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The Constitutionality of Deploying Indonesian National Armed Forces Without House of Representatives Approval: A Perspective on Checks and Balances and Presidential Powers

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Abstract: The Constitutionality of Deploying Indonesian National Armed Forces Without House of Representatives Approval: A Perspective on Checks and Balances and Presidential Powers. The deployment of military forces abroad for peacekeeping missions is frequently categorized as non-war operations by the executive, thereby bypassing parliamentary approval. This practice triggers legal debates concerning the boundaries of presidential discretion and potential breaches of the principle of limited power. This study aims to analyze the constitutional basis of presidential authority and evaluate the urgency of involving the House of Representatives in deploying armed forces to maintain institutional checks and balances. The method employed is normative juridical legal research utilizing statutory, conceptual, comparative, and case approaches. The results indicate that although the president holds supreme authority over the armed forces, this power is not absolute and must remain subject to democratic control. Administrative classifications of non-war operations should not serve as an excuse to evade parliamentary oversight, given that deploying armed forces abroad carries significant political, diplomatic, and security consequences. In conclusion, such deployments require the approval of the House of Representatives to uphold the principle of checks and balances. The government is advised to promptly establish explicit regulations ensuring legal certainty for military deployment procedures.

Keywords: Constitutionality, Deployment of the Indonesian National Armed Forces, House of Representatives Approval, Checks and Balances, Constitutional Democracy.

INTRODUCTION

The use of military power in modern constitutional democracy is no longer considered an exclusive right of the executive branch. Instead, it is viewed as a constitutional action that must prioritize the principles of power limitation, constitutional supremacy, and public accountability. Therefore, any policy related to the mobilization of military forces, including deploying troops abroad, must follow democratic oversight mechanisms to prevent abuse of power and ensure that the principle of checks and balances remains maintained within the Indonesian constitutional system. This paradigm shift stems from historical experiences

across various nations, which demonstrate that uncontrolled military power can lead to serious executive overreach and human rights violations. In modern constitutional theory, Ackerman (2006) emphasizes that state power, particularly in security sectors, must not be detached from legislative control to avoid power concentration.

Following the 1998 reformation, Indonesia amended the 1945 Constitution (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945) to strengthen the checks and balances system, thereby repositioning the relationship between the President and the House of Representatives (Dewan Perwakilan Rakyat) into a more democratic framework. However, ambiguity persists regarding the constitutional boundaries of defense and security powers, specifically concerning the deployment of the Indonesian National Armed Forces (Tentara Nasional Indonesia) abroad for international peacekeeping operations. Normatively, while this deployment fulfills the constitutional mandate to participate in maintaining world order, the government frequently classifies these missions strictly as military operations other than war (*operasi militer selain perang*). This classification is used to bypass legislative approval, sparking intense legal debates. Tushnet (2015) warns that executive dominance over military forces without legislative oversight risks creating executive overreach, which reduces public accountability and undermines constitutional democracy. Furthermore, Huntington (1957) through civil-military relations theory asserts that objective civilian control, which encompasses both the executive and the legislature, is a fundamental element in maintaining democratic stability.

This situation exposes a normative conflict and regulatory void within Indonesian positive law, particularly in the structural integration between Article 10 and Article 11 of the 1945 Constitution, as well as its implementation through Law Number 34 of 2004 concerning the Indonesian National Armed Forces. Article 10 grants the President supreme authority over the army, navy, and air force, whereas Article 11 strictly requires the approval of the House of Representatives to declare war, make peace, and conclude treaties. The constitution, however, remains silent on military deployments that fall outside formal war categories but still involve coercive armed forces. This ambiguity is compounded by the phrase "state political decision" (*keputusan politik negara*) in Article 19 of Law Number 34 of 2004, which lacks clear definition and is often interpreted unilaterally by the executive as its sole prerogative. Feaver (2003) via agency theory highlights that without effective monitoring mechanisms by the legislative principal, the military agent might diverge from public interests. While the government argues that executive dispatch without legislative approval is necessary for operational speed and efficiency in international diplomacy, Ackerman (2004) argues that effectiveness must never override accountability, especially when dealing with the state's legitimate use of force.

Therefore, a progressive and dynamic constitutional interpretation is urgently required to see military deployment as a spectrum rather than a rigid binary of war and non-war. This article conceptualizes international peacekeeping deployments as a form of quasi war power that inherently requires democratic legitimacy. Consequently, this study addresses two central research questions that must be thoroughly evaluated: How is the constitutionality of deploying Indonesian National Armed Forces troops abroad without the approval of the House of Representatives analyzed under the 1945 Constitution and the Indonesian National Armed Forces Law? Does the deployment of these troops for peacekeeping missions constitute an action that requires legislative approval within the framework of checks and balances? Ultimately, this research aims to analyze the constitutional basis of presidential military power, evaluate the legislative oversight functions of the House of Representatives, and formulate a precise constitutional interpretation for deploying Indonesian National Armed Forces troops abroad to bridge the gap between executive efficiency and democratic accountability.

