

The New Dual Role of the Military: The Indonesian National Armed Forces in Civilian Positions and the Threat to Constitutional Democracy

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Abstract

The involvement of active Indonesian National Armed Forces (Tentara Nasional Indonesia/TNI) personnel in civilian positions constitutes a fundamental constitutional issue within the context of constitutional democracy. This normative legal research examines three central issues: the constitutional legitimacy of appointing active TNI personnel to civilian positions, the compatibility of Article 47 of Law Number 3 of 2025 concerning the TNI with the 1945 Constitution of the Republic of Indonesia, and its legal and constitutional implications. Through statutory, conceptual, and case approaches, this study finds that the expansion of civilian roles for active TNI personnel as regulated under Article 47 has the potential to be unconstitutional because it contradicts Article 30 paragraph (3) of the 1945 Constitution, which limits the functions of the TNI to the defense sector. Furthermore, this practice conflicts with the principles of civilian supremacy, popular sovereignty, the rule of law, and the merit system mandated under Law Number 20 of 2023 concerning the State Civil Apparatus (Aparatur Sipil Negara/ASN). The findings indicate that although Article 47 paragraph (1) provides limited exceptions, in practice, TNI personnel have been placed in positions beyond the scope of these exceptions, thereby threatening democratic consolidation and potentially reviving the concept of dual functions (*dwifungsi*) in a new form with stronger legal-formal justification. This study recommends conducting a constitutional review of Article 47, strengthening civilian oversight mechanisms, and ensuring consistent harmonization between the TNI Law, the ASN Law, and the 1945 Constitution to safeguard the principles of constitutional democracy in Indonesia.

INTRODUCTION

The relationship between military institutions and civilian authority within a constitutional democratic system constitutes one of the most strategic constitutional issues in modern Indonesian history (Syahrul et al., 2021). Following the 1998 reform era, Indonesia underwent a fundamental transformation in civil–military relations by abolishing the dual function (*dwifungsi*) of the Armed Forces of the Republic of Indonesia (Angkatan Bersenjata Republik Indonesia/ABRI) through the Decrees of the People's Consultative Assembly (Majelis Permusyawaratan Rakyat/MPR) Number VI/MPR/2000 and Number VII/MPR/2000 (Firdausi & Djuyandi, 2024). This reform represented

an important milestone in establishing a constitutional democracy that positioned the military exclusively within the function of national defense (Fanani et al., 2024).

However, more than two decades after the reform process, a phenomenon that has raised serious constitutional concerns has re-emerged: the involvement of active Indonesian National Armed Forces (Tentara Nasional Indonesia/TNI) personnel in various strategic civilian positions (Azzahra et al., 2026). This condition has been further reinforced following the enactment of Law Number 3 of 2025 concerning Amendments to Law Number 34 of 2004 concerning the Indonesian National Armed Forces, particularly Article 47, which expands opportunities for active TNI personnel to occupy positions in certain ministries and state institutions (Benarrivo & Siddha, 2026). This expansion has not only generated academic debate but has also revived concerns regarding the return of the *dwifungsi* concept in a new legal-formal framework (Oktavianus et al., 2025).

In recent practice, several strategic civilian positions have been occupied by active TNI personnel beyond the limitations established under Article 47. These positions include Cabinet Secretary, Ministry Inspector General, President Director of State-Owned Enterprises (Badan Usaha Milik Negara/BUMN), as well as involvement in civilian programs such as food security initiatives, the Free Nutritious Meals (Makan Bergizi Gratis/MBG) program, public school management, and religious affairs, including the implementation of the Hajj pilgrimage. These empirical developments indicate a significant shift in the military's orientation from its primary defense function toward broader social and governance functions (GRoSU 2024; Harig et al. 2022; Libel 2016; Schmid 2019; Söder 2023).

This issue has fundamental constitutional relevance. Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945/UUD NRI Tahun 1945) emphasizes that Indonesia is a state based on law, while Article 30 paragraph (3) expressly limits the TNI's role as a state instrument in the field of defense. Meanwhile, Law Number 20 of 2023 concerning the State Civil Apparatus (Aparatur Sipil Negara/ASN) establishes the merit system as the primary basis for filling civil service positions. These three legal frameworks constitute constitutional boundaries that must guide any policy concerning the placement of TNI personnel in civilian positions (Deviani et al. 2024; Efata et al. 2026; Humah 2025; Putri et al. 2026; Widodo n.d.).

The urgency of this research arises from the critical need to understand how the 2025 amendment to the TNI Law affects the fundamental principles of Indonesia's constitutional democracy. The placement of active military personnel in civilian positions raises essential constitutional questions concerning the separation of institutional authority, civilian control over the military, the implementation of the merit system in public administration, and the principle of legal certainty. Recent studies have indicated that this policy creates potential inconsistencies between the TNI Law and the State Civil Apparatus Law, risks generating dual chains of command and overlapping administrative authority, and may weaken bureaucratic professionalism and neutrality. The ongoing constitutional review of Article 47 further demonstrates the constitutional significance of this issue (Albert 2019; Roznai 2017; Vanberg 2015).

The novelty of this research lies in its comprehensive analysis of the constitutional implications of Article 47 of Law Number 3 of 2025 across multiple dimensions, including constitutional legitimacy, normative consistency, and practical implementation. Unlike previous studies that examine specific sectors or isolated aspects, this research adopts an integrated framework to analyze how amendments to the TNI Law potentially restructure civil–military relations within Indonesia’s constitutional system. Furthermore, this research contributes to the theoretical discourse on civil–military relations by examining how the post-reform consensus on military professionalism has been challenged through legislative mechanisms and how the principle of civilian supremacy can be preserved within Indonesia’s evolving democratic framework.

Based on this background, this study formulates three research questions. First, how is the placement of active TNI personnel in civilian positions viewed from the perspective of constitutional democracy? Second, how are the legal arrangements and constitutional implications of Article 47 of the 2025 TNI Law analyzed in relation to the State Civil Apparatus Law? Third, what legal and constitutional implications arise from the placement of active TNI personnel in civilian positions?

This study aims to normatively analyze the constitutionality of placing active TNI personnel in civilian positions, evaluate the compatibility of Article 47 of Law Number 3 of 2025 with the 1945 Constitution of the Republic of Indonesia, and identify the legal and constitutional implications arising from this practice. Academically, this research is expected to contribute theoretically to the development of constitutional law, particularly in the study of civil–military relations within the framework of Indonesian constitutional democracy.

