



Analysis Of The Limits Of Police Authority In Civil Service Positions Within The Indonesian State System

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ABSTRACT

This study aims to examine the limits of authority of active members of the Indonesian National Police in holding civilian positions outside the formal police structure and to analyze the implications of such practices for Indonesia's constitutional system. This issue is significant because Polri is a state institution responsible for law enforcement and public security, and the placement of active police officers in civilian offices may give rise to constitutional concerns, conflicts of interest, and the weakening of the principle of civilian supremacy in a democratic state. The analysis focuses on constitutional-judicial aspects, normative regulations within statutory frameworks, and the practical implementation of assigning active Polri personnel to civilian positions within state institutions and government bodies. This research employs a normative juridical method using statutory, conceptual, and constitutional court decision approaches. The data were collected through a literature review of national legal journals, constitutional law doctrines, and regulations governing the status and authority of Polri. The findings indicate that the existing legal framework concerning the limits of authority for active Polri members to occupy civilian positions remains ambiguous and allows for broad interpretation. Such ambiguity potentially creates legal uncertainty and undermines the principles of neutrality and professionalism of state apparatuses. The study further reveals that decisions of the Constitutional Court play a crucial role in clarifying and reinforcing the boundaries of this authority as part of efforts to maintain the balance of power and strengthen civilian supremacy within Indonesia's constitutional order. Therefore, clearer and more consistent legal norms are required to ensure that the involvement of Polri in civilian roles remains aligned with constitutional mandates and democratic principles.

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INTRODUCTION

The Indonesian National Police is a state institution with a strategic role in maintaining public security, public order, and law enforcement within the framework of a democratic rule-of-law state. The constitutional position of Polri as a state instrument is explicitly affirmed in Article 30 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, which mandates the police to safeguard public security and order, enforce the law, and provide protection, guidance, and services to the community. In this context, Polri functions not merely as a law enforcement agency, but also as an institution that interacts directly with civil society and plays a crucial role in sustaining the legitimacy of the constitutional legal order (Tamrin, 2023).

The political and constitutional reforms that followed the 1998 reform movement brought about fundamental changes in the structure and institutional relations of Indonesia's security sector. One of the most significant transformations was the separation of the Indonesian National Armed Forces (TNI) and Polri, which

had previously been unified under the Armed Forces of the Republic of Indonesia (ABRI). This separation was intended to strengthen institutional professionalism and to eliminate military dominance in civilian affairs, a hallmark of authoritarian governance in the past (Nadhir & Panggabean, 2025). Under this reformed paradigm, Polri was repositioned as a civilian, professional, and politically neutral institution operating under the principles of civilian supremacy and democratic accountability.

Nevertheless, contemporary constitutional practice indicates that the relationship between Polri and civilian offices remains problematic. In recent years, there has been a growing phenomenon of active-duty police officers being appointed to civilian positions outside the formal police structure, including posts within ministries, state institutions, government agencies, and non-structural bodies. This practice has sparked intense debate among legal scholars, practitioners, and democracy advocates, as it is perceived to potentially create overlapping authorities, conflicts of interest, and erosion of the principle of civilian supremacy that underpins democratic constitutional systems (Nasser, 2021).

From a normative standpoint, the position and authority of Polri are regulated under Law Number 2 of 2002 on the Indonesian National Police. This law outlines the functions, duties, and powers of Polri, including provisions concerning the assignment of police personnel outside the police organization. However, these provisions are widely regarded as insufficiently precise in defining the status of active police officers who occupy civilian positions. Clauses allowing assignments based on orders from police leadership are often interpreted broadly, enabling active-duty officers to assume civilian offices without formally resigning from police service (Febriawan, 2024).

Such normative ambiguity raises serious juridical concerns, particularly with respect to legal certainty and the principle of legality in a rule-of-law state. From a constitutional perspective, civilian offices should ideally be occupied by individuals who are institutionally separate from security forces in order to preserve bureaucratic neutrality and prevent the dominance of law enforcement institutions in administrative governance. When active police officers hold civilian positions, fundamental questions arise regarding the scope of their authority, the persistence of hierarchical command structures, and the potential misuse of police powers within civilian administrative roles.

