

Evaluation of the Legislative Process in the Revision of the TNI Law: Transparency, Public Participation, and Constitutionality

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Received : September 10, 2025

Revised : September 25, 2025

Accepted: October 01, 2025

Published: October 07, 2025

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Abstract: This study aims to evaluate the legislative process in the revision of the Indonesian National Armed Forces Law (UU TNI) by emphasizing three main aspects: transparency, public participation, and constitutionality. The research method used is a qualitative descriptive case study approach, through in-depth interviews with key informants (members of the House of Representatives, constitutional law academics, civil society activists, TNI representatives, and political observers), analysis of official documents, and non-participant observation. The results of the study indicate that transparency in the discussion of the revision of the TNI Law remains low because meetings are not fully open and public access to the draft bill is limited. Public participation is also not optimal; the space for discussion through Public Hearings is very limited and public aspirations are rarely accommodated in the final draft. From a constitutional aspect, there are articles that potentially conflict with the principle of civilian supremacy and are not fully in line with the 1945 Constitution. Meanwhile, the TNI's perspective tends to encourage the expansion of roles beyond military functions, which has the potential to generate debate in a democratic system. Overall, the revision of the TNI Law is considered not fully democratic and legitimate, because it still faces issues of openness, participation, and compliance with constitutional principles.

Keywords: legislation; transparency; public participation; constitutionality

INTRODUCTION

The TNI Law is a very important legal basis in regulating the role, function and position of the Indonesian National Armed Forces (TNI) in the state system¹. This regulation not only serves as a normative basis but also determines the direction of defense policy and the position of the Indonesian National Armed Forces (TNI) in safeguarding state sovereignty and supporting national stability.

The revision of the TNI Law has sparked public debate because it concerns crucial strategic issues, including military professionalism, strengthening democracy, the

principle of civilian supremacy, and the dynamics of civil-military relations². This debate demonstrates that the revision of the TNI Law not only impacts the military institution but also has far-reaching consequences for democratic governance and the balance of power within Indonesia's political system. Issues arising from the revision of the TNI Law primarily relate to the transparency of the legislative process, with the public often questioning whether deliberations were conducted openly or behind closed doors. The transparency of the legislative process is crucial because it affects public trust in the House of Representatives

¹ Anwar, A., Salmah, H. K., & Fatkhurohman, F. (2024). Does the Indonesian National Army develop democracy and human rights? A comparative perspective. *Legality: Jurnal Ilmiah Hukum*, 32(2), 311–329. <https://doi.org/10.22219/ljih.v32i2.35017>

² Anwar, A., Salmah, H. K., & Fatkhurohman, F. (2024). Does the Indonesian National Army develop democracy and human rights? A comparative perspective. *Legality: Jurnal Ilmiah Hukum*, 32(2), 311–329. <https://doi.org/10.22219/ljih.v32i2.35017>

(DPR) and the government in producing accountable regulations.³

Furthermore, public participation in the revision of the TNI Law is still considered limited because the aspirations of civil society and academics have received little significant space. This is reinforced by the emergence of concerns regarding the constitutionality of the revision's content, namely whether the proposed substance is truly aligned with the 1945 Constitution, democratic principles, and the security sector reform agenda, which has remained a primary demand since the reform era⁴.

The urgency of reviewing the revised TNI Law lies in the fact that this change is not merely a technical legal issue, but also directly related to the agenda of democratization and governance of the defense sector. The revision will determine how the TNI's role is regulated within the political and constitutional system, as well as the extent to which the principles of civilian supremacy and military professionalism can be upheld⁵.

In addition, evaluation of the legislative process is important so that the resulting legal product has strong legitimacy, is democratic,

and is in accordance with the constitution⁶. Thus, this study plays a strategic role in ensuring that the revised TNI Law not only addresses national defense needs but also supports the strengthening of democracy and security sector reform in Indonesia.