METHODS

This study uses a normative juridical legal research method (*metode penelitian hukum yuridis normatif*) which focuses on the analysis of legal doctrines, principles, rules, and statutory regulations. As a doctrinal study, it does not employ statistical samples or populations but instead analyzes primary, secondary, and tertiary legal materials as the core research subjects. The legal materials are evaluated qualitatively to address the constitutionality of deploying the Indonesian National Armed Forces (Tentara Nasional Indonesia) abroad without legislative consent. The research was conducted in Jakarta, Indonesia, over a six-month period from November 2025 to April 2026, utilizing the resources of the postgraduate law library at Universitas Kristen Indonesia.

To provide a comprehensive analytical framework, this study applies four distinct research approaches. The statutory approach (*pendekatan perundang-undangan*) is used to examine the coherence and structural synchronization of the 1945 Constitution (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945), Law Number 34 of 2004 concerning the Indonesian National Armed Forces, and Law Number 37 of 1999 concerning Foreign Relations. The conceptual approach (*pendekatan konseptual*) provides the theoretical foundation by examining the principles of checks and balances, constitutional democracy, and presidential powers within a separation of powers framework. The comparative approach (*pendekatan komparatif*) analyzes the constitutional mechanisms of other democratic countries, such as the United States and Germany, to contrast their legislative oversight models for military deployments. Lastly, the case approach (*pendekatan kasus*) evaluates historical precedents and the actual practices of executive decision-making regarding the dispatch of peacekeeping forces.

The instrument for data collection in this study is documentary study or library research (*studi dokumen*). The primary legal materials consist of the 1945 Constitution, national statutes, and relevant international conventions. Secondary legal materials include authoritative law books, peer-reviewed journal articles, legal dictionaries, and expert commentaries on constitutional law. Tertiary legal materials consist of legal encyclopedias and non-legal materials that support the primary and secondary sources. The collected legal materials are processed through a systematic legal interpretation technique, utilizing grammatical, systematic, teleological, and historical interpretation methods. All materials are analyzed qualitatively through deductive reasoning to formulate objective legal arguments and clear conclusions regarding the boundaries of presidential authority and the necessity of parliamentary oversight.

RESULTS AND DISCUSSION

Penafsiran Sistematis Pasal 10 UUD 1945

Article 10 of the 1945 Constitution of the Republic of Indonesia states that the President holds the supreme authority over the Army, the Navy, and the Air Force. This provision constitutionally provides a basis for the President to control and direct the use of military force for national defense. From a textual perspective, this norm positions the President as the holder of strategic authority in the fields of military and national security. However, one must remember that the interpretation of Article 10 cannot be carried out in isolation from the entire constitutional structure. Every constitutional norm is interconnected and forms a unified whole within the state administrative system.

In the context of modern constitutional law development, no state authority is absolute, including the presidential authority regarding defense and the use of military force. The principle of a democratic constitutional state requires limitations on power through a checks and balances mechanism to prevent the concentration of power in a single branch of government. Therefore, the presidential authority regulated in Article 10 must be understood

as an operational and administrative authority in executing national defense functions, rather than as a constitutional legitimacy to act without legislative oversight. Consequently, the use of military force, particularly those with strategic and international implications, must remain within the framework of democratic accountability through the involvement of the House of Representatives as the representation of popular sovereignty.

In a constitutional democracy, the use of military force must be subject to legislative control as a form of limitation on executive power.²² This text indicates that the presidential authority regulated in Article 10 of the 1945 Constitution cannot be understood as an absolute and limitless power. Within a constitutional democracy system, the exercise of authority in the field of defense must remain within the framework of checks and balances, with oversight from the House of Representatives as the people's representatives. This is crucial to ensure accountability and prevent the concentration of power in the executive branch.

Furthermore, an absolute interpretation of Article 10 of the 1945 Constitution could contradict the spirit of post-1998 constitutional reform, which fundamentally aimed to prevent the centralization of power in the executive branch. This constitutional reform was carried out to strengthen democratic principles, limit power, and create a checks and balances mechanism among state institutions. Therefore, a systematic interpretation of Article 10 cannot be separated from other norms in the 1945 Constitution that regulate the oversight function of the House of Representatives over the use of state power, especially regarding defense and the mobilization of military forces. Thus, the presidential authority must be understood within a constitutional framework that guarantees democratic accountability and a balance of power.

