaim-tak-ada-militerisasi--1227489>> accessed 4 April 2025.

⁶⁶ Daho and Klein (n 71).

positions across ministries/institutions. The strong opposition from student groups and civil society appears to have influenced modifications to the initial 2024 draft legislation. While limiting military appointments to only four additional institutions represent an improvement over the original proposal, civil society actors still perceive this as institutionalizing military overreach into civilian domains.⁶⁷

From a theoretical perspective, Huntington's framework suggests that such military placements in civilian posts risk undermining military professionalism – a quality civilian leaders should safeguard. Occupying civilian positions exposes military personnel to political issues and interests, which professional armed forces should strictly avoid. Moreover, this arrangement creates conditions for excessive military intervention in civilian affairs, eroding the fundamental democratic boundary between these spheres.

Indonesia's prolonged experience under the New Order regime provides historical evidence of the dangers inherent in expansive military roles. Consequently, it is both understandable and normative that civil society groups (NGOs, academics, students, etc.) have emerged as the most vocal critics in debates surrounding amendments to the TNI Law. This activism demonstrates how Indonesian civil society, informed by the New Order's legacy, maintains vigilant oversight of governmental militarization.

In emerging democracies like Indonesia, any resurgence of military political influence – particularly under authoritarian-leaning leadership – poses an existential threat to democratic institutions. Historically, militaries have been weaponized to entrench political power and dismantle civilian supremacy. The Indonesian case underscores how unchecked military

⁶⁷ Daniel Ahmad Fajri, 'BEM SI Calls for Action to Reject Revision of TNI Law' (2025) <<https://en.tempo.co/read/1987358/bem-si-calls-for-action-to-reject-revision-of-tni-law>> accessed 25 March 2025.

authority can subvert democratic transitions, transforming armed forces from national protectors into instruments of authoritarian consolidation.⁶⁸

The second principle, namely the necessity of an adequate legislative policy, represents a longstanding issue in Indonesian lawmaking. Legislative policy in this context refers to the framework governing how laws should be drafted to ensure that the resulting legislation is of high quality, effective, and not unduly burdensome.⁶⁹ In the Indonesian context, however, the existing legislative policy fails to provide comprehensive guidance on research methodologies for the development of Academic Paper in the legislative process. As a result, lawmakers and stakeholders lack the necessary tools to select the best possible options before enacting laws and to evaluate the measurable impacts of the legislation once enacted.⁷⁰

The absence of proper legislative policy is particularly evident in the revision process of the TNI Law. There is a notable lack of comprehensive justification for three key amendments: the expansion of MOOTW, the broadening of civilian positions open to military personnel, and the extension of retirement ages. The only available Academic Paper – a 28-page document drafted in May 2024 – fails to provide substantive arguments for these changes. This stands in stark contrast to existing comprehensive research, which reveals systemic stagnation in the promotion of senior officers within the TNI, particularly in the Army. Such studies highlight a disconnect between the proposed legislative amendments and the actual institutional challenges facing Indonesia's military structure.

The third principle is deliberation, which refers to the process through which civil society engages in evaluating legislative proposals via diverse communication channels. This

⁶⁸ Aditya Batara Gunawan, 'Explaining Civilian Control of Militarisation in Indonesia: The Case of Military Law Amendment' (2024) 28 *Jurnal Ilmu Sosial dan Ilmu Politik* 35.

⁶⁹ Felipe De Paula, 'Does Brazil Have a Legislative Policy?' (2016) 4 *Theory and Practice of Legislation* 329.

⁷⁰ Victor Imanuel W Nalle, 'Research Methodology in Legislative Drafting in Indonesia' (2023) 11 *The Theory and Practice of Legislation* 83.

involves scrutinizing policy substance that has already been developed through research, academic paper preparation, and expert consultation, ensuring those affected by the proposed law can critically assess its implications.

A necessary condition for meaningful deliberation is public access and transparency. Public access implies that what is required is not merely freedom of expression, but also equality in the ability to express opinions. Freedom of expression becomes meaningless in the absence of transparency. When the government ensures the broad dissemination of information, it fosters public awareness and encourages active participation through deliberation in the legislative process, thereby reducing the likelihood of poor legislative practices.