Much previous research has focused on the legal substance of the TNI Law, such as the TNI's position in politics and security, and the dynamics of civil-military relations in the context of reform. However, there is a research gap that has not been widely explored: studies that specifically evaluate the legislative process for revising the TNI Law, emphasizing three aspects simultaneously: transparency of the process, public participation, and compliance with constitutional principles⁷.

The novelty of this research lies in its focus, which goes beyond discussing the substance or content of articles in the revised TNI Law. It also assesses the legislative process from the perspective of good governance in lawmaking, participatory democracy through public engagement, and constitutionality, emphasizing compliance with the 1945 Constitution and Constitutional Court decisions. This approach provides a more holistic analysis, combining legal, political, and democratic governance dimensions within a single framework.

The purpose of this study is to evaluate the level of transparency in the legislative process for the revision of the TNI Law, analyze the extent to which public participation was accommodated in the revision process, and assess the

³Suhanda, D., Huda, U. N., & Rosidin, U. (2024). Politik Legislasi: Studi Terhadap Kepentingan Politik Dalam Penetapan Regulasi Di Indonesia. *Qanuniya : Jurnal Ilmu Hukum*, 1(2), 22–33. <https://doi.org/10.15575/qanuniya.v1i2.880>

⁴Faedlulloh, D., Maarif, S., Meutia, I. F., & Yulianti, D. (2020). Birokrasi dan Revolusi Industri 4.0: Mencegah Smart ASN menjadi Mitos dalam Agenda Reformasi Birokrasi Indonesia: Bureaucracy and Industrial Revolution 4.0: Preventing The Myth of Smart ASN In Indonesia's Bureaucratic Reform Agenda. *Jurnal Borneo Administrator*, 16(3), 313–336. <https://doi.org/10.24258/jba.v16i3.736>

⁵Novavah, M. H. (2020). Analisis UU No. 34 Tahun 2004 Tentang Kedudukan dan Peran TNI dalam Lembaga Pemerintahan Negara. *Rechtenstudent*, 1(1), 1–7. <https://doi.org/10.35719/rch.v1i1.8>

⁶Muhamad Pebriansah. (2023). Implementasi Demokrasi Deliberatif dalam Legislasi Indonesia: Implikasi Hukum. *Jurnal Silatene Sosial Humaniora*, 1(1), 19–27. <https://doi.org/10.53611/vd26ke12>

⁷Arifin, F. (2024). An Assessment of the Productivity and Effectiveness of Law Making from the Legal Perspective of the Indonesian State. *International Journal of Law and Public Policy (IJLAPP)*, 6(1), 29–37. <https://doi.org/10.36079/lamintang.ijlapp-0601.653>

constitutionality of the revised TNI Law with the 1945 Constitution and democratic principles. Furthermore, this study aims to provide recommendations for improving future legislative processes to make them more transparent, participatory, and constitutionally grounded.

METHODOLOGY

This research method uses a descriptive qualitative approach to deeply understand the dynamics of the legislative process for revising the TNI Law, focusing on transparency, public participation, and compliance with constitutional principles. The research used is a case study of the legislative process for revising the TNI Law, examining documents, regulations, and public and parliamentary discussions⁸.

The research was conducted with the legislative body (DPR RI), the government, and civil society actors involved, within the context of ongoing or past discussions on the revision of the TNI Law. Subjects included members of the DPR RI (specifically Commission I), academics or constitutional law experts, civil society activists (NGOs, human rights organizations, and think tanks), and representatives from the TNI or the Ministry of Defense.

Data collection techniques were conducted through in-depth interviews with key informants, document studies (draft bills, academic papers, minutes of DPR meetings, official statements, and related MK decisions), and non-participant observation in discussion forums, hearings, or public seminars where possible. Data analysis used thematic analysis with the stages of data reduction, data presentation, and conclusion drawing/verification (Miles & Huberman). To maintain data validity, source triangulation, method triangulation, and member checking were carried out by confirming findings with

informants. The research steps included formulating the research focus, collecting field data, thematic data analysis, and compiling research results and discussions.