Civilian supremacy constitutes a core pillar of modern democratic governance. This principle emphasizes that political and administrative power must remain under the control of constitutionally established civilian authorities rather than being dominated by security institutions. In Indonesia, the reinforcement of civilian supremacy has been a central objective of security sector reform, aimed at ensuring that Polri and TNI operate professionally without excessive involvement in civilian governance. Accordingly, any involvement of active police officers in civilian offices must be subject to clear, strict, and accountable limitations.

Beyond normative issues, the appointment of active police officers to civilian positions also has significant implications for public perception of Polri's independence and professionalism. As a law enforcement institution, Polri is expected to maintain neutrality, objectivity, and independence from political or administrative interests. When active-duty police officers occupy strategic or politically sensitive civilian offices, public trust in the impartiality of Polri may be undermined, as the institution may be perceived as aligned with particular interests rather than standing above them.

From the perspective of constitutional law, this phenomenon is closely related to the principles of separation of powers and checks and balances among state institutions. The placement of active police officers in civilian administrative roles risks blurring the boundaries between law enforcement functions and governmental administration. Such overlap may lead to unhealthy concentrations of power and weaken inter-institutional oversight mechanisms that are essential to democratic governance. Consequently, the establishment of clear legal boundaries regarding Polri's authority is an urgent necessity to preserve constitutional balance.

Developments in the jurisprudence of the Constitutional Court further demonstrate heightened attention to this issue. Through several decisions, the Court has emphasized the importance of restricting the involvement of active security personnel in civilian offices as part of broader efforts to strengthen civilian supremacy and constitutional democracy. These rulings provide constitutional interpretations of ambiguous statutory provisions and underscore that the placement of security personnel in civilian roles must be governed by clear procedures consistent with the principles of the rule of law.

Despite these judicial interventions, the issue has not been fully resolved at the level of implementation. In practice, assignments of active police officers to civilian offices continue to generate controversy and public debate. This situation highlights a persistent gap between statutory norms, constitutional court rulings, and actual governance practices. Such discrepancies underscore the need for comprehensive academic analysis to systematically and critically examine the limits of active Polri authority in civilian offices.

Based on this background, the present study is both relevant and necessary. This research aims not only to identify the legal boundaries governing the authority of active police officers in civilian positions under statutory law and judicial decisions, but also to analyze the broader implications of this practice for civilian supremacy, democratic governance, and Indonesia's constitutional system as a whole. Through a normative

juridical approach, this study seeks to contribute both theoretically and practically to the development of constitutional law and the ongoing reform of Indonesia's security sector.

RESEARCH METHOD

This study adopts a normative juridical research method, which focuses on the examination of legal norms, principles, and doctrines governing Indonesia's constitutional system. This approach is considered appropriate because the object of the research concerns the limits of authority of active members of the Indonesian National Police (Polri) in holding civilian positions, an issue that is directly regulated by the Constitution, statutory laws, and decisions of constitutional judicial bodies. Normative juridical research aims to assess the coherence, clarity, and legal implications of norms as they relate to constitutional practice and governance (Rizkia & Fardiansyah, (2023).

The research employs several complementary approaches, namely the statutory approach, the conceptual approach, and the case approach. The statutory approach involves a systematic review of the 1945 Constitution of the Republic of Indonesia, Law Number 2 of 2002 on the Indonesian National Police, and other relevant regulations concerning civilian offices and state apparatus. The conceptual approach is used to analyze key constitutional law concepts such as civilian supremacy, the rule of law, separation of powers, and the professionalism of law enforcement institutions within the framework of constitutional theory (Tamrin, 2025). Meanwhile, the case approach is conducted through an examination of relevant Constitutional Court decisions addressing the placement of active security personnel in civilian positions, with the aim of obtaining an applied juridical understanding of the issue.