Teleological Interpretation of Article 11 of the 1945 Constitution

Article 11 of the 1945 Constitution of the Republic of Indonesia stipulates that the President, with the approval of the House of Representatives, declares war, makes peace, and concludes treaties with other countries. In state administrative practice, this provision is frequently interpreted narrowly as a norm that only applies within the context of a formal declaration of war between states. However, such an overly textual interpretation does not fully reflect the substantive objective of the intended constitutional norm. In principle, Article 11 embodies the idea of the importance of involving the House of Representatives as a mechanism for democratic legitimacy and oversight against state actions that have strategic, political, and international implications, including the use of military force outside the context of conventional warfare.

Teleologically, Article 11 of the 1945 Constitution aims to ensure that state actions related to international relations obtain democratic legitimacy through the involvement of the House of Representatives as the representation of popular sovereignty. The norm essentially does not only regulate the formal procedure of declaring war, but also reflects the principle of oversight over the use of state power that carries strategic, political, and international impacts. Therefore, Article 11 cannot be interpreted restrictively or limited solely to the conventional definition of war. Conversely, the norm needs to be understood more broadly and contextually to encompass various state actions that have significant international implications, including the deployment of military forces outside a formal war framework.

The deployment of Indonesian National Armed Forces troops abroad for international peacekeeping operations is a step taken by the state with significant and strategic international impacts. This action not only involves the use of military force beyond national jurisdictional boundaries, but also relates to Indonesia's interaction with other nations, international organizations, and the international legal system. In addition, the involvement of Indonesian National Armed Forces troops in peacekeeping missions can affect Indonesia's diplomatic positioning, foreign policy, and image on the international stage. Therefore, from

a teleological standpoint, this action should be viewed within the context of Article 11 of the 1945 Constitution, as it bears political and international consequences that require democratic legitimacy through the participation of the House of Representatives. In a democratic system, the use of military force must always be linked to the political legitimacy granted by the legislative institution. Without such legitimacy, executive actions potentially lose their democratic foundation.

The Position of Military Operations Other Than War (MOOTW) in the Indonesian National Armed Forces Law

Law Number 34 of 2004 concerning the Indonesian National Armed Forces introduces the concept of Military Operations Other Than War (Operasi Militer Selain Perang or MOOTW) as part of the core duties of the Indonesian National Armed Forces (Tentara Nasional Indonesia or TNI), alongside military operations for war. In Article 7 paragraph (2), MOOTW encompasses various forms of state duties, such as international peacekeeping operations, counter-terrorism, humanitarian assistance, securing national vital objects, and various other operations related to the strategic interests of the state. This regulation indicates an expansion of TNI functions in facing modern threats that are no longer limited to conventional warfare between states. Consequently, MOOTW becomes a legal instrument that provides legitimacy for TNI involvement in various security and humanitarian activities, both at the national and international levels.

However, from a conceptual and normative standpoint, this expansion of functions does not automatically eliminate the foundational character of MOOTW as a form of state mobilization of military force. Although categorized as a non-war operation, MOOTW still involves the deployment of armed personnel, the utilization of military command structures, and the execution of operations carrying significant security and political dimensions. Therefore, classifying MOOTW as non-war cannot serve as a justification to place it outside the mechanisms of democratic oversight and constitutional control. In the context of a constitutional democracy, every form of military force utilization, including MOOTW, must remain understood as a state action with broad legal, political, and international implications. Thus, the existence of MOOTW must be interpreted cautiously so that it does not become an instrument that opens paths for executive power expansion without adequate checks and balances mechanisms.

From a constitutional law perspective, administrative classifications such as MOOTW must not be used as a basis to evade constitutional oversight mechanisms. This is because the object of judicial review is not the formal label of an action, but rather its substance and impact.²⁷ Therefore, the deployment of TNI troops in peacekeeping operations cannot be separated from the principles regulating the use of military force in general.

The Meaning of State Political Decision in Article 19 of the Indonesian National Armed Forces Law

Article 19 of Law Number 34 of 2004 concerning the Indonesian National Armed Forces states that the utilization of TNI force must be based on a "state political decision" (keputusan politik negara). This phrase holds a highly crucial position in determining the constitutional mechanism for using military force, including in the deployment of TNI troops abroad. Nevertheless, the law does not provide a clear and explicit definition regarding the meaning of a "state political decision." The absence of this normative explanation creates a wide interpretive space in state administrative practice. Consequently, differing views emerge as to whether such a decision constitutes the sole authority of the President as the executive or must involve the approval of the House of Representatives (Dewan Perwakilan Rakyat or DPR) as a form of democratic legitimacy and constitutional oversight mechanism.

