

Professionalism And Role Expansion: A Review Of The Politics Industry On The Placement Of Active Police Officers In Civilian Positions Following The Revision Of The 2026 Police Officers Law

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Article	Abstract
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memperkuat profesionalisme dan mengoptimalkan sumber daya aparatur negara, sedangkan sejumlah kalangan menilai perluasan akses jabatan sipil bagi anggota Polri aktif berpotensi menimbulkan tumpang tindih kewenangan, mengganggu netralitas institusi, serta melemahkan prinsip supremasi sipil. Penelitian ini menganalisis pengaturan penempatan anggota Polri aktif pada jabatan sipil dalam Perubahan Ketiga tersebut dan mengkajinya melalui perspektif *siyāṣah dustūriyyah*. Penelitian merupakan penelitian hukum normatif dengan pendekatan perundang-undangan, konseptual, dan komparatif. Bahan hukum primer berupa peraturan perundang-undangan dan putusan Mahkamah Konstitusi yang relevan, sedangkan bahan hukum sekunder meliputi literatur hukum tata negara, fikih siyasah, dan artikel jurnal terindeks; analisis memadukan interpretasi hukum dengan pendekatan *maqāṣid al-syarī'ah* dan kaidah-kaidah fikih. Hasil penelitian menunjukkan bahwa penempatan anggota Polri aktif pada jabatan sipil hanya dapat dibenarkan apabila memenuhi kemaslahatan umum, menjawab kebutuhan kelembagaan yang nyata, serta tetap menjamin akuntabilitas dan supremasi sipil. Dalam perspektif *siyāṣah dustūriyyah*, kebijakan tersebut harus dibatasi oleh prinsip amanah, kemaslahatan, dan pencegahan kerusakan agar tidak berkembang menjadi ekspansi peran yang bertentangan dengan tujuan penyelenggaraan pemerintahan yang adil dan konstitusional.

Kata kunci: *siyāṣah dustūriyyah*; supremasi sipil; Polri; jabatan sipil; *maqāṣid al-syarī'ah*.

Introduction

The 1998 Reformation marked a turning point in restructuring the relationship between security institutions and the civil government in Indonesia. One of its agendas was strengthening constitutional democracy through upholding civilian supremacy (civilian supremacy) over state security institutions. Within this framework, separating the Indonesian National Police (Polri) from the Indonesian National Armed Forces (TNI) in 1999 was a strategic step toward building a professional, modern, public-service-oriented police force.¹ The separation was also intended to end the practice of dual function that previously placed security personnel in various civil and political positions.

In the post-amendment constitutional system of the 1945 Constitution of the Republic of Indonesia, the Indonesian National Police (Polri) is positioned as a state instrument that maintains public order and security, enforces the law, and provides protection, assistance, and services to the community. This position demonstrates that the Polri is a civilian institution with a special character, given the authority to wield state power in the area of domestic security. Therefore, professionalism and neutrality are fundamental requirements for realizing a democratic state based on the rule of law.

The debate over the limits of security apparatus involvement in the civilian sphere has intensified again after the House of Representatives approved the Draft Third Amendment to Law Number 2 of 2002 in a plenary session on June 9, 2026, and promulgated it as Law

¹ Indonesia, Undang-Undang Nomor 2 Tahun 2002 tentang Kepolisian Negara Republik Indonesia (Lembaran Negara Republik Indonesia Tahun 2002 Nomor 2), Pasal 13.

Number 5 of 2026 on June 17, 2026.² The substance that has attracted the most public attention is Article 28A, which opens up space for active Polri members to fill positions outside the Polri organization as long as the position is related to police functions, namely in ministries or institutions that organize matters of maintaining security and order, community protection and services, and law enforcement. This amendment also adjusts the retirement age limit for Polri members based on rank level (Article 30 paragraph (5)), which has implications for the organizational structure and career patterns of the police.

This is where the legal issues of this research lie. The spirit of the Constitution and the reform agenda require a clear separation between security and civil bureaucratic functions to maintain civil supremacy and prevent the return of dual functions. This principle also underlies the merit system in Law Number 20 of 2023 concerning the State Civil Apparatus, which requires filling positions based on competence and qualifications. Article 28A actually expands the scope for active police officers to enter civilian positions without the obligation to resign. This normative tension is exacerbated by the vagueness of the phrase "related to police functions," which lacks a limiting measure and may be interpreted broadly, creating overlapping authority, dual accountability, and shifting boundaries between the security and civilian spheres. The fundamental issue is not merely the norm's formal legality, but its consistency with the principles of limiting power and civilian supremacy in a state governed by the rule of law.