The legal materials used in this research are classified into primary, secondary, and tertiary sources. Primary legal materials consist of statutory provisions and Constitutional Court decisions that directly relate to Polri's authority and the occupation of civilian offices. Secondary legal materials include national law journals, constitutional law textbooks, and scholarly research discussing the relationship between security institutions and civilian supremacy. Tertiary legal materials serve as supporting references, such as legal dictionaries and legal encyclopedias.

The collection of legal materials is carried out through library research by systematically identifying and reviewing relevant legal sources. All collected materials are subsequently analyzed using qualitative normative analysis. This method involves interpreting legal norms, comparing existing regulatory frameworks, and examining their implications for Indonesia's constitutional system. The analysis is conducted in a descriptive-analytical manner to provide a comprehensive understanding of the limits of active Polri authority in civilian offices and their impact on the principles of civilian supremacy and constitutional democracy.

DISCUSSION

The Position of the Indonesian National Police within Indonesia's Constitutional System

The Indonesian National Police (Polri) constitutes a state organ with a strategic mandate to maintain public security and order, enforce the law, and provide protection and services to citizens. The constitutional status of Polri is expressly stipulated in Article 30 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, which designates the police as a state instrument responsible for public security and order. Based on this provision, Polri is positioned within the executive branch of government and is institutionally accountable to the President as the head of government (Iskandar, 2018).

Within the framework of a democratic rule-of-law state, the role of Polri extends beyond that of a conventional law enforcement agency. It forms an integral part of the governance system and must operate in accordance with the principles of the supremacy of law, accountability, and civilian control. Constitutional reforms following the 1998 reform movement marked a fundamental transformation in the relationship between the state, security institutions, and society. A central objective of these reforms was to reinforce Polri's professionalism as a civilian institution, clearly separated from the military, and to limit its involvement in political affairs and strategic civilian offices (Yusuf, 2024). The institutional separation of Polri from the Indonesian National Armed Forces (TNI) was intended to end the long-standing dominance of security forces in civilian governance that characterized the authoritarian era.

Nevertheless, contemporary constitutional practice reveals persistent challenges concerning the position of Polri, particularly with regard to the placement of active-duty police officers in civilian positions outside the formal police structure. This phenomenon gives rise to what may be described as a dual-role dilemma, in which active police officers simultaneously perform law enforcement duties and administrative or managerial functions within civilian offices. Such dual roles risk generating legal uncertainty, conflicts of interest, and deviations from the principle of professionalism that should govern state officials (Warsyim, 2023).

From the perspective of constitutional theory, the involvement of active security personnel in civilian offices is difficult to reconcile with the principle of civilian supremacy. This principle requires that governmental administration and civilian public offices remain under the authority of neutral civilian actors, rather than under the influence of security institutions. Civilian supremacy serves as a cornerstone of democratic governance by preventing excessive concentration of power and ensuring a clear institutional

separation between security functions and civilian administration. Accordingly, the appointment of active Polri members to civilian positions carries the risk of shifting the balance of power away from civilian control toward security institutions.

Furthermore, the constitutional position of Polri must be assessed in relation to the distribution of powers and the system of checks and balances among state institutions. As a law enforcement body, Polri is vested with extensive authority, including the legitimate use of coercive power on behalf of the state. When such authority is extended into civilian administrative roles, the potential for abuse of power increases, as the boundaries between law enforcement functions and administrative governance become blurred. This situation may disrupt inter-institutional balance and weaken oversight mechanisms that are essential to constitutional governance.

The placement of active police officers in civilian offices also has significant implications for the independence and neutrality of Polri as a law enforcement institution. In a state governed by the rule of law, law enforcement agencies are required to remain free from political and administrative interests in order to ensure objective and impartial enforcement of the law. When active Polri officers occupy civilian positions, particularly those involving policy-making or strategic state interests, the risk of bias in law enforcement increases. Such circumstances may erode public trust in Polri as an institution that is expected to operate above partisan or sectoral interests.