METHOD

Types of Research

This research employed a normative legal research method. The method was used to examine legal provisions, principles, and doctrines relevant to the legal issues under investigation and to formulate legal arguments regarding the problems examined.

Problem Approach

Peter Mahmud Marzuki in his book *Legal Research* does not mention the approach in normative legal research but the approach in legal research means for all types of legal research. Therefore, in this study, several approaches are used in analyzing the problem, namely:

- Statute approach
- Conceptual approach
- Case approach

Source of Legal Materials

In accordance with the type of research, this study uses secondary data in the form of legal materials. According to Amirudin and Zainal Asikin, the source of normative legal research is only secondary data, which consists of primary, secondary and tertiary legal materials. The three sources of legal material include:

1. Primary Legal Materials

- The Constitution of the Republic of Indonesia in 1945;
- Law Number 30 of 2014 concerning Government Administration;
- Law Number 20 of 2023 concerning the State Civil Apparatus;
- Law Number 3 of 2025 concerning Amendments to Law Number 34 of 2004 concerning the Indonesian National Army;
- Government Regulation Number 17 of 2020 concerning Civil Servant Management.

2. Secondary Legal Materials

Secondary legal materials are materials that provide explanations of primary legal materials, such as Bills, textbooks, research results in journals and magazines, or the opinions of experts in the field of law.

3. Tertiary Legal Materials

Tertiary legal materials or also known as non-legal materials used include legal dictionaries, encyclopedias, and other supporting materials that provide additional understanding of research issues.

Legal Material Collection Techniques

Legal materials are collected through library research by searching laws and regulations, scientific journals, book literature, and academic articles that discuss issues of civil-military relations, constitutional democracy, and military neutrality.

Legal Materials Analysis Techniques

The technique of analyzing legal materials in this study is carried out in a descriptive-qualitative manner, by describing, interpreting, and analyzing legal materials obtained from literature studies. The analysis is carried out through a descriptive-analytical approach to understand the content and meaning of legal norms related to the principles of constitutional democracy, military neutrality, and civilian supremacy.

Furthermore, a prescriptive-normative analysis is carried out, which is to provide legal arguments and solutions based on legal principles, theories, and principles. This analysis process uses legal interpretation (grammatical, systematic, and teleological interpretation) and legal construction in the event that gaps or disharmony of norms are found, so that legal conclusions are obtained in accordance with the purpose of the research.

RESULTS AND DISCUSSION

A. Filling of Civil Positions by Active TNI Soldiers in the Perspective of Constitutional Democracy

1. The Theoretical Foundation for Filling Civil Offices in the Perspective of Constitutional Democracy

The filling of civilian positions by active TNI soldiers is a fundamental issue in constitutional democracy because it concerns the relationship between civil and military power in the state structure. In the theory of the state of law, the power of the state must be limited by law so that there is no abuse of power. The military as an institution that has a monopoly on the use of

armed force must be placed in a limited and controlled position so as not to disturb the balance of power in the country.

From the perspective of constitutionalism, the limitation of power is the main principle that aims to prevent the dominance of one institution over another. The constitution clearly regulates the distribution of power, including the division between the civilian and military spheres. Therefore, military involvement in civilian office should be seen as a potential violation of the principle of separation of powers that has been designed in the constitutional system.

The theory of civil supremacy asserts that the military must be under the control of a democratically legitimate civilian authority. In this context, the filling of civilian positions by active soldiers creates structural ambiguity, since the military is no longer just an object of control, but also part of the structure of civilian power. This has the potential to weaken civilian control over the military.

In the theory of people's sovereignty, political power must come from the people through democratic mechanisms. Active TNI soldiers do not gain legitimacy through elections, so their involvement in civilian positions has the potential to cause a deficit of legitimacy in the government system. This shows that there is a discrepancy between these practices and the basic principles of democracy.

Furthermore, in the theory of the rule of law, law is placed as the supreme power that binds all organs of the state. Every action of state administrators must be subject to the law, not to mere political will. Therefore, the filling of civilian positions by the active TNI must have a clear legal basis and must not be contrary to the constitution.

In the perspective of modern democracy, military neutrality is an important prerequisite for the creation of fair political competition. Military involvement in civilian positions can affect the political process indirectly, especially if the position has access to state resources. This can interfere with the principle of fairness in democracy.

Thus, theoretically, the filling of civilian positions by active TNI soldiers poses serious problems in constitutional democracy because it has the potential to violate the principles of the rule of law, constitutionalism, civil supremacy, people's sovereignty, and the rule of law at the same time.

2. Legal Regulation and Constitutional Analysis of the Filling of Civil Positions by the Active TNI

In the Indonesian constitutional system, the regulation of the role of the Indonesian National Army (TNI) has been explicitly affirmed in the 1945 Constitution of the Republic of Indonesia. Article 30 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that the TNI is a state tool in the field of defense. This formulation is limitative and imperative, which expressly limits the scope of the TNI's functions only to the aspect of state defense. Therefore, the involvement of active TNI soldiers in civilian positions does not have a strong constitutional basis, because it is outside the main mandate given by the 1945 Constitution.

The analysis of Article 30 paragraph (3) must be linked to Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which affirms that Indonesia is a state of law. In

the concept of the state of law, law is the basis and limit for every act of state power. Thus, the filling of civilian positions by active TNI soldiers must have a clear legal basis and must not be contrary to the constitution. If the practice is carried out without a firm legal basis, it can be categorized as a violation of the principle of legality which is the foundation of the state of law.

Furthermore, from the perspective of the theory of the supremacy of law, the law is placed as the highest power in the state, not the will of the ruler or mere pragmatic considerations. The rule of law requires that all actions of state administrators, including the policy of placing the TNI in civilian positions, must be subject to the applicable law. In this context, practices that deviate from constitutional norms indicate the subordination of the law to political interests, which is contrary to the basic principle of the rule of law.

In addition, Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which emphasizes that sovereignty is in the hands of the people, must be understood within the framework of legal sovereignty. This means that the people's sovereignty is not exercised directly without limits, but must be carried out according to the Constitution. In this case, the law is an instrument that channels the sovereignty of the people in an orderly and measurable manner. Therefore, every deviation from the law, including in filling civilian positions by the active TNI, is also in essence a deviation from the sovereignty of the people.