RESULTS AND DISCUSSION

The results of the study indicate that the transparency of the legislative process for the revision of the TNI Law still faces various obstacles, where discussions in the DPR have not been fully conducted openly, some meetings are closed, access to the draft bill is limited only to DPR and government circles, and the mechanism for publishing meeting results is inconsistent, giving the impression of legislative exclusivity.

In terms of public participation, the involvement of civil society, academics, and human rights organizations is still minimal, although there are Public Hearings (RDP), the number of participants and discussion time is very limited, and the aspirations of community groups are often not accommodated in the final formulation of the bill. Meanwhile, from the constitutional aspect, there are several revised articles that have sparked debate regarding their suitability with the 1945 Constitution, with indications of reinforcing the role of the TNI in the civilian sphere which has the potential to conflict with the principles of defense sector reform, so that the revision of the TNI Law is considered still not fully in line with the principles of civilian supremacy and constitutional democracy.

Limitations of Transparency

The limited transparency in the legislative process for revising the TNI Law indicates serious problems in implementing the principles of good governance⁹. The closed-door deliberations have raised public questions about the extent to which legislation is being implemented with the accountability

⁸Manea, M.-G., & Rüländ, J. (2020). The diffusion of parliamentary oversight: Investigating the democratization of the armed forces in Indonesia and Nigeria. *Contemporary Politics*, 26(2), 165–185. <https://doi.org/10.1080/13569775.2019.1703067>

⁹Dongoran, SD, & Saputra, BW (2025). Implementation of Good Corporate Governance in the Placement of Indonesian Army Members in State Civil Apparatus Positions in Ministries/Institutions Case Study of the Ministry of State Secretariat. *Journal of World Science*, 4(1), 1737–1756. <https://doi.org/10.58344/jws.v4i1.1270>

and transparency that should be the standard in lawmaking.

Ideally, all documents, including draft bills and meeting minutes, should be publicly accessible so that the public can follow the full developments of discussions. This open access is crucial not only to ensure transparency but also to provide space for public oversight to ensure that formulated policies align with the public's interests and constitutional principles¹⁰.

A lack of transparency actually weakens the legitimacy of the resulting laws. Without transparency, the public could potentially lose trust in the legislative process, which could ultimately reduce social and political acceptance of the revised TNI Law, while also creating the impression that the legislation prioritizes specific political interests over the interests of democracy and the wider public¹¹.

Minimal Public Participation

Public participation is a clear mandate regulated in Law No. 12 of 2011 concerning the Formation of Legislation, which emphasizes that the public has the right to provide input at every stage of the legislative process¹². In the context of revising the TNI Law, this mandate should serve as an important guideline to ensure that the resulting

law reflects the aspirations of the people, not just the interests of a select few.

However, the lack of public space in the discussion process shows that the dominance of political elites is still very strong in determining the direction of legislation¹³. Limited access for civil society, academics, and independent organizations to official forums demonstrates a tendency toward exclusivity that diminishes the quality of public deliberation. This situation results in broader perspectives not being accommodated in the decision-making process.

Without meaningful participation, the revised TNI Law is vulnerable to rejection from the public¹⁴. Furthermore, this has the potential to give rise to socio-political conflict because policies that lack public legitimacy tend to be perceived as products of elitist politics, rather than the result of a democratic consensus in line with the spirit of reform.

Questionable Constitutionality

Constitutional principles emphasize that every law must be in accordance with the 1945 Constitution and adhere to the decisions of the Constitutional Court as the highest legal basis in the state system. Therefore, the revision of the TNI Law should ensure that every article formulated aligns with constitutional principles and does not contradict the direction of legal reform and democracy in Indonesia¹⁵.

