



Regulations For Active Tni Members Occupying Civilian Positions From The Perspective Of Statutory Regulations

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ABSTRACT

The placement of active members of the Indonesian National Armed Forces (TNI) in civil service positions has resurfaced as a debated issue within Indonesia's post-reform constitutional dynamics. Normatively, Law Number 34 of 2004 concerns the Indonesian National Armed Forces limits the placement of active soldiers to specific ministries and agencies to maintain military professionalism and the principle of civilian supremacy. However, recent developments through Law Number 3 of 2025 regarding the Amendment to Law Number 34 of 2004 have expanded the scope of civil service positions accessible to active TNI personnel. Furthermore, practical implementation shows instances of active soldiers being placed in civil positions beyond the prevailing statutory provisions. This research aims to analyze the legal regulations regarding the placement of active TNI members in civil service positions and its implications for the principles of TNI professionalism and civilian supremacy in a democratic state. This study utilizes a normative legal research method with a statutory approach, a conceptual approach, and a historical approach. The results indicate that while the regulations for placing active TNI personnel are clearly delineated in the TNI Law and related regulations, the practice of placing active soldiers outside these provisions creates potential conflicts of norms, undermines the principle of civilian supremacy, and threatens the professionalism of the military institution. Consequently, the enforcement of legal certainty and the strengthening of oversight mechanisms are essential to ensure that the placement of TNI personnel in civil positions remains aligned with the principles of the rule of law and democracy.

INTRODUCTION

The Indonesian National Armed Forces (TNI) is a national defense instrument whose primary function is to safeguard sovereignty, territorial integrity, and protect the entire Indonesian nation from various threats. The TNI's existence as a primary component of national defense has a constitutional basis as stipulated in Article 30 of the 1945 Constitution of the Republic of Indonesia, which states that national defense and security efforts are implemented through a total people's defense and security system, with the TNI and the Indonesian National Police as the primary forces (Phongsavath, Andriani, & Saputra Hutabarat, 2022). National defense functions to realize and defend the entire territory of the Republic of Indonesia as a single defense unit, which is able to protect the sovereignty of the state, territorial integrity, and the safety of the entire nation from every threat, whether coming from outside or arising within the country (Aulia & Hadita, 2024).

As a state instrument in the defense sector, the Indonesian National Armed Forces (TNI) plays a strategic role in maintaining national security stability. In carrying out this duty, the TNI is required to maintain a high level of professionalism and focus on its core duties in national defense. Military professionalism has been a key principle in the defense sector reforms that have developed since the 1998 reform era, emphasizing the separation of the military's role from political and civil government affairs (Fitri, 2022) and (Tarigan, Azrianti, & Rabu, 2026).

These defense sector reforms were motivated by historical experiences during the New Order era, known as the ABRI (Indonesian Armed Forces) dual function concept. During that era, the military not only served as national defense but also played a significant role in civil government and practical politics. This situation drew criticism, as it was perceived as hindering the democratization process and blurring the boundaries between the military and civilian spheres within the state system (Tarigan et al., 2026) and (Dacholfany, Ikhwan, Budiman, & Hutabarat, 2024).

As part of its reform efforts, the government subsequently enacted Law No. 34 of 2004 concerning the Indonesian National Armed Forces, which strictly limits the involvement of active-duty soldiers in civilian positions. The law stipulates that active-duty soldiers may only hold positions in certain ministries or institutions directly related to the nation's defense and security functions. Article 47 paragraph "2" of Law Number 34 of 2004 concerning the Indonesian National Armed Forces states that active soldiers can only hold positions in ten specific ministries or state





institutions, including those in charge of national defense, state intelligence, the presidential military secretariat, and several other institutions that have a direct connection to the national defense system (Gati, Widodo, & Utomo, 2024).