Furthermore, Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which guarantees fair legal certainty, provides an additional dimension to this analysis. The principle of legal certainty requires consistency between legal norms and state administration practices. If there is a practice of placing active TNI in civilian positions without a clear legal basis, it creates legal uncertainty and has the potential to violate the principle of administrative justice in the civil bureaucratic system.

At the level of law, Law Number 34 of 2004 concerning the TNI explicitly limits the involvement of active soldiers in civilian positions. This provision is a manifestation of the principle of rule of law, where restrictions on the military are carried out through binding legal norms. However, the existence of an exception clause in the law opens up a wide range of interpretive spaces, which in practice can be used to legitimize military involvement outside of the defense function. This shows that there is a tension between restrictive legal norms and political practices that tend to be expansive.

Furthermore, the MPR TAP No. VI/MPR/2000 and the MPR TAP No. VII/MPR/2000 are constitutional instruments that affirm the separation between the TNI and the National Police and the limitation of the military's role in the civilian sphere. From the perspective of the rule of law, this provision should be seen as a binding norm and cannot be ignored by short-term political policies. Therefore, every policy that allows the active involvement of the TNI in civilian positions must be tested for consistency with the MPR TAP.

However, in the practice of constitutional law, it is often found that there are pragmatic policies that actually override the principle of legal sovereignty. For example, the placement of active TNI in civilian positions is often justified on the grounds of effectiveness, discipline, or the urgent needs of the state. Although these reasons have a rational basis, from the perspective of the

rule of law, pragmatic considerations must not defeat established legal norms. If this is left unchecked, there will be an erosion of the rule of law in the constitutional system.

Furthermore, the weak enforcement of the principle of rule of law in this context also shows that there is a problem in the constitutional culture. The rule of law depends not only on the existence of norms, but also on a commitment to enforce them consistently. When law is only used as a formality without real implementation, the sovereignty of law becomes pseudo-and loses its meaning in practice.

Thus, an analysis of the legal arrangement of filling civilian positions by the active TNI shows that normatively Indonesia has adhered to the principle of strong rule of law. However, the main challenge lies in the implementation and consistency of such law enforcement. Without a strong commitment to the rule of law, there is a risk that the law will only become a tool of legitimacy for political policy, not as a control of power.

3. Constitutional Limitations and Military Professionalism in the Civil Realm

The filling of civilian positions by active TNI soldiers must be analyzed within the framework of constitutional limitations aimed at maintaining military professionalism in a constitutional democratic system. Military professionalism demands a strict separation between the functions of defense and the functions of civilian government. In this context, military involvement in civilian positions has the potential to blur these boundaries, thereby disrupting the basic principles of military professionalism that have been built after the reform.

The latest strengthening through Article 47 of Law No. 3 of 2025 which expands the space for active TNI soldiers to occupy positions in certain ministries or state institutions raises serious constitutional problems. Normatively, this provision can be seen as a form of legalization of the expansion of the military's role into the civilian sphere. Even though it is regulated in law, the expansion must still be tested for its conformity with the 1945 Constitution as the highest law.

If analyzed based on Article 30 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which affirms that the TNI is a state tool in the field of defense, then the expansion of civilian positions through Article 47 has the potential to be contrary to constitutional norms. This is because the constitution does not provide space for the military to carry out the functions of civilian government. Thus, there is a potential for vertical inconsistency between the law and the constitution.

In addition, if it is associated with the MPR TAP No. VI and VII of 2000, which expressly abolish the dual functions of the Indonesian Armed Forces and limit the role of the TNI in the defense sector, then the expansion of civilian positions for active TNI can be seen as a step backwards in security sector reform. This shows the potential for dual reactualization in a new form that is more legal-formal.

From the perspective of military professionalism, Article 47 also has the potential to disrupt the TNI's focus in carrying out its defense functions. The placement of active soldiers in civilian positions, as seen in various cases (MBG, agriculture, public schools, and the management of hajj), indicates a shift in military orientation to the non-defense realm.

However, there is an argument in support of this provision, namely that the involvement of the TNI in civilian positions can increase the effectiveness of the government, especially in certain situations that require discipline and capacity of military organizations. However, from the perspective of the rule of law and the rule of law, effectiveness cannot be used as an excuse to override constitutional restrictions.

Thus, Article 47 of Law No. 3 of 2025 normatively raises constitutional problems because it has the potential to contradict the 1945 Constitution and the MPR TAP, and threatens military professionalism. Therefore, these provisions must be viewed critically and require constitutional testing to ensure their conformity with the principles of constitutional democracy.

4. Evaluation of Constitutional Democracy on Article 47 of the 2025 TNI Law and Article 20 of the ASN Law

Evaluation of the filling of civilian positions by active TNI soldiers, especially after the provisions of Article 47 Paragraph (1) and Paragraph (2) of Law No. 3 of 2025 which states that:

- (1) Soldiers can hold positions in ministries/institutions in charge of the coordinator for political and state security, state defense including the national defense council, the state secretariat that handles the affairs of the presidential secretariat and the presidential military secretariat, state intelligence, cyber and/or state cipher, national resilience institutions, search and rescue, national narcotics, border management, disaster management, counter-terrorism, maritime security, the Attorney General's Office of the Republic of Indonesia, and the Supreme Court.
- (2) In addition to occupying positions in ministries/institutions as intended in paragraph (1), Soldiers may occupy other civilian positions after resigning or retiring from active military service.

It must be done within the framework of constitutional democracy. In this perspective, every policy must be subject to the principles of constitutional supremacy, the rule of law, and the sovereignty of the people. Therefore, the expansion of the TNI's role in civilian positions must be tested not only from formal legal aspects, but also from constitutional and democratic aspects.

From the perspective of the state of law, the existence of Article 47 Paragraph (1) does provide a legal basis for the involvement of the TNI in civil office. However, in the hierarchy of laws and regulations, laws must not be contrary to the constitution. If these provisions are contrary to Article 30 paragraph (3) of the 1945 Constitution, then normatively it can be considered unconstitutional.

From the perspective of the rule of law, the law must be the controller of power, not the other way around. If the law is actually used to legitimize the expansion of military power into the civilian realm, then there is a deviation from the principle of the rule of law. In this context, Article 47 Paragraph (1) can be seen as a form of legal instrumentalization for the benefit of certain political policies.

From a civilian supremacist perspective, the provision has the potential to weaken civilian control over the military. The involvement of the TNI in the structure of civilian government, as seen in various empirical cases, can create power imbalances that are detrimental to civilian actors.