The government and policy advocates argue that expanding access to civil service positions for active members of the Indonesian National Police (Polri) is necessary to improve the effectiveness of government administration, assuming that Polri members possess managerial competence, operational experience, and coordination skills that can support certain government functions.³ Conversely, academics, civil society organizations, and constitutional law observers believe the policy could revive a pattern resembling dual function in a new form, blurring the boundaries between security and civil government functions and reducing the perception of police neutrality.

Theoretically, the principle of civilian supremacy requires that security institutions be under the control of democratic civilian authorities. Samuel P. Huntington emphasized that the professionalism of security forces depends on clear limits on their authority, so these institutions can carry out their specific functions effectively without interfering in the political or civil administrative sphere.⁴ A state of law requires not only regulations, but also limits on

² Indonesia, Undang-Undang Nomor 5 Tahun 2026 tentang Perubahan Ketiga atas Undang-Undang Nomor 2 Tahun 2002 tentang Kepolisian Negara Republik Indonesia. Lihat pula "8 Poin Utama UU Polri Baru: Usia Pensiun hingga Penempatan di Jabatan Sipil," Kompas.com, 9 Juni 2026.

³ Mahfud MD, *Politik Hukum di Indonesia* (Jakarta: Rajawali Pers, 2022), 325.

⁴ Samuel P. Huntington, *The Soldier and the State: The Theory and Politics of Civil-Military Relations* (Cambridge: Harvard University Press, 1957), 83–85.

power, public accountability, and the protection of constitutional principles.⁵ Therefore, assessing the policy of placing active members of the Indonesian National Police in civilian positions requires not only positive law but also a normative approach that more comprehensively weighs its objectives, benefits, and legitimacy.

In the treasury of Islamic constitutional law, the relationship between power, authority, and the public interest is discussed in *siyāsah dustūriyyah*, namely the branch of *siyāsah* jurisprudence that studies the principles of state administration, the division of authority, the relationship between rulers and the people, and the limits of the use of power for the public interest.⁶ In contrast to a purely legalistic approach, *siyāsah dustūriyyah* uses public interest (*maṣlahah*), trust, justice, and the prevention of damage (corruption) as parameters for assessing public policy. This is reflected in the *ruleṣaṣarruf al-imām ‘alā ar-ra’iyyah manūṭun bil-maṣlahah* (the leader's policies regarding the people must be based on public interest) and *dar’ al-mafāsīd muqaddam ‘alā jalb al-maṣāliḥ* (preventing harm takes precedence over seeking benefit).⁷

Studies on the professionalism of security forces and civilian supremacy are well developed, but most focus on military institutions. Sembiring and Khalid examine the placement of active TNI soldiers in civilian positions outside the provisions of Article 47 of Law Number 3 of 2025 from the perspective of *siyāsah dustūriyyah*;⁸ Jowan and Zukriadi highlight the reformulation of TNI authority and the crisis of civilian supremacy;⁹ Nango and colleagues review the TNI Bill from the perspective of civilian supremacy and the rule of law;¹⁰ while Sabrian and Harahap examine the appointment of active TNI members as Cabinet

⁵ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia* (Jakarta: Sinar Grafika, 2019), 62.

⁶ Abdul Wahhab Khallaf, *Al-Siyāsah al-Syar’iyyah* (Kairo: Dar al-Qalam, 1988), 15; A. Djazuli, *Fiqh Siyāsah: Implementasi Kemaslahatan Umat dalam Rambu-Rambu Syariah* (Jakarta: Kencana, 2018), 47.

⁷ Jalaluddin al-Suyuthi, *Al-Asybah wa al-Nazair* (Beirut: Dar al-Kutub al-‘Ilmiyyah, 1998), 87.

⁸ Oscar Haris Sembiring dan Khalid, “Implementasi Undang-Undang Nomor 3 Tahun 2025 tentang TNI terhadap Prajurit TNI yang Menduduki Jabatan Sipil Perspektif *Siyāsah Dustūriyyah*,” *Al-Sulthaniyah* 15, no. 1 (2026): 313–323, <https://doi.org/10.37567/al-sulthaniyah.v15i1.5043>.

⁹ Jowan Jowan dan Doni Zukriadi, “Militer di Balik Meja Birokrasi: Reformulasi Kewenangan TNI dan Krisis Supremasi Sipil dalam Demokrasi Indonesia,” *Journal Ilmu Hukum, Humaniora dan Politik* 5, no. 5 (2025): 4284–4294, <https://doi.org/10.38035/jihhp.v5i5.4772>.

¹⁰ Herianto Nango dkk., “Tinjauan Yuridis terhadap Rancangan Undang-Undang TNI dalam Perspektif Supremasi Sipil dan Negara Hukum,” *Mahkamah: Journal Riset Ilmu Hukum* 2, no. 3 (2025): 261–272, <https://doi.org/10.62383/mahkamah.v2i3.887>.