In state administrative practice, the government tends to interpret a "state political decision" as a decision completely within the authority of the President. This interpretation poses constitutional problems because it ignores the democratic dimension inherent in the concept of a state political decision. In a constitutional democracy system, political decisions must fundamentally reflect the will of the people realized through representative mechanisms²⁸, including through the involvement of the DPR as the popular representative institution in the state strategic decision-making process. Thus, a state political decision cannot be reduced to a mere executive decision, but must involve the DPR as the representation of popular sovereignty. This interpretation aligns with the principle that any exercise of state power bearing extensive implications must obtain democratic legitimacy. Peter D. Feaver, through the agency theory approach, emphasizes the importance of oversight mechanisms in the relationship between the military and civilian authorities.²⁹ Within this framework, the DPR functions as part of the control mechanism to ensure that the use of military force aligns with the interests of the people. Without DPR involvement, this control mechanism remains incomplete.

Critique of the Interpretation of MOOTW as a DPR-Free Zone

One argument frequently utilized by the government is that Military Operations Other Than War (MOOTW) constitute a part of the executive authority sphere, meaning its execution does not require DPR approval. This argument rests on the assumption that MOOTW possesses a character fundamentally distinct from military operations for war. However, this assumption is not entirely accurate when reviewed from the perspective of constitutional law and the substance of military force utilization. The distinction between MOOTW and military operations for war is basically more contextual than substantive. Both forms of operations still involve the deployment of state armed forces, the use of military command structures, risks to soldier safety, and significant political and international consequences³⁰, thereby still requiring oversight mechanisms and democratic legitimacy in their execution. Consequently, it is inappropriate to use MOOTW as a basis to evade legislative control mechanisms. In constitutional theory, this type of approach can be categorized as a form of formal legalism, which is the tendency to interpret the law narrowly based on formal classifications without considering the substance of the action performed.

This formalistic approach carries the potential to create serious problems within the checks and balances system because it can open doors for the expansion of executive authority without adequate oversight. By classifying an action as a Military Operation Other Than War (MOOTW), the government could potentially avoid DPR involvement, even though the action substantially retains broad political, legal, and international implications. Such a condition can weaken the principle of democratic accountability in the state utilization of military force.

MOOTW as a Form of Quasi War Power

To understand the position of Military Operations Other Than War (MOOTW) within the constitutional framework, a deeper approach is required by viewing MOOTW as a form of quasi war power. The concept of quasi war power refers to state actions that are formally not considered war, but substantially possess characteristics similar to the use of military force in a war context. This approach is highly critical because the development of modern state administrative practice demonstrates that the use of military force is not always conducted through a formal declaration of war, but also through various forms of security and international operations that carry broad strategic impacts.

The characteristics of quasi war power can be observed from the deployment of armed forces, the use of military command structures, involvement in potential conflict territories,

and risks to the safety of military personnel. Furthermore, MOOTW is frequently linked to political decisions that carry diplomatic, security, and international relations consequences for the state. Thus, although MOOTW is categorized as a non-war operation, the substance of the action still demonstrates the state utilization of military force within a strategic context.

From this perspective, MOOTW cannot be sharply separated from the concept of war powers as understood in modern constitutional law. Therefore, the underlying principle of Article 11 of the 1945 Constitution remains relevant to be applied to MOOTW. This means that although formally not declared as war, the execution of MOOTW still requires DPR approval as a form of democratic legitimacy, constitutional oversight, and the application of the checks and balances principle in the state utilization of military force. John Hart Ely, in his analysis of war powers in the United States, emphasizes that legislative involvement must not be limited only to declarations of war, but must encompass various forms of military force utilization.³² This approach indicates that the boundary between war and non-war is not always clear, so a broader oversight mechanism is required.

Constitutional Implications of the MOOTW Interpretation

An interpretation that positions Military Operations Other Than War (MOOTW) as a sphere completely free from DPR control carries serious constitutional implications for the Indonesian state administrative system. First, this interpretation has the potential to weaken the function of the DPR as a representative institution holding a vital role in the checks and balances mechanism. If the use of military force can be conducted without DPR involvement simply because it is categorized as MOOTW, then democratic oversight over strategic state actions becomes significantly diminished. Second, this interpretation can also create a constitutional precedent that allows the executive branch to progressively expand its authority without adequate oversight boundaries.

In the long term, such a condition could potentially encourage the concentration of power within the executive branch, which contradicts the basic principles of a constitutional democracy.³³ Modern democratic systems are fundamentally built upon the principle of power limitation to prevent dominance by a single state institution. Therefore, a more proportional and balanced constitutional interpretation is required, which continues to provide space for the President to act effectively in the fields of defense and security, while simultaneously ensuring the existence of an effective legislative oversight mechanism to maintain accountability, democratic legitimacy, and the balance of power in the state utilization of military force.