From a normative standpoint, Law Number 2 of 2002 on the Indonesian National Police has yet to provide clear and detailed limitations regarding the status of active Polri members who hold civilian positions. Provisions that allow assignments outside the police structure are frequently interpreted broadly, enabling the placement of active-duty police officers in civilian offices without requiring resignation or retirement from police service. This normative ambiguity undermines legal certainty and creates space for constitutional practices that diverge from democratic principles.

Legal Limits on the Authority of Active Police Officers in Civilian Positions

The legal boundaries governing the authority of active members of the Indonesian National Police (Polri) in holding civilian positions constitute a critical issue within Indonesia's constitutional system. This matter is closely connected to the principles of the rule of law, the neutrality of state officials, and civilian supremacy. Normatively, the regulation of this issue is primarily found in Law Number 2 of 2002 on the Indonesian National Police. In principle, the law provides that police officers who intend to occupy positions outside the police structure are required to resign from active service or enter retirement. This requirement is designed to preserve the professionalism of Polri and to prevent overlapping roles between law enforcement functions and civilian administrative responsibilities.

In practice, however, the existing legal framework has been criticized for failing to establish clear and comprehensive limitations. Provisions that allow assignments outside the police structure based on the discretion of police leadership have generated normative ambiguity. This lack of clarity creates broad interpretive space, enabling active-duty police officers to assume certain civilian positions without relinquishing their status as law enforcement officials (Sugadi & Gunawan, 2025). Such conditions raise serious legal concerns, as they blur the institutional boundaries between security roles and civilian offices within the structure of government.

From a constitutional law perspective, this regulatory ambiguity runs counter to the principle of legal certainty, which is a fundamental element of a rule-of-law state. Legal certainty requires norms to be clear, precise, and non-ambiguous so that they can be applied consistently and fairly. When the limits of authority for active police officers in civilian positions are not explicitly regulated, law enforcement and public administration risk being distorted by subjective interpretation and the influence of particular power interests (Kambuno et al., 2025). Ultimately, this situation may undermine public confidence in the legal system and state institutions.

Furthermore, the placement of active police officers in civilian offices raises significant concerns regarding conflicts of interest. As law enforcement officials, police officers possess extensive coercive powers, including authority over investigation, prosecution-related processes, and the legitimate use of state force. When such powers are attached to individuals who simultaneously perform civilian administrative functions, there is an increased risk of abuse of authority or, at the very least, a public perception of partiality in policy-making and governance (Marjon, 2021). These conflicts of interest may arise both directly and indirectly, particularly when the civilian position involves strategic governmental decision-making.

In relation to the principle of neutrality in civilian offices, civil servants are fundamentally expected to act professionally, independently, and free from the influence of security institutions. The appointment of active police officers to civilian positions potentially undermines this principle by introducing command-oriented culture and hierarchical structures characteristic of policing into the civilian bureaucracy. Such dynamics may affect decision-making processes and working relationships within civilian institutions, which should be governed by democratic public administration principles rather than security-based command structures.

The legal limits on Polri's authority in civilian offices are also closely linked to the principles of separation of powers and checks and balances. When active police officers occupy civilian positions, there is a tendency toward the concentration of authority within a single individual or institution. This concentration may weaken inter-institutional oversight mechanisms, as supervisory functions that should be exercised by civilian bodies risk being compromised by the dominance of law enforcement institutions. Over time, such conditions may threaten constitutional equilibrium and diminish the quality of democratic governance.

Accordingly, the legal boundaries governing the authority of active Polri members in civilian positions must be reinforced through clearer and more unequivocal statutory regulations. Such clarification is essential to ensure that any assignment of police personnel outside the police structure is carried out through transparent, accountable mechanisms and remains consistent with the principle of civilian supremacy. In the absence of firm legal limitations, the continued placement of active police officers in civilian offices will persist as a source of legal controversy and may ultimately weaken the foundations of Indonesia's democratic rule-of-law system.