However, the dynamics of national defense policy continue to evolve in line with changes in national and global security conditions. In 2025, the government, along with the House of Representatives of the Republic of Indonesia, revised the TNI Law, which resulted in Law Number 3 of 2025 concerning Amendments to Law Number 34 of 2004 concerning the Indonesian National Armed Forces. These changes broadened the scope of ministries and institutions that active-duty TNI personnel can occupy. Article 47 of the revised law increases the number of institutions that active-duty personnel can occupy to fourteen, including those responsible for disaster management, border management, counterterrorism, and maritime security (Yasin, Wibowo, & Mangar, 2025).

This regulatory change has sparked debate among academics and legal practitioners. Some believe the expanded scope represents an adaptation to the increasingly complex dynamics of modern threats, including non-military threats such as terrorism, natural disasters, and cybersecurity. However, on the other hand, there are also views that expanding the scope of civilian positions for active-duty TNI soldiers has the potential to reopen space for military dominance in the civilian government sphere. This concern relates to the potential setback of defense sector reforms that have sought to strengthen military professionalism and civilian supremacy (Al-adawiyah, 2025) and (Amelia, Supriadi, & Subiki, 2023).

LITERATURE REVIEW

Furthermore, field practice also demonstrates the placement of active-duty TNI soldiers in civilian positions not explicitly regulated by law. Several high-ranking TNI officers are known to hold strategic positions in government institutions and state-owned enterprises not included in the list of institutions regulated by the TNI Law. This phenomenon raises questions about legal certainty in regulating the placement of active-duty TNI soldiers in civilian positions. The discrepancy between applicable legal norms and actual practice has the potential to create normative conflicts and undermine Indonesia's principle of a rule of law (Salsabil & Nasihuddin, 2025).

Under the concept of a state based on the rule of law, every government action must have a clear legal basis and must not conflict with applicable laws and regulations. Therefore, the placement of active-duty TNI soldiers in civilian positions must be based on clear legal provisions to avoid legal uncertainty. Furthermore, the placement of active-duty soldiers in civilian positions is closely related to the principle of civilian supremacy in a democratic system. Civilian supremacy asserts that political and governmental power must be under the control of civilian authorities elected through democratic mechanisms, not the military (Salsabila & Purnomo, 2022) and (Rosmiati, Sembiring, Rahim, Pudjaningsih, & Hutabarat, 2022).

Military involvement in civilian positions that is not clearly regulated by law has the potential to blur the boundaries between the military and civilian spheres. This situation could pose a risk to the professionalism of the TNI and the stability of the democratic system that has been established since the reform era. Based on this background, a study of the regulations governing active-duty TNI personnel occupying civilian positions is crucial. This study aims to provide a legal analysis of the regulations governing the placement of active-duty TNI personnel in civilian positions, based on the perspective of applicable Indonesian laws and regulations (Oleh, Syari, Program, Hukum, & Negara, 2025) and (Arifany, 2021).

METHOD

This research uses a normative legal research method that focuses on analyzing legal norms contained in legislation. Normative legal research is conducted by examining various primary, secondary, and tertiary legal materials related to the problem under study. The approaches used in this research include a statutory approach, a conceptual approach, and a historical approach. The statutory approach is used to analyze various laws and regulations governing the position of the Indonesian National Armed Forces (TNI) in civilian positions. The conceptual approach is used to understand legal concepts related to civilian supremacy, military professionalism, and civil-military relations in a democratic system. The historical approach is used to trace the development of regulations regarding the role of the TNI in government from the New Order era to the reform era.

The sources of legal materials in this study consist of primary legal materials in the form of the 1945 Constitution of the Republic of Indonesia, Law Number 34 of 2004 concerning the Indonesian National Army, Law Number 3 of 2025 concerning Amendments to Law Number 34 of 2004, as well as various other related laws and regulations. Data collection techniques were conducted through a literature review, reviewing various legal literature, scientific journals, textbooks, and official documents related to the research problem. The data obtained were then analyzed qualitatively using descriptive analytical methods to systematically explain the legal regulations regarding the placement of active-duty TNI soldiers in civilian positions.