Bruce Ackerman and the Concept of the Emergency Constitution

In modern constitutional discourse, Bruce Ackerman provides a significant contribution through his idea of the emergency constitution, which is a constitutional framework designed to regulate the exercise of state power during extraordinary situations, including within the context of national security and the utilization of military force. Ackerman rejects the classical view that grants full latitude to the executive during emergencies, arguing that it is precisely in these situations that the potential for abuse of power becomes increasingly greater.

Ackerman asserts that in a constitutional democracy, the utilization of state power, including military force, must remain subject to legislative control mechanisms.³⁵ This is because democratic legitimacy cannot be suspended merely on the grounds of an emergency or the need for a rapid response. Within this framework, legislative control is not an obstacle, but rather an integral part of the constitutional safeguard system against the possibility of power abuse.

If this concept is applied to the Indonesian context, the deployment of TNI troops abroad, even within the framework of peacekeeping operations, must still remain within the structure of DPR control. Ignoring such control will create space for the executive to act unilaterally, which contradicts the principle of limited power.

Furthermore, Ackerman also emphasizes that every action involving the use of state power must possess strong political legitimacy. Without such legitimacy, state actions potentially lose their democratic foundation. Therefore, the involvement of the DPR in decision-making related to the use of military force is an absolute necessity in a democratic system.

Mark Tushnet and the Danger of Executive Overreach

Mark Tushnet developed a critique against tendencies within presidential systems that grant dominance to the executive in military affairs. According to Tushnet, one of the primary problems in a presidential system is the potential occurrence of executive overreach, a condition where the executive expands its authority beyond the boundaries prescribed by the constitution.³⁶ In the context of military force utilization, executive overreach frequently occurs through arguments concerning the need for speed and effectiveness. The executive uses these reasons to evade legislative control mechanisms, under the pretext that legislative involvement would impede decision-making.

However, Tushnet emphasizes that such arguments are unacceptable in a democratic state. Legislative control is an integral part of the constitutional system and cannot be ignored simply for practical reasons.³⁷ Without legislative control, the use of military force potentially becomes an unaccountable political tool.

In the Indonesian context, the utilization of the MOOTW concept to evade DPR approval can be viewed as a form of executive overreach. By classifying troop deployments as non-war operations, the executive attempts to expand its authority without going through the control mechanisms that should exist.

Samuel P. Huntington and the Principle of Civilian Control

Samuel P. Huntington, in his work titled *The Soldier and the State*, introduced the concept of objective civilian control. This is a model of civil-military relations that places the military under the oversight of legitimate civilian authorities without sacrificing the professionalism of the military institution itself. In his view, Huntington emphasizes the importance of military professionalism running hand in hand with civilian oversight mechanisms to maintain the stability and continuity of a democratic system.

In this objective civilian control model, oversight does not rest solely with the executive branch, but also involves the legislature as the representative of popular sovereignty. Legislative involvement is crucial to ensure that the use of military force remains within the boundaries of public interest and does not transform into a dominant tool of power. Huntington asserts that the balance between military professionalism and civilian oversight is a key element in a constitutional democracy.

In Indonesia, the DPR holds a strategic role in executing the civilian control function over the military through mechanisms of oversight, political approval, and constitutional accountability. If control over the military is only conducted by the executive, there is a risk of excessive power concentration within a single branch of government. Therefore, DPR involvement is vital to maintain a balanced relationship between the military and civilian authorities, as well as to ensure that the use of military force remains consistent with democratic and constitutional principles.

Peter D. Feaver and Agency Theory in Civil-Military Relations

Peter D. Feaver developed the agency theory approach to analyze the relationship between the military and civilian authorities. In this approach, the military is positioned as the agent executing state policy, while the civilian authority acts as the principal determining the direction and objectives of the policy.³⁹ For this relationship to function effectively, adequate monitoring and oversight mechanisms are required to ensure that military actions remain aligned with the political and constitutional goals established by the civilian authority. In a democratic system, the DPR plays a vital role as part of that oversight mechanism.

Feaver asserts that without effective oversight, there is a risk that the agent may deviate from the interests of the principal. Therefore, legislative control becomes an essential element to ensure that the use of military force remains aligned with the interests of the people and the principles of democratic accountability. In the context of deploying TNI troops abroad, DPR involvement can be understood as part of the constitutional oversight mechanism to ensure that the decision is genuinely based on national interests, rather than merely the executive's will.

Theoretical Synthesis: The Obligation of Legislative Control over the Military

When these four theories are synthesized, a general principle can be formulated stating that in a constitutional democracy, the use of military force must always be under legislative control mechanisms as a form of democratic accountability. This principle is not only normative in modern constitutional theory, but is also reflected in the state practices of various democratic countries that place legislative institutions as a vital part of overseeing the use of state power. Legislative involvement is viewed as an instrument to prevent the abuse of power and to ensure that military policy remains within the corridors of public interest and the constitution.