Implications of Active Police Authority in Civilian Positions for Civilian Supremacy and Democracy

The appointment of active members of the Indonesian National Police (Polri) to civilian positions raises not only normative legal concerns but also significant implications for the principle of civilian supremacy and the overall quality of democracy within Indonesia's constitutional system. Civilian supremacy is a foundational principle of democratic governance, affirming that the exercise of state power particularly in governmental administration and public policy must remain under the control of legitimate and accountable civilian authorities rather than being dominated by security institutions. Accordingly, the involvement of active security personnel in civilian offices warrants critical scrutiny, as it may alter the balance of power between civilian authorities and security forces.

Within the framework of constitutional democracy, civilian supremacy serves as a safeguard against the concentration of power and ensures that security institutions remain subordinate to civilian control. When active police officers occupy civilian positions, especially strategic posts within government, there is a risk that the presence of security institutions in civilian governance becomes normalized. Such normalization may weaken civilian oversight over the police and blur the institutional boundaries between security functions and civilian administration (Sibuea, 2023). Over time, this condition may contribute to the gradual erosion of democratic values that emphasize the limitation and accountability of state power.

Another significant implication concerns the weakening of bureaucratic neutrality in civilian administration. Conceptually, civilian offices are intended to be filled by officials who operate under the principles of public administrative professionalism, free from command-based structures and coercive institutional cultures. When active police officers assume civilian roles, hierarchical mindsets and security-oriented approaches may permeate administrative decision-making processes. This dynamic has the potential to undermine core principles of democratic governance, such as participation, transparency, and public accountability (Nasser, 2025).

From the perspective of substantive democracy, the involvement of active police officers in civilian positions also affects public perceptions of state independence and the impartiality of law enforcement institutions. Democracy is not measured solely by the existence of formal procedures, but also by public trust in state institutions. When law enforcement officials are directly involved in administrative or political roles, perceptions may arise that the police are not fully neutral or detached from centers of power. Such perceptions can diminish the legitimacy of Polri as an objective and impartial law enforcement body (Febriawan, 2024).

This practice may further weaken the system of checks and balances within the constitutional order. As part of the executive branch, Polri exercises significant authority in law enforcement, including oversight and coercive functions. When these functions are combined with civilian administrative authority in a single individual, role conflicts may emerge that hinder both internal and external oversight mechanisms. In certain circumstances, this overlap may lead to an excessive concentration of influence within a single institution, thereby undermining democratic accountability (Tamrin, 2025).

The Constitutional Court, through several of its decisions, has emphasized that restricting the involvement of active security personnel in civilian offices is an essential measure to uphold civilian supremacy and constitutional democracy. These judicial interpretations demonstrate that Indonesian democracy requires not only free and fair elections but also a balanced and well-structured relationship between civilian institutions and security forces. Consequently, limiting the participation of active Polri members in civilian positions should not be viewed as institutional discrimination, but rather as a constitutional mechanism designed to preserve the balance of power and enhance the quality of democratic governance (Yusuf, 2024).

Oversight and the Reinforcement of Legal Limits on Polri's Authority in Civilian Positions

Oversight of the authority exercised by the Indonesian National Police (Polri), particularly in relation to the placement of active-duty officers in civilian positions, constitutes a vital element in safeguarding the rule of

law and the principle of civilian supremacy. Within a democratic constitutional system, the powers entrusted to security institutions must be subject to effective and accountable control mechanisms. In the absence of adequate oversight, such authority risks being misused or expanded beyond the limits established by the Constitution and statutory law (Yusuf, 2024).

From a normative perspective, oversight of Polri is conducted through a combination of legal and institutional mechanisms. Internally, Polri maintains supervisory bodies such as the General Inspectorate of Supervision (Itwasum) and the Division of Profession and Security (Propam), which are responsible for ensuring professionalism and compliance with ethical standards and disciplinary regulations. However, internal oversight mechanisms are inherently limited due to their operation within the same hierarchical structure as the officers being supervised. Consequently, external oversight is essential as an expression of civilian control over the police institution (Nasser, 2025).