RESULTS

Legal Regulations for Active Members of the Indonesian National Armed Forces in Occupying Civilian Positions

The regulation regarding the involvement of members of the Indonesian National Armed Forces (TNI) in civilian





positions is an issue that has dimensions of constitutional law, state administrative law, and is closely related to the concept of civil-military relations in a democratic state. In the context of a state based on the rule of law, all forms of actions by state administrators must have a clear legal basis as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that Indonesia is a state based on the rule of law (Yasin et al., 2025).

In the Indonesian constitutional system, the constitutional position of the TNI is affirmed in Article 30 paragraph (3) of the 1945 Constitution, which states that the Indonesian National Armed Forces consists of the Army, Navy, and Air Force as state instruments tasked with defending, protecting, and maintaining the integrity and sovereignty of the state. This provision indicates that the TNI's primary function is as a state defense instrument oriented towards national security and defense aspects (Saputra, Sejarah, & Jambi, 2025).

Further provisions regarding the role and status of the Indonesian National Armed Forces (TNI) are stipulated in Law Number 34 of 2004 concerning the Indonesian National Armed Forces. This law is one of the products of security sector reforms aimed at restructuring the relationship between the military and civilian government following the end of the New Order era. These reforms emphasized military professionalism and a clear separation of military and civilian functions in government administration (Arifany, 2021).

One of the key provisions of Law Number 34 of 2004 is Article 47, which regulates the civilian positions that active-duty TNI personnel can hold. This provision states that active-duty TNI personnel can only hold positions in certain ministries or institutions directly related to national defense and security. These restrictions implement the principle of military professionalism, which positions the TNI as an institution focused on national defense. These restrictions are expected to prevent a recurrence of the dual function of the military, which existed during the New Order era, when the military played a dominant role in both politics and civil administration (Yasin et al., 2025).

However, in the latest developments, the government together with the House of Representatives of the Republic of Indonesia revised the TNI Law through Law Number 3 of 2025 concerning Amendments to Law Number 34 of 2004. One of the significant changes in the law relates to the expansion of the number of ministries and institutions that can be occupied by active TNI soldiers. In the new provisions, active TNI soldiers are allowed to hold positions in fourteen ministries and state institutions, including the ministry in charge of political and security coordination, the ministry of defense, the state secretariat which handles the presidential military secretariat, the state intelligence agency, the state cyber and cryptography agency, the national resilience agency, the national search and rescue agency, the national narcotics agency, the border management agency, the disaster management agency, the counter-terrorism agency, the maritime security agency, the prosecutor's office of the Republic of Indonesia, and the Supreme Court (Oleh et al., 2025).

This expansion is fundamentally based on the argument that the dynamics of modern security threats are increasingly complex and no longer limited to conventional military threats. Threats such as terrorism, cyberattacks, natural disasters, and transnational crime require cross-agency coordination involving both military and civilian elements. However, this expansion of authority continues to spark debate among academics and observers of civil-military relations. Some believe that expanding the placement of active-duty TNI personnel in civilian institutions has the potential to reopen space for military dominance in the government bureaucracy. From a state administrative law perspective, every position filled within the government structure must adhere to the principles of legality and professionalism. This means that a person holding a particular position must possess the competencies and qualifications appropriate to the position's scope of duties (Yasin et al., 2025).

Viewed from this perspective, the placement of active-duty TNI soldiers in civilian positions not directly related to defense and security has the potential to raise legal issues. This is because the education and career development system within military institutions is fundamentally designed to meet national defense needs, not to carry out civil government administrative functions. The filling of civilian positions by active-duty TNI soldiers must also comply with the provisions stipulated in Law Number 20 of 2023 concerning the State Civil Apparatus. This law emphasizes that ASN positions are, in principle, filled by ASN employees who have gone through selection mechanisms, career development, and the merit system within the government bureaucracy (Rustantono et al., 2024).