From the perspective of people's sovereignty, the expansion of civilian positions for the TNI actively raises legitimacy issues. Civil offices should be filled by individuals who gain legitimacy from the people or through transparent administrative mechanisms. Military involvement without such mechanisms has the potential to create a democratic deficit.

However, in a pragmatic perspective, the government can argue that Article 47 Paragraph (1) and Paragraph (2) are necessary to answer certain needs in the administration of the state. In a constitutional democracy, however, practical necessity must not trump the basic principles of the constitution. If this is left unchecked, there will be normalization of constitutional violations.

Thus, as a whole, Article 47 Paragraph (1) and Paragraph (2) of Law No. 3 of 2025 can be considered problematic from the perspective of constitutional democracy. Although it has a formal legal basis, it has the potential to substantially contradict the principles of the rule of law, civil supremacy, people's sovereignty, and the rule of law. Therefore, constitutional testing and strengthening of oversight mechanisms are needed to ensure that these provisions do not lead to a deterioration of democracy in Indonesia.

5. Filling of Civil Positions by the Active TNI in the Perspective of the ASN Law and Government Regulation No. 17 of 2020

The filling of civilian positions by active soldiers of the Indonesian National Army (TNI) in the perspective of Law Number 20 of 2023 concerning the State Civil Apparatus (ASN) and Government Regulation Number 17 of 2020 concerning the Management of Civil Servants (PNS) must be analyzed within the framework of the principles of the merit system, civil supremacy, and legal certainty in governance.

If we look at Law Number 20 of 2023 concerning ASN, it is emphasized that the implementation of ASN policies and management is based on the merit system, namely ASN policies and management based on qualifications, competencies, and performance in a fair and reasonable manner without discrimination. This is explicitly regulated in Article 1 number 22 of the ASN Law which defines the merit system as the main basis for filling ASN positions. In addition, in Article 3 of the ASN Law, it is emphasized that ASN is based on professionalism, neutrality, and accountability. Thus, normatively, civilian positions should be filled by individuals who are in the ASN system, not by active soldiers who are subject to the military personnel system.

In Government Regulation Number 17 of 2020, the filling of High Leadership Positions (JPT) is carried out openly and competitively among civil servants by paying attention to the requirements of competence, qualifications, rank, and track record of positions as stipulated in Article 107 paragraph (1). This provision shows that administratively, the mechanism for filling civilian positions does not provide a public space for active TNI soldiers, because the legal subject is expressly civil servants. In fact, in the framework of ASN management, there is no norm that directly accommodates the filling of positions by active military personnel without going through a change in personnel status.

When associated with the principle of civil supremacy, this arrangement is in line with the spirit of Article 30 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which emphasizes that the TNI as a state tool in the field of defense has the main function of maintaining,

protecting, and maintaining the integrity and sovereignty of the state. This means that the TNI's functions are constitutionally limited to the realm of defense, not to the administration of civilian government. Therefore, the placement of active soldiers in civilian positions has the potential to cause a shift in function that is not in line with these constitutional principles.

In the context of broader positive law, it is also necessary to pay attention to Law Number 3 of 2025 concerning the TNI, especially Article 47 paragraph (1) which states that "Soldiers can occupy positions in ministries/institutions in charge of the coordinator of political and state security, state defense including the national defense council, the state secretariat that handles the affairs of the presidential secretariat and the presidential military secretariat, state intelligence, cyber and/or state ciphers, national resilience institutions, national search and rescue (SAR), national narcotics, border management, marine and fisheries, disaster management, counter-terrorism, maritime security, the Attorney General's Office of the Republic of Indonesia, and the Supreme Court." Meanwhile, Article 47 paragraph (2) states that "Soldiers can only occupy civilian positions after resigning or retiring from active military service."

Article 47 paragraph (1) and paragraph (2) of the TNI Law show that there is a duality of regulation between limited exceptions and the principle of general restrictions. Paragraph (1) provides a limited space for active TNI soldiers to occupy certain positions related to defense and security functions, while paragraph (2) emphasizes that in principle soldiers must give up their active status before occupying civilian positions.

From the point of view of synchronization of laws and regulations, there is a potential for disharmony between the ASN Law and the practice of filling civilian positions by the active TNI. On the one hand, the ASN Law and Government Regulation 17/2020 affirm the merit system and exclusivity of ASN in civil positions. On the other hand, the TNI Law opens up limited space for active soldiers to occupy certain civilian positions. This inconsistency can cause legal uncertainty and potentially violate the principle of equality of opportunity for civil servants in filling public positions.

Regarding the above explanation, it can be understood that normatively, the filling of civilian positions by the active TNI is not a general mechanism, but an exception that must be strictly limited, based on objective needs, and supported by a clear legal basis. Harmonization between the Civil Servant Management Law, the Civil Servant Management Regulation, and the TNI Law is crucial to maintain the consistency of the principles of a democratic legal state, especially civil supremacy and bureaucratic professionalism.

6. TNI Soldiers Occupying Civilian Positions Must Comply with the TNI Law

In the provisions of Article 47 paragraph (1) and paragraph (2) of Law Number 3 of 2025 concerning Amendments to Law Number 34 of 2004 concerning the Indonesian National Army (TNI Law) it is explained that the filling of certain civilian positions by TNI soldiers has been built in an integrated legal construction between the 1945 Constitution of the Republic of Indonesia, the State Civil Apparatus Law (ASN), and the TNI Law.

Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms the principle of the rule of law as a determinant as well as a limitation of authority, including in filling

certain civil positions. Meanwhile, Article 30 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms the position of the TNI as a state tool in the field of defense that is tasked with defending, protecting, and maintaining the integrity and sovereignty of the state.

The filling of certain civilian positions by TNI soldiers is regulated in the ASN Law and the TNI Law. In the ASN Law, the object of regulation is certain ASN positions in central agencies that can be filled by TNI soldiers as stipulated in Article 19 of the ASN Law. The system used is a merit or meritocracy system, which is the management of human resources based on qualifications, competence, potential, performance, integrity, and morality that is carried out fairly and reasonably.

The TNI Law regulates the subject and restrictions of positions. The subject is TNI soldiers, with restrictions on only being able to fill positions in 14 ministries or institutions in the central agency. The TNI Law as a special regulation emphasizes the subject and restrictions of position. The subject is TNI soldiers and the limitation can only fill 14 ministries or institutions in the central agency.