¹⁰Ndraha, A. B., Waruwu, E., Zebua, D., & Zega, A. (2024). Kebijakan Kelembagaan Kehumasan Dan Jurnalistik Untuk Meningkatkan Transparansi Dan Partisipasi Masyarakat Dalam Pemerintahan. *Jurnal Ilmu Ekonomi, Pendidikan Dan Teknik*, 1(2), 23–31. <https://doi.org/10.70134/identik.v1i2.37>

¹¹Irvita, M., & Asriani, A. (2025). Transparency and accountability in the justice system: Building public trust and justice: The Role of Public Trust in Fair Law Enforcement. *Priviet Social Sciences Journal*, 5(4), 26–40. <https://doi.org/10.55942/pssj.v5i4.367>

¹²Artioko, F. R. (2022). Pengadopsian Partisipasi Masyarakat yang Bermakna (Meaningful Participation) dalam Undang-Undang Nomor 13 Tahun 2022 Tentang Perubahan Kedua Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan. *Al-Qisth Law Review*, 6(1), 52. <https://doi.org/10.24853/al-qisth.6.1.52-83>

¹³Suntoro, A., & Nureda, K. R. (2022). Omnibus Law: Dominasi Kekuasaan Eksekutif dalam Pembentukan Legislasi. *Veritas et Justitia*, 8(1), 109–139. <https://doi.org/10.25123/vej.v8i1.434>.

¹⁴Nurhasananda, A., & Akbar, M. (2025). Analisis Sentimen Masyarakat Terhadap Kebijakan Undang-Undang Tentara Nasional Indonesia (UU TNI) Menggunakan Support Vector Machine. *Jurnal Komputer, Informasi Dan Teknologi*, 5(1), 14. <https://doi.org/10.53697/jkomitek.v5i1.2603>

¹⁵Ferdinal, O., & Israhadi, E. I. (2025). Legal Reformulation of Political Rights of Members of the Indonesian National Army to Ensure Democratic Justice and Enforcement of Human Rights. *Jurnal Greenation Sosial Dan Politik*, 3(2), 295–

If the revision of the TNI Law actually expands the TNI's authority into the civilian sphere, this has the potential to violate the principle of civilian supremacy, which is one of the main pillars of democracy.¹⁶The military's presence in the civilian sphere not only blurs the lines between civilian and military roles, but also risks shifting the balance of power that should rest with civilian authorities in a democratic state.

In discussions on the revision of the TNI Law, several articles were deemed problematic because they potentially conflict with the principle of civilian supremacy and the spirit of post-1998 defense sector reform. The two most contentious articles were Articles 7 and 47 of the TNI Law.

Article 7 of the TNI Law concerning Military Operations Other Than War (OMSP)

This article grants the Indonesian National Armed Forces (TNI) broad authority to carry out various non-military tasks, such as assisting in disaster management, maintaining public order, securing vital objects, and countering acts of terrorism. In the context of the revision, there are concerns that the authority of the OMSP will be expanded, allowing the TNI to further penetrate the civilian sphere. This has the potential to blur the boundaries between civilian and military roles and open the door to the return of militarism in political life.

Article 47 of the TNI Law concerning Civilian Positions for Active Soldiers

This article stipulates that active-duty TNI soldiers can hold certain civilian positions, such as in ministries or state institutions. This provision is often questioned as it is perceived as opening up opportunities for military domination within the civilian bureaucracy. Concerns have arisen in the

proposed revisions that the list of civilian positions that active-duty soldiers can fill could potentially be further expanded, contradicting the principle of civilian supremacy in constitutional democracy.

In addition to these articles, there are a number of Constitutional Court (MK) decisions that are relevant as references for assessing the constitutionality of the revised TNI Law, including:

Constitutional Court Decision No. 27/PUU-XI/2013 emphasized the importance of civilian supremacy in the Indonesian constitutional system, as well as the need to limit the role of the military so that it does not enter the political and civil government sphere.