The law allows Indonesian National Armed Forces (TNI) and Indonesian National Police (Polri) personnel to fill certain civil service positions, but these provisions must still comply with the laws governing their respective institutions. Therefore, active-duty TNI personnel filling civilian positions must still comply with the limitations stipulated in the TNI Law. In practice, there are still a number of cases of active-duty TNI personnel being placed in civilian positions, sparking debate over their legality. This phenomenon demonstrates a gap between legal norms stipulated in legislation and actual practice in government administration. This condition has the potential to create legal uncertainty and can influence public perception of the professionalism of military institutions and civil bureaucracy in Indonesia (Arifany, 2021) and (Hutabarat et al., 2023).

DISCUSSION

Legal Implications Of Filling Civilian Positions On The Principles Of Tni Professionalism

The placement of active TNI members in civilian positions not only raises legal issues in terms of legality, but also has broader implications for the principles of military professionalism and civil-military relations in a democratic





system. Military professionalism is a concept that emphasizes that the military must possess specialized competencies in the defense sector and carry out its duties neutrally and without political interests. In this context, military professionalism requires that TNI soldiers focus on primary tasks related to national defense (Chairy, 2012).

If active-duty TNI soldiers are placed in civilian positions not directly related to defense, this could potentially divert the military's attention and resources from its primary duties. In the long term, this situation could impact the military's operational readiness to address threats to national sovereignty. Furthermore, the placement of active-duty TNI soldiers in civilian positions can also create a potential conflict of interest between the military command structure and the civilian government bureaucracy (Hutabarat, Wiryotinoyo, Masni, & Handayani, 2022). In military institutions, the organizational system is based on a very strict and centralized command hierarchy. Meanwhile, in the civilian government bureaucracy, public administration principles apply, emphasizing accountability, transparency, and more open oversight mechanisms (Wen, 2020).

These differences in characteristics have the potential to create tension in the implementation of government functions if not clearly regulated. In a democratic state, the relationship between the military and civilians must be regulated in such a way as to prevent one party from dominating the other. The principle of civilian supremacy asserts that political and governmental power rests with civilian authorities elected through democratic mechanisms. In this context, the military functions as an instrument of the state under the control of the civilian government (Hutabarat et al., 2023).

If the placement of military personnel in civilian positions is carried out excessively without clear limits, this can obscure the principle of civilian supremacy which is the main foundation of the democratic system. From the perspective of the rule of law theory, every government action must be based on the principle of legality and be legally accountable. Therefore, the placement of active-duty TNI members in civilian positions must have a clear legal basis and be carried out through a transparent and accountable mechanism (Wen, 2020).

In addition, an effective monitoring mechanism is also needed to ensure that the placement does not deviate from the provisions of applicable laws and regulations. This oversight can be carried out by legislative bodies, internal government oversight bodies, and civil society through democratic oversight mechanisms. With strong oversight, it is hoped that the placement of TNI soldiers in civilian positions will remain within the law and not compromise the principles of military professionalism and civilian supremacy. In the context of Indonesia's democratic development, the security sector reforms that have been underway since 1998 represent a crucial step in achieving healthy civil-military relations. Therefore, any policies related to the military's role in civilian governance must be implemented with great care to avoid setting back the achievements of these reforms (Gati et al., 2024) and (Tarigan et al., 2026).

CONCLUSION

Based on the research results, it can be concluded that the regulations regarding the placement of active TNI soldiers in civilian positions have been regulated normatively in Law Number 34 of 2004 concerning the Indonesian National Armed Forces and amendments through Law Number 3 of 2025. These regulations provide clear limitations regarding the ministries and institutions that can be occupied by active TNI soldiers in order to maintain military professionalism and the principle of civilian supremacy. However, in practice, active-duty TNI soldiers are still placed in civilian positions outside of statutory provisions. This situation has the potential to create conflicts of norms and undermine the principle of legal certainty in governance. In addition, the placement of active soldiers in civilian positions that are not in accordance with legal provisions also has the potential to reduce the professionalism of the TNI and raise concerns about the return of military domination in the civilian government sphere.

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