Bruce Ackerman emphasizes the importance of legislative oversight in emergency situations to prevent excessive executive power expansion. Mark Tushnet warns of the dangers of executive overreach if the use of state power is not limited by checks and balances mechanisms. Samuel P. Huntington asserts the importance of civilian control over the military as a primary prerequisite for democratic stability, while Peter D. Feaver highlights the necessity of monitoring mechanisms in civil-military relations so that the utilization of armed force remains aligned with the interests of the people. These four perspectives complement one another and provide a robust theoretical foundation to assert that deploying TNI troops without DPR approval contradicts the fundamental principles of a democratic constitution. Thus, within the framework of modern constitutional theory, there is no adequate justification to sideline the role of the DPR in the utilization of military force, including within the context of Military Operations Other Than War (MOOTW).

Germany: The Parliamentary Army Model and the Bundestag Approval Obligation

Germany represents one of the countries that applies strict legislative oversight regarding the utilization of military force. This system is recognized through the concept of *Parlamentsarmee* or "parliamentary army," which asserts that any deployment of the armed forces must remain under parliamentary control and legitimacy.⁴⁰ The constitutional basis of this concept resides within the *Grundgesetz* (German Constitution), which positions the Bundestag as the central institution for granting approval to military deployments. This principle was subsequently reinforced by a landmark ruling of the German Federal Constitutional Court (*Bundesverfassungsgericht*) in 1994, which declared that any military deployment abroad, including international peacekeeping operations, is mandatory to obtain prior approval from the Bundestag.

The ruling bears crucial constitutional implications as it rejects the formal distinction between war and non-war operations concerning the necessity of parliamentary approval. Consequently, even operations of a humanitarian, peacekeeping, or international security stabilization nature are still viewed as forms of military force utilization requiring legislative legitimacy. The German approach reflects a strict application of the principle of limited power within a constitutional democracy. Germany's historical experience during the Nazi regime serves as the primary factor shaping a highly cautious constitutional design against using military force without democratic oversight.⁴² Therefore, legislative control is positioned as the primary mechanism to prevent the abuse of power by the executive branch.

In the Indonesian context, the German model provides an important constitutional lesson that administrative classifications such as Military Operations Other Than War (Operasi Militer Selain Perang or MOOTW) cannot serve as a basis to evade legislative involvement. If Germany mandates parliamentary approval even for non-war operations, then Indonesia principally should also apply a similar oversight mechanism to maintain democratic accountability in the utilization of military force.

The United States: The War Powers Resolution and the Dynamics of Congressional Control

The United States offers a model of oversight regarding military force utilization that is relatively more flexible than Germany, yet it consistently positions legislative control as a vital element in the state administrative system. Within this system, the President as the Commander in Chief possesses the authority to deploy the armed forces, but this authority is not absolute since it is limited by the role of Congress as the legislative body. One of the main instruments regulating this relationship is the War Powers Resolution of 1973, enacted as a response to the Vietnam War experience and concerns over executive power expansion in the use of military force. This resolution aims to ensure that the President cannot utilize military force without an oversight mechanism from Congress.

Under the War Powers Resolution framework, the President is permitted to deploy troops without prior Congressional approval under specific circumstances, but is mandatory to submit a notification to Congress within 48 hours after the deployment occurs. Furthermore, military operations must be terminated within 60 days if they do not obtain approval from Congress. This model demonstrates a balance between the need for executive flexibility in facing emergency situations and the principle of democratic accountability through legislative oversight.

Nevertheless, debates frequently arise in practice concerning the boundaries of authority between the President and Congress. Several Presidents have attempted to broaden the interpretation of their authority in using military force, which subsequently drew criticism from constitutional law scholars. John Hart Ely, for instance, asserts that utilizing military force without Congressional approval contradicts democratic principles because such decisions should involve popular representation. In the Indonesian context, the United States model demonstrates that even within a strong presidential system, legislative control remains a fundamental element that cannot be ignored in the state utilization of military force.

The United Kingdom: Constitutional Conventions as a Political Control Mechanism

Distinct from Germany and the United States, the United Kingdom does not possess written constitutional provisions explicitly regulating parliamentary involvement in the use of military force. Nonetheless, within British state administrative practice, a constitutional convention has developed that positions the House of Commons as a crucial institution in providing political legitimacy for government military interventions. This convention evolved alongside the strengthening of parliamentary democracy principles, which emphasize the

importance of political accountability in the exercise of state power. Although not legally binding like statutes, the convention carries highly potent normative force in British governance practice.