Constitutional Court Decision No. 22/PUU-XII/2014 strengthen the principle of military neutrality by emphasizing that active TNI soldiers may only hold certain civilian positions under limited conditions, and may not interfere with the professionalism and independence of civilian institutions.

Thus, the debate over the revision of the TNI Law concerns not only technical legislative issues but also closely related to constitutional guarantees of democracy and civilian supremacy. If the provisions in the revision are inconsistent with the Constitutional Court's ruling, the risk of unconstitutionality increases and the political legitimacy of the legislation could be weakened.

Furthermore, this situation can be seen as a setback to the post-1998 security sector reforms, which were intended to professionalize the military and distance it from politics and civil affairs. Therefore, upholding the principle of constitutionality is crucial to ensure that the revision of the TNI Law remains in line with the spirit of reform and the strengthening of democracy in Indonesia.

Academic and Practical Implications

Academically, this research shows the importance of linking the legislative process with the theory of participatory democracy and constitutionalism, so that the study does not only stop at analyzing the substance of the law, but also highlights how the legislative mechanism reflects democratic values and

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<https://doi.org/10.38035/jgsp.v3i2.365>

¹⁶Risky, S., & Kartikasaari, D. (2025). *Supremasi Sipil Vs. Supremasi Militer: Pejabat Pembantu Presiden Non-Kementerian dalam Bingkai Reformasi Konstitusi*. *Simbur Cahaya*, 101–131. <https://doi.org/10.28946/sc.v32i1.4900>

constitutional principles.¹⁷ This contributes to the development of constitutional law literature and civil-military relations studies, particularly in the context of defense sector reform in Indonesia.

In practical terms, the research results emphasize the need to strengthen digital transparency mechanisms, for example through online publication of draft bills, meeting minutes, and discussion agendas that can be easily accessed by the public.¹⁸ In addition, open participation forums need to be provided so that the public, academics, and civil society organizations can meaningfully engage in the legislative process. This effort is expected to increase the legitimacy of the resulting laws and strengthen public trust in legislative institutions and the government.¹⁹

To strengthen the legislative process for revising the TNI Law to make it more democratic, transparent, and in accordance with constitutional principles, a concrete implementation strategy is needed.

First, legislative transparency must be improved through the use of digital technology, for example by establishing an open legislative portal that provides public access to draft bills, academic papers, meeting minutes, and session agendas, while also requiring the DPR to broadcast deliberations live and implementing an e-legislation system

so the public can monitor developments article by article.

Second, public participation needs to be strengthened by providing online and offline consultation forums, holding public hearings involving academics, NGOs, and human rights organizations, and establishing an independent task force that acts as a liaison between the DPR, the government, and civil society.

Third, from a constitutional perspective, it is important to conduct legal oversight early on, including through the involvement of constitutional law experts and former Constitutional Court judges in the drafting team, the implementation of compliance checks on the 1945 Constitution and Constitutional Court decisions, and the use of constitutional impact assessments to measure the impact of revised articles on democracy.

Fourth, the professionalism of the TNI and civilian supremacy must be guaranteed by strictly limiting the civilian positions that active soldiers may fill, clarifying the boundaries of Military Operations Other Than War so that they do not overlap with the National Police or civilian institutions, and preparing a defense reform blueprint that emphasizes the TNI as a tool of national defense, not a political actor or civilian bureaucracy.

Finally, accountability must be strengthened through the establishment of an independent oversight body, regular reporting from the House of Representatives (DPR) to the public regarding the progress of the TNI Law revision, and the implementation of post-legislative scrutiny, a comprehensive evaluation after several years of the law's implementation. This strategy is expected to ensure that the TNI Law revision not only meets defense needs but also aligns with democracy, security sector reform, and applicable constitutional principles.