The determination of certain ministries or institutions is a state political decision that involves complex political, security, and social considerations by institutions that have democratic legitimacy, namely the President and the House of Representatives.

This can be interpreted as the inclusion of government affairs as a strategic node of the state which refers to certain institutions that have a critical role in ensuring the stability and security of the country and have a high level of vulnerability to security threats. Therefore, there is the rule of law in the Constitution Article 1 paragraph (3), Article 30 paragraph (3), Article 19 and Article 20 of the ASN Law and Article 47 paragraph (1) and paragraph (2) of the TNI Law.

If we interpret the phrase "can occupy office" in Article 47 paragraph (1) and paragraph (2) of the TNI Law. The word "can", means that there is a choice for the legal subject to occupy or not to occupy office, while still fulfilling the specified requirements. These requirements refer to the provisions in Law Number 30 of 2014 concerning Government Administration, which regulates aspects of authority, procedures, and substance.

The interpretation of the phrase "can occupy office" in Article 47 paragraph (1) and paragraph (2) of the TNI Law has an important meaning in determining the limits of authority and the nature of the norms contained in it. Grammatically speaking, the word "can" indicates the existence of a discretionary nature, not an imperative command. Thus, the norm does not necessarily provide an automatic right for TNI soldiers to occupy civilian positions, but only opens up possibilities that must be met with certain requirements.

In administrative law theory, the use of the term "may" is often associated with discretionary space for government officials. This is in line with the provisions of Law Number 30 of 2014 concerning Government Administration, which stipulates that the use of authority must meet three main aspects, namely authority, procedures, and substance. Thus, the phrase "may" in Article 47 cannot be interpreted as unlimited freedom, but rather as authority that remains limited by legal norms and principles of good governance.

According to Ridwan HR, discretion is the authority given to government officials to make decisions under certain conditions, but its use must still be legally accountable and must not contradict laws and regulations. Therefore, although Article 47 provides opportunities for TNI soldiers to occupy civilian positions, its implementation must still be subject to the legal framework of state administration.

Furthermore, in the aspect of authority, the filling of civilian positions by TNI soldiers must have a clear legal basis, both in terms of the institution that appoints and the positions filled. In terms of procedures, the appointment process must follow a transparent and accountable mechanism, including coordination between institutions and, if necessary, through open selection as stipulated in the ASN merit system. Meanwhile, in the aspect of substance, the appointment must have a legitimate purpose, namely for the public interest, not the interests of certain groups or institutions.

In addition, the interpretation of the word "can" must also be associated with the principle of limitation of power in the state of law. Philipus M. Hadjon emphasized that any use of authority by the government must always be within the corridor of the principle of legality and must not lead to abuse of authority (*detournement de pouvoir*). Thus, the phrase "may" should not be used as a basis for expanding authority arbitrarily.

In the context of Article 47 paragraph (1) and paragraph (2), the phrase "can occupy office" must be interpreted systematically with other restrictive norms. This means that even though there are opportunities for TNI soldiers to occupy certain civilian positions, these opportunities are still limited by:

1. the type of position that is limitatively determined;
2. the obligation to fulfill the principles of the merit system;
3. as well as provisions regarding resignation or retirement for civil offices outside the exception.

Thus, the word "can" does not create an absolute subjective right, but only provides conditional legal possibility. The phrase "can occupy office" in Article 47 of the TNI Law shows a facultative nature that provides limited discretion, not an absolute right for TNI soldiers. The interpretation of the phrase must be carried out within the legal framework of government administration as stipulated in Law Number 30 of 2014 concerning Government Administration, taking into account aspects of authority, procedures, and substance. Therefore, the use of this authority must remain subject to the principles of legality, accountability, and not conflict with the principles of civil supremacy and the merit system in the management of ASN.

In the provisions of Article 47 of the TNI Law, it must be interpreted thoroughly to ensure the validity of certain civil positions by the TNI both based on the Government Administration Law, the ASN Law and Government Regulation Number 11 of 2017 concerning Civil Servant Management. In filling it out, there is a strict and measurable filling pattern in the form of, First, there is a position analysis, competency name, and job description, Second, there is a request procedure by the leaders of 14 ministries or institutions to the TNI commander. Third, coordination was carried out between the Minister of Internal Affairs, the head of the BKN and the Commander of the TNI. Fourth, there is a competency assessment as the fulfillment of the requirements for the

substance of the position based on the principle of meritocracy. And Fifth, the authority to fill certain ASN positions in the aspect of personnel law is carried out by personnel supervisory officials.

The legal construction of certain civil positions that can be filled by TNI soldiers is built through the integration of the TNI Law and the ASN Law which complement each other. These positions include managerial positions (High Leadership Positions/JPT) through open selection as well as non-managerial positions (functional officials) in central agencies based on the principle of meritocracy.

Furthermore, in the government bureaucratic system, the relationship between public service (*openbare dienstbetrekking*) is known, which is the relationship between the government and government officials that is subordinate. In this relationship, officials are obliged to submit to appointments in certain positions and cannot refuse assignments that have been determined by the government, while the government is authorized to appoint a person to a certain position in accordance with the provisions of laws and regulations.

If we examine Article 47 of the TNI Law, it can be understood that the provisions of Article 47 of the TNI Law have been abused by the government by placing active TNI soldiers in a number of strategic positions in the civilian realm. Of course, this practice is not in line with the principles of civil supremacy and has the potential to injure the ideals of the 1998 Reform. These positions in question are positions outside the ministries/institutions mandated by Article 47 paragraph (1):

- Cabinet Secretary (*Seskab*) Teddy Indra Wijaya who was recently promoted to Lieutenant Colonel.
- Major General TNI Maryono who serves as the Inspector General of the Ministry of Transportation (*Kemenhub*).
- Major General TNI Irham Waroihan who was appointed as Inspector General of the Ministry of Agriculture (*Kementan*).
- First Admiral TNI Ian Heriyawan who occupies a position in the Hajj Organizing Agency.
- Major General TNI Novi Helmy Prasetya was appointed as President Director of *Perum Bulog* by the Minister of SOEs Erick Thohir. Novi Helmy is still listed as the Commander General (*Danjen*) of the TNI Academy.