Secretaries from the perspective of *siyāsah fiqh*.¹¹ In the realm of civil-military relations in general, many studies have also been conducted.¹²

From this mapping, a clear gap is apparent: no study has specifically analyzed the placement of members. The Indonesian National Police have been active in the civil service since the ratification of Law Number 5 of 2026, from the perspective of *siyāsah dustūriyyah*. Previous studies have focused on the Indonesian National Armed Forces (TNI) and on regulations of a different nature. Article 47 of the TNI Law is restrictive and closed. At the same time, Article 28A of the Indonesian National Police Law is formulated more openly through the unmeasured criterion of "functional relevance." This research gap is important to fill because Islamic law offers relevant conceptual tools for assessing the legitimacy and limits of state authority.

Based on the description above, this research has novelty in three aspects. First, the object of study is a regulation that has just been passed, so it has not been addressed in academic literature. Second, the research integrates constitutional law with *siyāsah dustūriyyah*, specifically in police institutions rather than the military. Third, the research formulates normative boundaries (*ḍawābiṭ*) as a framework for evaluating the policy of placing active security personnel in civilian positions.

From this background, two problems are formulated: First, how are the arrangements for the placement of active members of the Indonesian National Police in civilian positions in the Third Amendment to Law Number 2 of 2002 as stipulated in Law Number 5 of 2026, and whether these arrangements reflect strengthening professionalism or expanding roles; second, how the *siyāsah dustūriyyah* perspective assesses the policy. In line with that, this study aims to analyze the construction of the arrangement for the placement of active Polri members in civilian positions and examine its legitimacy and limits through the *siyāsah dustūriyyah* framework, so that it is expected to provide theoretical contributions to the development of Islamic constitutional law as well as input for policy makers in maintaining a balance between the professionalism of the apparatus and the principle of civilian supremacy.

Research methods

This research is normative legal research (doctrinal legal research) that is prescriptive, namely examining legal rules and principles to assess the suitability of a norm against the principles that serve as its benchmark.¹³ The object of the study is the norm on the placement

¹¹ Muhammad Fajar Sabrian dan Muhammad Yasir Harahap, "Pengangkatan Anggota Aktif TNI sebagai Sekretaris Kabinet dalam Perspektif UU Nomor 34 Tahun 2004 dan Fikih Siyasaḥ," *Asas Wa Tandhim: Journal Hukum, Pendidikan dan Sosial Keagamaan* 5, no. 1 (2026): 39–56, <https://doi.org/10.47200/awtjhpsa.v5i1.3083>.

¹² Erik Riza, "Hubungan Sipil dan Militer di Era Reformasi," *Journal Communitarian* 2, no. 1 (2019): 167–181, <https://doi.org/10.56985/jc.v2i1.96>.

¹³ Peter Mahmud Marzuki, *Penelitian Hukum*, ed. revisi (Jakarta: Kencana, 2021), 55–57.

of active members of the Indonesian National Police in civilian positions in the Third Amendment to Law Number 2 of 2002 (Law Number 5 of 2026), assessed from both the positive constitutional law framework and the *siyāsah dustūriyyah*.

The research uses three complementary approaches. First, the legislative approach (statute approach) is used to examine Article 28A and Article 30 of Law Number 5 of 2026 and their relationship to the 1945 Constitution of the Republic of Indonesia, Law Number 2 of 2002, Law Number 20 of 2023 concerning State Civil Apparatus, and Law Number 12 of 2011 concerning the Formation of Legislation. Second, a conceptual approach (conceptual approach) to dissect the concept of civil supremacy, professionalism of security forces, the rule of law, and the principles of *siyāsah dustūriyyah*. Third, a comparative approach, in the sense of comparing positive legal construction with the *siyāsah dustūriyyah* framework on the same issue, while also comparing the arrangements for placing active security personnel in police institutions with those in military institutions as a comparative context.¹⁴

The legal materials used consist of three layers. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 2 of 2002, Law Number 5 of 2026, Law Number 20 of 2023, Law Number 12 of 2011, Law Number 30 of 2014 concerning Government Administration, and Constitutional Court decisions relevant to the assignment of security forces outside their institutions. Secondary legal materials include constitutional law literature, classical and contemporary *fiqh siyāsah* books and works, and indexed journal articles discussing civil supremacy, police reform, and *siyāsah dustūriyyah*. Tertiary legal materials include legal dictionaries and encyclopedias used for explanation.