One of the most frequently cited examples is the 2013 decision of the House of Commons, which rejected the British government's plan to conduct military intervention in Syria. This decision demonstrates that the government, despite formally holding prerogative power in defense and foreign relations, cannot completely ignore the position of parliament in the utilization of military force. In this context, Adam Tomkins explains that the development of this convention reflects a shift from the dominance of executive prerogative power toward a stronger model of parliamentary accountability. Thus, legislative control remains an integral part of the British democratic system even though it is not explicitly articulated within written norms.

In the Indonesian context, British state administrative practice indicates that even without detailed constitutional regulations, democratic principles consistently demand legislative involvement in the use of military force. This further reinforces the argument that deploying TNI troops abroad without DPR approval is inconsistent with the principles of democratic accountability and checks and balances within a constitutional democracy.

Comparative Synthesis: Universal Principles in Democratic States

From these three models, a universal principle within modern democratic states can be identified, namely that the utilization of military force must never be entirely under executive control without legislative oversight. The differences among these nations basically lie only in their oversight mechanisms, not in their fundamental principles. Germany emphasizes parliamentary approval prior to military deployment, the United States combines executive flexibility with legislative control, while the United Kingdom relies on political conventions as a form of parliamentary accountability. Although utilizing different approaches, all three consistently recognize the importance of legislative involvement in the use of military force. This principle demonstrates that legislative control is an essential element within a constitutional democracy system and not merely a political choice. Therefore, an interpretation of the Indonesian Constitution that sidelines the role of the DPR in the utilization of military force contradicts modern democratic practices across various nations.

The Deployment of TNI Troops as a High-Implication Constitutional Action

The deployment of TNI troops abroad cannot be viewed merely as an administrative action or a technical policy in the field of defense. Such an action constitutes a form of state power utilization that carries highly extensive constitutional, political, and international implications. Therefore, every decision regarding military mobilization must be analyzed within the framework of popular sovereignty, power limitation, and democratic accountability as the primary foundations of a constitutional democracy.⁵¹ From a constitutional law perspective, the use of military force is one of the most fundamental forms of state action because it relates to the legitimate use of force by the state.

With such characteristics, the utilization of military force is insufficient if it only obtains legitimacy based on the formal authority of the executive, but also requires democratic legitimacy through representative mechanisms. The involvement of the DPR as the popular representative institution is essential to ensure that the decision to use military force genuinely reflects national interests and the will of the people. If the deployment of TNI troops is conducted without DPR approval, the democratic legitimacy of the action becomes incomplete because the decision-making process does not involve the institution that constitutionally represents popular sovereignty.

Democratic Delegitimation and the Erosion of the Checks and Balances Principle

One of the most serious constitutional implications of deploying TNI troops without DPR approval is the occurrence of democratic delegitimation in the process of state utilization of military force. In a constitutional democracy system, every state action bearing broad strategic, political, and international impacts should obtain legitimacy through the institution that represents the will of the people. DPR involvement is crucial because the institution functions as an instrument of democratic oversight over the use of state power, including within the fields of defense and security.

If troop deployments are carried out without DPR approval, the decision ultimately becomes a purely executive action. Such a condition not only narrows the constitutional role of the DPR, but also potentially damages the principle of checks and balances, which constitutes one of the main foundations of the post-reformation Indonesian state administrative system. In modern constitutional theory perspective, legislative oversight over executive actions is a vital mechanism to prevent the excessive concentration of power in a single branch of government.

Bruce Ackerman asserts that one of the primary functions of legislative control is to ensure that executive power does not develop into an uncontrolled power. Without effective oversight mechanisms, a risk exists that the use of military force could be conducted based solely on the executive's political interests without adequate democratic control. In this context, sidelining the role of the DPR can be viewed as a form of erosion against the checks and balances principle, which in the long term potentially encourages the concentration of power within the executive branch.

MOOTW as an Instrument of Executive Power Expansion

One of the most fundamental constitutional implications of deploying TNI troops without DPR approval is the emergence of democratic delegitimation issues in the state process of utilizing military force. In a constitutional democracy system, every state action bearing broad strategic, political, and international implications should obtain legitimacy through representative mechanisms realized by the legislative body. DPR involvement in the decision-making process is vital because the DPR functions as a representation of popular sovereignty as well as an instrument of oversight over the use of state power, including in the fields of defense and security. Thus, the use of military force must not only be formally valid based on the constitutional authority of the President, but must also obtain democratic legitimacy through the participation of the popular representative institution.

If troop deployments are conducted without DPR approval, the decision ultimately becomes an action residing entirely within the sphere of executive discretion. Such a condition not only narrows the constitutional function of the DPR, but also potentially weakens the checks and balances principle, which is one of the main foundations of the post-reformation Indonesian state administrative system. In modern constitutional theory, legislative oversight over executive actions is viewed as an essential mechanism to prevent the concentration of power within a single branch of government.