In addition to the civilian positions mentioned above, the TNI is also involved in the civilian sector as explained on the previous page, namely; involvement of the TNI in food security programs and agricultural sector management. In addition, the TNI's involvement in development programs such as the management of public kitchens in the Free Nutritious Meal (MBG) program, the involvement of the TNI in the management of community-based educational institutions and people's schools, and the placement of military personnel in civil bureaucratic structures, including in religious affairs such as the management of Hajj.

The following is a table of TNI Involvement in the Civil Realm:

Table 1. TNI's Involvement in the Civil Realm

Yes	Civil Sector	Forms of TNI Involvement	Case/Program Description	Constitutional Democracy Analysis
1	Food Security / Agriculture	Assistance & management of agricultural land	The TNI is involved in rice field printing programs, fertilizer distribution, and farmer assistance	Potentially blurring the boundaries of defense and civilian economic functions
2	Social Programs (MBG)	Management of a communal kitchen	The TNI is involved in the operation of public kitchens in the Free Nutritious Meal (MBG) program	High effectiveness, but opens up the space for the expansion of non-military functions
3	Government Bureaucracy	Placement of active/retired TNI	The TNI occupies strategic civilian positions in ministries/institutions	Potentially undermining the principle of civil supremacy
4	Education	Involvement in the "people's school" program	The TNI is involved in character development, discipline, and community-based education management	The risk of militarization of the civic education space
5	Religious	Involvement in the management of the hajj	Placement of military elements in the Hajj management structure	Blurring the line between civil-religious and military affairs
6	Homeland Security	Non-war operations (OMSP)	TNI is involved in handling social conflicts and internal security	Potentially overlapping with the functions of the National Police
7	Disaster Management	Humanitarian operations	The TNI is active in evacuation, logistics, and aid distribution	Still relevant, but need clear role boundaries
8	Infrastructure	TMMD Program (TNI Manunggal Pembangunan Desa)	The TNI built roads, bridges, and village facilities	Positive in terms of development, but needs to be controlled so that it does not widen
9	Local Politics	Alleged mobilization of support	Indications of the involvement of TNI personnel in local political contests	Threatening military neutrality and democratic integrity

Based on the table above, the author argues that the TNI's involvement in the civilian realm after the reform is not single, but is spread across various strategic sectors. This phenomenon reflects a shift in the role of the military from a defense function to a broader social function.

From the perspective of constitutional democracy, this condition poses a dilemma. On the one hand, the involvement of the TNI is often based on reasons of effectiveness, organizational capacity, and the needs of the state under certain conditions. But on the other hand, the expansion of the role has the potential to blur the line between the civilian and military spheres, which has been clarified through the 1998 reforms.

Furthermore, if left unchecked, this phenomenon can lead to what is referred to as the "new style duality", i.e. the return of the military's socio-political role in a more subtle and informal form. This is certainly contrary to the principles of civil supremacy, military neutrality, and the rule of law in constitutional democracies. Therefore, strict legal restrictions, strong civilian oversight, and consistency of state policies are needed so that military involvement in the civilian sphere remains temporary, limited, and constitutional, rather than a permanent practice.

The provisions of Article 30 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia which affirm the position of the TNI as a state tool in the field of defense tasked with defending, protecting, and maintaining the integrity and sovereignty of the state, then the MPR Decree Number VI/MPR/2000 which affirms the separation between the TNI and the National Police and the limitation of the role of the military in the civilian realm. Then if we refer to the Constitutional Court Decision Number 114/PUU-XXIII/2025 which grants the request regarding the prohibition of members of the National Police from occupying civilian positions, it should also apply to the TNI because it has a spirit and goals that are in line with the state as a tool of the state to guard the sovereignty of the Unitary State of the Republic of Indonesia.

Regarding the above explanation, the author argues that the National Police, which is only a civilian position, is prohibited from occupying civilian positions if they are still active members of the National Police, especially members of the TNI who are state tools in the defense sector.

Thus, there must be constitutional certainty so that the regulation regarding the placement of TNI soldiers in civilian positions remains in line with the principles of the state of law, democracy, and civil supremacy.

The next question is how the position of the TNI is in filling ASN positions. The ASN Law regulates certain positions that can be filled by the TNI. The arrangement can be seen in the provisions in the formulation of Article 20 paragraph (3) of the ASN Law that: The filling of certain ASN positions originating from soldiers of the Indonesian National Army and members of the National Police of the Republic of Indonesia as referred to in paragraph (2) is carried out at the Central Agency as stipulated in the Law on the Indonesian National Army and the Law on the National Police of the Republic of Indonesia.

According to the provisions in the formulation of Article 109 Paragraph (1), paragraph (2) and paragraph (3) of the ASN Law affirm that: Article (1) stipulates that certain main and intermediate high leadership positions can come from non-civil servants with the approval of the President, whose filling is carried out openly and competitively and stipulated in the Presidential

Decree; Article (2) stipulates that high leadership positions can be filled by soldiers of the Indonesian National Army and members of the National Police of the Republic of Indonesia after resigning from active service if needed and in accordance with competence through an open and competitive process; and Article (3) emphasizes that high leadership positions within certain government agencies can be filled by soldiers of the Indonesian National Army and members of the National Police of the Republic of Indonesia in accordance with their competencies based on the provisions of applicable laws and regulations.

In the explanation of the provision, it is explained that: "What is meant by a certain Government Agency is as stated in the Laws and Regulations that regulate the Indonesian National Army and the National Police of the Republic of Indonesia." Therefore, it can be understood that the filling of High Leadership Positions by TNI soldiers must be interpreted systematically and limited by referring to Article 47 of the TNI Law as a special norm. General provisions that open opportunities for active TNI to occupy civilian positions cannot be widely enforced without paying attention to the restrictions that have been set in the TNI Law. Thus, in order to maintain the principles of civilian supremacy and military professionalism within the framework of a democratic legal state, we can analyze the filling of high-ranking positions by TNI soldiers from the perspective of Article 47 of the TNI Law as follows:

a. Normative Construction of Filling High Leadership Positions

The regulation regarding the filling of High Leadership Positions (JPT) in the national personnel system basically prioritizes the principle of meritocracy, namely the placement of positions based on competence, qualifications, and performance. This is reflected in provisions that open opportunities for non-civil servants to occupy major and intermediate high leadership positions with the approval of the President through an open and competitive selection mechanism. In addition, the provision also provides space for soldiers of the Indonesian National Army and members of the National Police of the Republic of Indonesia to fill high leadership positions, both after resigning from active service and under certain conditions without this requirement.