The research results show that the legislative process for revising the TNI Law still faces various weaknesses²⁰. From a

¹⁷Chambers, S. (2019). Democracy and constitutional reform: Deliberative versus populist constitutionalism. *Philosophy & Social Criticism*, 45(9–10), 1116–1131. <https://doi.org/10.1177/0191453719872294>

¹⁸Saner, R., Yiu, L., & Nguyen, M. (2020). Monitoring the SDGs: Digital and social technologies to ensure citizen participation, inclusiveness and transparency. *Development Policy Review*, 38(4), 483–500. <https://doi.org/10.1111/dpr.1243>

¹⁹Saner, R., Yiu, L., & Nguyen, M. (2020). Monitoring the SDGs: Digital and social technologies to ensure citizen participation, inclusiveness and transparency. *Development Policy Review*, 38(4), 483–500. <https://doi.org/10.1111/dpr.1243>

²⁰Sosrohamidjojo, H. P. (2025). Legal Formulation of the Use of Non-Organic Firearms of the TNI/Polri by Civilians for the Purpose of Self-Defense. *Greenation International Journal of Law and Social Sciences*, 3(2),

transparency perspective, deliberation meetings have not been fully open, making it difficult for the public to access draft bills and meeting minutes. In terms of public participation, the involvement of civil society, academics, and human rights organizations remains very limited; despite hearings (RDPs), discussion space is minimal, and input is rarely included in the final draft. From a constitutional perspective, several articles are considered to potentially violate the principle of civilian supremacy and are not fully in line with the 1945 Constitution and the spirit of security sector reform.

Meanwhile, the TNI's perspective tends to encourage an expanded role in addressing non-military threats, which has sparked debate because it has the potential to blur the boundaries between civilian and military spheres. This situation has implications for the weakened political and legal legitimacy of the revised law, as the lack of transparency, minimal participation, and questionable constitutionality of the process risk public rejection and a crisis of trust in the legislation²¹.

CONCLUSION

The conclusion of this study indicates that transparency in the legislative process for the revision of the TNI Law remains weak, as evidenced by meetings that are not fully open and limited public access to the draft bill and meeting minutes. Public participation is also suboptimal, as despite the availability of the Hearing (RDP) forum, the involvement of civil society, academics, and human rights organizations is still minimal and their input is rarely accommodated. From a constitutional aspect, the revision of the TNI Law is

questionable because it contains articles that potentially violate the principle of civilian supremacy and are not in line with the 1945 Constitution and the spirit of defense sector reform. Meanwhile, the TNI's perspective emphasizes the importance of expanding its role in addressing non-military threats, but this has sparked debate because it risks blurring the boundaries between the military and civilian spheres. Overall, the legislative process for the revision of the TNI Law is considered not fully democratic and legitimate, due to minimal transparency, low participation, and the potential for unconstitutionality that could undermine public trust in the resulting law.

THANK-YOU NOTE

The author would like to express his gratitude to Allah SWT for His mercy and grace so that the research entitled "Evaluation of the Legislative Process in the Revision of the TNI Law: Transparency, Public Participation, and Constitutionality" can be completed well. The author expresses his deepest gratitude to his parents and family for their prayers and support, his supervisor for the direction and guidance provided, the research informants (members of the House of Representatives, academics, NGO activists, TNI representatives, and political observers) who have taken the time to provide valuable data and information, as well as friends and all parties who have helped both directly and indirectly. The author realizes that this research is still far from perfect, so constructive criticism and suggestions are highly expected for the improvement of this research in the future, with the hope that this work can provide benefits for the development of science and the practice of democracy in Indonesia.

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²¹Yandi, Muhammad Adystia Sunggara, Yang Meliana, Wahab Aznul Hidayat, Sokhib Nain, & Mawrni Fatma. (2024). Dinamika Hukum dan Korupsi Politik (Dampak dan Tantangan Penegakan Hukum di Indonesia). *Unizar Law Review*, 7(1), 35–48. <https://doi.org/10.36679/ulr.v7i1.64>

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