Bruce Ackerman asserts that one of the primary functions of legislative control is to ensure that executive power does not develop into an uncontrolled power. Without effective oversight, a risk exists that the use of military force is performed solely based on executive political considerations without adequate democratic control. Therefore, sidelining the role of the DPR can be viewed as a form of erosion against the checks and balances principle, which in the long term potentially disrupts the balance of power within the Indonesian constitutional democracy system.

Proportionality Test: No Constitutional Justification

To evaluate whether the deployment of TNI troops without DPR approval can be constitutionally justified, a proportionality test approach can be utilized as an instrument of normative analysis. This approach is commonly applied in modern constitutional law to assess whether a state action possesses adequate justification in relation to the limitation of democratic principles and constitutional rights. The first stage in the proportionality test is the legitimate aim, which assesses whether the state action possesses a valid purpose. In this context, deploying TNI troops for international peacekeeping operations can basically be viewed as having a legitimate aim because it relates to Indonesia's contribution to maintaining world peace and international stability.

Nevertheless, at the second stage, namely the necessity test, a question arises as to whether the action must be conducted without involving the DPR. From this perspective, bypassing DPR approval cannot be considered the only available method to achieve that objective. An alternative exists that aligns more closely with constitutional principles, which is to continuously involve the DPR in the decision-making process as a form of democratic legitimacy. Therefore, sidelining the DPR fails to meet the element of necessity in the proportionality test.

Furthermore, at the balancing stage, one must evaluate whether the benefits of executive flexibility and rapid decision-making are proportional to the constitutional impacts caused. In this matter, the efficiency benefits of decision-making are not proportional to the risks of weakening the checks and balances principle, democratic accountability, and power limitations. Based on the entire normative, theoretical, and comparative analysis, it can be formulated that every use of military force, both within war and non-war contexts, constitutes a high-implication constitutional action that inherently requires democratic legitimacy through legislative involvement. Therefore, deploying TNI troops without DPR approval contradicts the principles of power limitation and checks and balances within the 1945 Constitution. This conclusion is reinforced through a systematic interpretation of Article 10 and Article 11 of the 1945 Constitution, an analysis of the TNI Law, modern constitutional theory, and the state administrative practices of democratic nations.

Practical Implications for Indonesian State Administration

The implications of this analysis do not only possess a theoretical dimension, but also bring significant practical consequences for the Indonesian state administrative system. First, a more comprehensive constitutional interpretation regarding the relationship between Article 10 and Article 11 of the 1945 Constitution is required so that its application better reflects the principle of checks and balances in the state utilization of military force. Second, a normative clarification toward the phrase "state political decision" within the TNI Law is necessary to avoid interpretive ambiguities that could potentially be used to excessively expand executive authority. Third, strengthening the role of the DPR in overseeing the use of military force needs to be conducted through developing legislative mechanisms, institutional oversight, and clearer, more accountable approval procedures so that the principle of democratic control over the military can function effectively within Indonesian state administrative practice.

CONCLUSION

The normative, theoretical, and comparative analyses presented in this study demonstrate that the deployment of the Indonesian National Armed Forces (Tentara Nasional Indonesia) troops abroad without the approval of the House of Representatives (Dewan Perwakilan Rakyat) is constitutionally problematic. Under the 1945 Constitution, the President's authority as the supreme commander of the armed forces is not absolute. This executive power must remain restricted by the principle of checks and balances and the

necessity for democratic legitimacy. The dynamic interpretation of constitutional norms reveals that deploying armed forces abroad for international peacekeeping operations constitutes a high-implication action that functions as a quasi war power. Therefore, such a strategic deployment cannot be classified merely as an administrative or operational variant of military operations other than war to bypass legislative oversight. To preserve the constitutional framework of a limited executive and to safeguard popular sovereignty, any international deployment of coercive state forces inherently requires the formal approval of the House of Representatives.

This research significantly contributes to the development of constitutional law and the broader study of civil-military relations by providing a structured legal framework to resolve the ongoing tension between executive operational efficiency and democratic accountability. It introduces a rigorous model of progressive constitutional interpretation that shifts the legal paradigm from a rigid, formalistic binary of war and non-war toward a substance-and-impact analysis of military mobilization. This study advances legal science by applying the constitutional proportionality test to evaluate the limits of executive discretion regarding national security. Ultimately, these findings offer a practical foundation for state administrative reform in Indonesia, emphasizing the urgent need for a precise statutory amendment to clear the ambiguities surrounding the phrase "state political decision" within the national defense legislation. This legal clarification ensures that future military deployments strictly conform to the democratic principles embedded within the constitution.

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