Normatively, this arrangement shows that there is an effort by the state to create flexibility in filling strategic positions to meet the needs of a dynamic government. Nevertheless, such flexibility cannot be separated from the basic principle of a democratic state of law that places civilian supremacy as one of the main pillars in the relationship between the military and civilian power.

b. Juridical Restrictions in Article 47 of the TNI Law

In contrast to the general provisions regarding High Leadership Positions, the provisions in Law Number 3 of 2025 concerning the Indonesian National Army expressly provide restrictions on the involvement of active soldiers in civilian positions. Article 47 of the TNI Law stipulates that active soldiers can only occupy certain civilian positions that are directly related to the state's defense and security functions, and beyond that, soldiers are obliged to resign or retire from active service.

This arrangement reflects the application of the principle of military professionalism, where the military is focused on the defense function of the country and not extensively involved

in the civilian sphere. The restrictions are also part of the post-New Order security sector reform aimed at eliminating the dual practice of the Indonesian Armed Forces that previously placed the military in a broad socio-political role.

c. Conflict Analysis of Norms and Legal Harmonization

If the two provisions are analyzed systematically, it can be seen that there is a potential conflict of norms between the general rules regarding the filling of High Leadership Positions and the special provisions in Article 47 of the TNI Law. On the one hand, the general rules open up opportunities for active TNI soldiers to fill certain positions, while on the other hand, the TNI Law strictly limits the space.

In legal theory, this kind of conflict is resolved through the principle of *lex specialis derogat legi generali*, which is a specific provision that overrides general provisions. In this context, the TNI Law as a sectoral regulation that specifically regulates the status and position of military soldiers must be seen as a norm that binds and limits the application of general rules regarding the filling of high leadership positions.

Thus, the provisions that allow TNI soldiers to actively occupy civilian positions cannot be interpreted broadly, but must be limited only to positions that are explicitly mentioned in Article 47 of the TNI Law.

B. Legal and Constitutional Implications of Filling Civil Positions by Active TNI Soldiers

Legal and constitutional implications are consequences arising from a state policy that has an impact on the legal system, power structure, and practice of government administration. In the perspective of the state of law, every public policy cannot be separated from the framework of the constitution as the highest legal norm that regulates and limits the use of state power. Therefore, the analysis of the legal and constitutional implications is not only normative, but also includes structural and functional dimensions in the constitutional system.

According to Jimly Asshiddiqie, the constitutional implications of a policy can be seen from the extent to which the policy affects the distribution of power, relations between state institutions, and the principle of limiting power which is the core of constitutionalism. Within this framework, policies that touch on the relationship between the military and civilians must be analyzed in more depth, because they concern the balance of power that is the foundation of constitutional democracy.

Furthermore, in the perspective of classical legal state theory, A.V. Dicey emphasized that the principle of rule of law demands that there is no power that is above the law. This principle implies that any state policy must be subject to the law and can be tested juridically. Therefore, policies that allow TNI soldiers to actively occupy civilian positions must be placed within the framework of constitutional testing to ensure their conformity with the principles of the rule of law.

In the context of the modern legal system, Hans Kelsen through the theory of the hierarchy of legal norms places the constitution as the highest norm in the legal system. Therefore, every policy or legislation must be consistent with the constitution. If there is a contradiction, then the

lower norm should be declared not applicable. This shows that the legal implications of a policy depend heavily on its conformity with the constitution as the main source of legitimacy.

Moreover, from the perspective of the rule of law, the rule of law not only demands obedience to the law, but also demands that the law function as a limiting power and a protector of human rights. Therefore, any policy that has the potential to upset the balance of power or violate the rights of citizens must be critically analyzed.

Thus, the analysis of the legal and constitutional implications of the filling of civilian positions by active TNI soldiers must be carried out comprehensively, taking into account aspects of the rule of law, constitutional supremacy, rule of law, and the dynamics of constitutional democracy in Indonesia.

1. Implications for the Principle of the State of Law and Constitutional Supremacy

The filling of civilian positions by active TNI soldiers is a serious problem from the perspective of the state of law, because it concerns the limits on the use of state power in the constitutional system. In Article 1 paragraph (3) of the 1945 Constitution, it is emphasized that Indonesia is a country of law, which means that all government actions must be based on the law and limited by law. This principle requires not only formal legality, but also conformity with the constitution as the highest norm. Therefore, any policy that extends the role of the military to the civilian realm must be tested not only from the aspect of legality, but also from the aspect of constitutionality.

In the framework of constitutional supremacy, the constitution functions as a tool to limit power so that there is no abuse of authority by state organs. Article 30 paragraph (3) of the 1945 Constitution expressly limits the function of the TNI as a state tool in the field of defense. These restrictions are restrictive and do not open up space for the expansion of military functions into the civilian sphere. Thus, the filling of civilian positions by active soldiers has the potential to violate the principle of power limitation that is at the core of modern constitutionalism.

The most obvious legal implication is the occurrence of a conflict of norms between the law and the constitution. Article 47 of Law No. 3 of 2025 which provides space for the active TNI to occupy certain civilian positions has the potential to conflict with constitutional norms. In the hierarchy theory of legal norms (Stufenbau theory), the lower norm should not contradict the higher norm. Therefore, if there is a contradiction, then the lower norm can be declared invalid through the material test mechanism at the Constitutional Court.

In the perspective of the rule of law, the law must be an instrument of limiting power, not a tool for legitimizing the expansion of state power. However, in this context, the law is actually used to expand the role of the military through Article 47. This shows a shift in the function of law from a barrier to a tool for the expansion of power, which is contrary to the basic principle of the rule of law. This condition can be categorized as a form of constitutional backsliding in legal aspects.

Another implication that is no less important is the degradation of legal certainty. When legal norms are inconsistent with the constitution, it will cause uncertainty in the practice of state administration. State officials have become in an ambiguous situation between implementing the

law or obeying the constitution. This has the potential to cause disharmony in the national legal system.

Furthermore, from the perspective of constitutional democracy, constitutional supremacy is a mechanism to maintain the balance of power. If restrictions on the military are not consistently enforced, there is a potential for excessive concentration of power in certain institutions. This condition can lead to deviations from democratic principles and open up space for the dominance of non-civil power in the system of government.

Thus, the filling of civilian positions by the active TNI not only raises administrative problems, but also has a systemic impact on the principles of the rule of law and constitutional supremacy. Therefore, this policy must be placed within the framework of strict constitutional testing to ensure that there are no deviations from the basic principles of the Indonesian rule of law.