In the Indonesian context, the importance of deliberation has been affirmed by the Constitutional Court through the doctrine of meaningful participation, which emerged from the Court's 2021 decision annulling the Job Creation Law. The Constitutional Court of the Republic of Indonesia formulated three requirements for meaningful participation: the legislative process must ensure the fulfilment of civil society's right to be heard, the right to have their views considered, and the right to receive an explanation.⁷¹ These three rights guarantees that civil society can express their opinions during the legislative process, receive explanations from the government and the DPR, and have their views duly considered. Based on this principle of deliberation, supported by the doctrine of meaningful participation, the accelerated process of revising the TNI Law raises serious concerns and reinforces suspicions of procedural irregularities.

First, the government and DPR failed to allocate sufficient time for public consultation. The legislative timeline reveals a clear prioritization of expediency over participatory

⁷¹ Bagus Hermanto, Asrul Ibrahim Nur and Made Subawa, 'Indonesia Parliamentary Reform and Legislation Quality Backsliding Phenomenon: Case of Indonesia Post Reformasi' (2024) 12 *The Theory and Practice of Legislation* 73.

democracy: while the DPR only approved the formation of the TNI Law Revision Working Committee on 11 March 2025, the draft law was ratified in a plenary session with the government just nine days later on 20 March 2025 – demonstrating a procedural rush that precluded meaningful civic engagement.

Second, no official explanations were provided regarding controversial provisions through established democratic channels such as public dialogues or the dissemination of a complete Academic Paper alongside the draft law. Had the government and DPR facilitated transparent information-sharing mechanisms, it would have enabled genuine deliberation and incorporated substantive civil society input.

Third, this compressed timeline systematically eliminated opportunities to: incorporate public feedback into legislative deliberations, address civil society's substantive concerns about military influence, and fulfil the Constitutional Court's mandate for meaningful participation. The process degenerated into mere legislative formalism, reinforcing perceptions that civilian stakeholders are marginalized when the government and DPR advance military-centric legislation. This pattern reflects institutionalized disregard for democratic safeguards in security policymaking.

6. Conclusion

This article demonstrates that legislative dynamics concerning civil-military relations in Indonesia remain inextricably linked to concerns about the resurgence of the military's Dual Function doctrine. The 2004 TNI Law originally served as an antithesis to New Order-era Dual Function practices, explicitly prohibiting military involvement in politics, commercial activities, and civilian government positions (except in specified institutions). However, over the past two decades – particularly during the administrations of Presidents Jokowi and

Prabowo Subianto – this framework has eroded. Recent legislative efforts have sought to expand military eligibility for civilian posts across all ministries/agencies. While civil society resistance forced some concessions in the revised law, profound concerns persist regarding the normalization of militarism.

The Indonesian case offers broader lessons for developing democracies regarding legislation on civil-military relations.

First, democratic development in Indonesia shows that the erosion of civil-military boundaries often begins gradually through legislative reforms that appear technical but have significant democratic consequences. Developing democracies must be wary of the challenge of the military exploiting the weaknesses of transitional governments to regain political and economic influence through legislative reform.

Second, this article argues that legislation governing civil-military relations must adhere to three core principles: civilian supremacy, robust legislative policy, and deliberative democracy. These three principles are universal and should be of concern to researchers in developing democracies evaluating military-related legislative reforms. Lawmakers in developing democracies also bear primary responsibility for upholding these standards by: internalizing civilian control norms, implementing evidence-based legislative processes, and ensuring transparent public participation.

Third, Indonesia's TNI Law revision process systematically disregarded civilian supremacy, robust legislative policy, and deliberative democracy. Given global trends of eroding civilian oversight, similar patterns may emerge elsewhere – necessitating heightened vigilance from civil society worldwide to monitor military-related legislation. The Indonesian case underscores how civil society mobilization can serve as a crucial counterbalance, though its effectiveness depends on institutionalized channels for participation.

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