External oversight of Polri is exercised through several institutions, including the National Police Commission (Kompolnas), the House of Representatives (DPR), and the judiciary. Kompolnas plays a strategic role by providing policy recommendations to the President regarding the development and professionalization of Polri. Nevertheless, the authority of Kompolnas remains largely advisory and lacks binding force, which limits the effectiveness of its oversight over practices such as the assignment of active police officers to civilian offices (Tamrin, 2025). Meanwhile, the DPR carries out its oversight function through political mechanisms and legislative processes, including the enactment and review of laws governing Polri.

In terms of clarifying and enforcing the limits of authority, the role of the Constitutional Court is particularly significant. Through its power of judicial review of statutes against the 1945 Constitution, the Constitutional Court acts as the guardian of the Constitution, ensuring that regulations concerning Polri's authority are consistent with the principles of civilian supremacy and democratic governance. Constitutional Court decisions that restrict or prohibit the involvement of active security personnel in civilian positions represent a crucial form of judicial control, especially in clarifying statutory provisions that are ambiguous or open to multiple interpretations (Yusuf, 2024). Such rulings are not only legally binding but also provide authoritative constitutional guidance for lawmakers and the executive branch.

Beyond judicial oversight, reinforcing the legal limits on Polri's authority also requires clearer and more comprehensive regulatory reform. The provisions of Law Number 2 of 2002 on the Indonesian National Police should be re-evaluated to establish explicit boundaries regarding the active status of police officers who occupy civilian positions. Clear statutory norms are essential to prevent interpretive ambiguity and to ensure that any assignment of police personnel outside the police structure is conducted transparently, lawfully, and in accordance with the principle of civilian supremacy (Febriawan, 2024).

In addition, the involvement of civil society and the academic community plays a strategic role in oversight and the reinforcement of legal boundaries governing Polri's authority. Public participation through academic discourse, policy monitoring, and constructive criticism of constitutional practices constitutes an important form of social control that can enhance police accountability. In a democratic state, oversight is not solely the responsibility of formal state institutions but also a right and obligation of citizens to ensure that governmental power is exercised in compliance with the law and democratic values (Nasser, 2025).

CONCLUSION

Based on the foregoing analysis, it can be concluded that the constitutional position of the Indonesian National Police (Polri) within Indonesia's state system places it firmly as a law enforcement institution under the executive branch, subject to the principles of the rule of law and civilian supremacy. Post-1998 constitutional reforms have explicitly affirmed the separation of the police from the military and established Polri as a civilian institution expected to operate professionally, neutrally, and accountably in maintaining public security and enforcing the law. Nevertheless, the ongoing practice of appointing active-duty police officers to civilian positions reveals serious challenges in the practical implementation of these constitutional principles.

The legal framework under Law Number 2 of 2002 on the Indonesian National Police does not provide clear and unambiguous limitations regarding the authority of active police officers to occupy civilian offices. This normative ambiguity creates broad interpretative space, which may give rise to conflicts of interest, legal uncertainty, and the blurring of boundaries between law enforcement functions and administrative governmental roles. Such conditions are inconsistent with the principle of neutrality in civilian positions and the principle of legal certainty, both of which are fundamental elements of a democratic state governed by the rule of law.

Furthermore, the involvement of active police officers in civilian positions carries significant implications for the principle of civilian supremacy and the overall quality of democracy. This practice risks weakening civilian oversight over the police institution, undermining checks and balances, and diminishing public trust in the independence and professionalism of Polri as a law enforcement body. In this context, the

clear restriction of the authority of active security personnel to hold civilian offices constitutes a constitutional necessity to preserve the balance of power and support democratic consolidation.

Accordingly, there is an urgent need to strengthen oversight mechanisms and to clarify and reinforce legal norms through regulatory reform and consistent enforcement of Constitutional Court decisions. These measures are essential to ensure that any assignment of Polri personnel outside the police structure is conducted transparently, accountably, and in conformity with the principle of civilian supremacy. By doing so, Polri can continue to fulfill its role professionally within the framework of Indonesia's democratic constitutional state.

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