2. Implications for Civil Supremacy and the Quality of Democracy

In modern democratic systems, civil supremacy is a fundamental principle that ensures that the military is under the control of legitimate civilian authorities. This principle is the result of historical developments to prevent military dominance in politics. In the Indonesian context, civil supremacy is one of the main agendas of the 1998 reform which aims to abolish the dual functions of the Indonesian Armed Forces. Therefore, the filling of civilian positions by active TNI soldiers must be seen as a strategic issue that can affect the quality of democracy.

The main implication of the policy is the weakening of civilian control over the military. In situations where the military is part of the structure of civilian government, there is ambiguity in the power relations. The military is no longer just an object of control, but also a subject of power. This can reduce the effectiveness of the supervisory mechanism in a democratic system.

In addition, military involvement in civilian positions has the potential to create dominance in public decision-making. The hierarchical and command-based character of the military can influence the deliberative process in civilian government which is supposed to be participatory. This can reduce the quality of substantive democracy.

Another implication is the disruption of military neutrality in politics. When the military has a position in the civilian government structure, there is a potential conflict of interest that can affect the political process, including elections. Military neutrality is an essential condition for the creation of a healthy democracy.

In the perspective of people's sovereignty, the filling of civilian positions by the active TNI also raises legitimacy issues. Civil positions should be filled through mechanisms that reflect the will of the people, either directly or indirectly. However, active TNI soldiers do not go through this mechanism, thus causing a deficit of democratic legitimacy.

Furthermore, this policy also has the potential to limit the space for civil society participation. When strategic positions are filled by military actors, the opportunities for civilian actors to participate in the government become reduced. This is contrary to the principle of participatory democracy.

Thus, the filling of civilian positions by the active TNI has wide implications for civilian supremacy and the quality of democracy. Therefore, this policy must be critically reviewed to ensure that there is no setback in the democratization process in Indonesia.

3. Implications for Military Professionalism

The filling of civilian positions by active TNI soldiers has direct implications for military professionalism which is one of the main pillars in the country's defense system. Military professionalism demands a clear focus on the defense function, so that the military does not engage in activities outside of its primary duties.

Involvement in civilian positions has the potential to shift this focus, so that it can interfere with the effectiveness of the TNI in carrying out its defense functions. This is because soldiers who occupy civilian positions must divide attention between military duties and administrative duties.

In the context of post-1998 military reform, the elimination of the dual functions of the Indonesian Armed Forces is an important step to build military professionalism. Therefore, the involvement of the TNI in civilian positions has the potential to revive the practice in a new form that is more legal-formal.

In practice, the TNI's involvement in various civilian programs such as agriculture, MBG, public schools, and hajj management shows the expansion of the military's role into the non-defense realm. This indicates that military reform has not been fully carried out in accordance with the principles of professionalism.

Another implication is the emergence of a conflict of interest between military and civilian functions. Soldiers who occupy civilian positions may face a dilemma between loyalty to military institutions and responsibilities as civilian officials.

In addition, military involvement in civilian positions can also affect the organizational culture of the TNI. Military professionalism that is supposed to be based on neutrality and discipline can be undermined by political or administrative interests.

Thus, the filling of civilian positions by the active TNI has the potential to disrupt military professionalism and slow down the process of military reform in Indonesia. Therefore, strict restrictions are needed to maintain the integrity of military institutions.

4. Implications for the Constitutional Structure and Rule of Law

The filling of civilian positions by active TNI soldiers has wide implications for the constitutional structure of Indonesia. In a constitutional democratic system, there is a clear division of power between state institutions to prevent the concentration of power. The involvement of the military in civilian positions has the potential to disrupt the distribution of power, because the military as a defense institution enters the realm of civilian government. This can create an imbalance in the constitutional system.

In the perspective of the rule of law, the law must be the basis for the legitimacy of power. However, if the law is contrary to the constitution, then the legitimacy becomes weak. This shows the importance of consistency between legal norms in the constitutional system.

Another implication is the potential unconstitutionality of Article 47 of Law No. 3 of 2025. If tested in the Constitutional Court, this provision has the potential to be declared contrary to the 1945 Constitution, especially Article 30 paragraph (3). In addition, this condition can cause instability in the constitutional system due to conflicts of legal norms. This uncertainty can affect the effectiveness of government administration.

In the perspective of democracy, this condition can also lead to a regression of democracy, where the military again has a role in civilian government. This is contrary to the principles of constitutional democracy. Thus, the filling of civilian positions by the active TNI has serious implications for the constitutional structure and rule of law, so it requires strict constitutional supervision to maintain the balance of power in the country.

CONCLUSION

The placement of active TNI personnel in civilian positions poses significant challenges to constitutional democracy because it has the potential to undermine the principles of the rule of law, constitutionalism, civilian supremacy, popular sovereignty, and democratic governance. The military, which should remain subject to civilian control, has instead become involved in civilian power structures, creating institutional ambiguity that may weaken democratic oversight mechanisms.

Normatively, Article 47 of Law Number 3 of 2025, which expands opportunities for active TNI personnel to occupy civilian positions, has the potential to be unconstitutional because it conflicts with Article 30 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945/UUD NRI Tahun 1945), which limits the TNI's function to the field of national defense. Furthermore, there is a potential disharmony between the TNI Law and the State Civil Apparatus Law (Aparatur Sipil Negara/ASN Law), as the ASN Law emphasizes the merit system as the primary basis for filling civilian positions, while the TNI Law provides opportunities for active military personnel to occupy certain civilian positions. In practice, the placement of TNI personnel in positions beyond the scope of the exceptions stipulated in Article 47 paragraph (1) has the potential to revive the concept of the dual function (*dwifungsi*) of the military in a new form supported by a legal-formal framework.

The placement of active TNI personnel in civilian positions generates serious and multidimensional legal and constitutional implications, including potential unconstitutionality and conflicts between legal norms, the weakening of civilian supremacy and democratic quality, disruption of military professionalism, and instability within the constitutional structure. Therefore, a constitutional review of Article 47 of the TNI Law by the Constitutional Court is necessary, along with the strengthening of civilian oversight mechanisms, consistent harmonization between the TNI Law and the ASN Law, and a firm political commitment to uphold the principle of civilian supremacy within the framework of Indonesia's constitutional democracy.

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