The collection of legal materials was conducted through literature and documentation studies. The analysis was conducted qualitatively using descriptive-analytical and prescriptive techniques: norms were interpreted using grammatical, systematic, and teleological interpretations, then assessed through the framework of *maqāṣid al-syarī'ah* and the principles of *fiqh siyasah*, especially *taṣarruf al-imām 'alā ar-ra'īyyah manūṭun bil-maṣlahah* and *dar' al-mafāsid muqaddam 'alā jalb al-maṣāliḥ*. The conclusion is reached deductively to produce normative propositions in the form of limitations (*ḍawābiṭ*) that must be fulfilled so that the policy of placing active members of the Indonesian National Police in civilian positions can be justified.

Results and Discussion

Anatomy of the Third Amendment to Law Number 2 of 2002 concerning the Republic of Indonesia National Police

The Third Amendment to Law Number 2 of 2002 concerning the Indonesian National Police, enacted as Law Number 5 of 2026, is one of the most significant regulatory changes to

¹⁴ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2019), 300–321.

the security sector in recent years. These changes not only concern personnel administration but also the direction of institutional reform of the Indonesian National Police within the Indonesian constitutional system. Among the various provisions, those on placing active National Police members in civilian positions and adjusting the retirement age limit have received the most public and academic attention.

In general, lawmakers argue that regulatory changes are being made to adapt the needs of the police organization to the dynamics of modern governance. The complexity of national security challenges, technological developments, and the increasing need for cross-sector coordination are seen as requiring human resources with adequate competency and operational experience. Within this framework, Polri members are considered to possess capacities that can be utilized not only in the security sector but also in several government administration sectors related to national security functions and public services.

Before the 2026 amendments, regulations on the positions of members of the Indonesian National Police (Polri) in principle required members holding positions outside the police structure to resign or retire from active service. This provision was a logical consequence of the principle of professionalism, which requires a clear separation between police functions and civil bureaucratic functions, in line with the spirit of post-1998 reforms that sought to eliminate the dominance of security forces in the civil and political spheres.¹⁵

Through Law Number 5 of 2026, the placement space for active Polri members in civilian positions has been expanded. Article 28A paragraph (1) states that Polri members can fill positions outside the Polri organization as long as they are related to police functions, and paragraph (2) details this with ministries or institutions that organize affairs of maintaining security and order, protection and public services, and law enforcement. From the perspective of lawmakers, this policy is intended to strengthen inter-agency coordination, improve the quality of public services, and optimize the state's human resources who already have competence in security, investigation, intelligence, and organizational management. The law also emphasizes that the arrangement of Polri members who serve outside the institution is carried out with reference to the decisions of the Constitutional Court.¹⁶

In addition to expanding the space for civil service positions, Article 30 paragraph (5) regulates adjustments to the retirement age limit for Polri members based on rank. This adjustment is based on considerations of increasing life expectancy, organizational needs, and the use of senior personnel's experience. However, some observers believe this policy could

¹⁵ Marcus Mietzner, *Military Politics, Islam, and the State in Indonesia* (Singapore: ISEAS Publishing, 2009), 214.

¹⁶ Mahfud MD, *Politik Hukum di Indonesia* (Jakarta: Rajawali Pers, 2022), 331.

prolong the concentration of power in certain groups within the institution and narrow opportunities for leadership regeneration.¹⁷

Normatively, questions arise about whether these changes align with the principles of a democratic state based on law and civil supremacy. In modern constitutional theory, the expansion of a state institution's authority must always be balanced by adequate oversight and limitation mechanisms. Jimly Asshiddiqie explains that a democratic state based on law requires not only formal legality, but also limitations on power to prevent excessive accumulation of authority in a single institution.¹⁸ Therefore, analysis of changes to the National Police Law cannot be done simply by reading the textual norms; it must also consider the institutional implications they create.

In the context of security sector reform, professionalism is the main foundation for forming a modern police force; it demands functional specialization, political neutrality, and accountability in the use of state authority. Huntington stated that the professionalism of security forces develops precisely when there is a clear boundary between security functions and political and civil administrative functions.¹⁹ From this perspective, the expansion of civilian positions for active members of the Indonesian National Police has sparked debate: is it a form of strengthening professionalism or an expansion of institutional roles that blurs the boundaries of authority?

The controversy intensified because some civil society organizations considered the revision discussions relatively short compared with the complexity of the issues being regulated. The criticisms raised concerned not only the substance of the norms but also public participation in forming the regulations. In a constitutional democracy, the formation of laws relating to the distribution of state power should ideally be transparent and involve adequate public participation to achieve strong social legitimacy.²⁰

From a constitutional law perspective, several implications warrant consideration. First, expanding civilian positions for active police officers could create a dual accountability system. As an active police officer, an individual remains subject to the police's internal command and discipline system; while holding a civilian position, they are also accountable to the civilian bureaucratic structure where they serve. This situation can create conflicts of interest and unclear administrative accountability mechanisms. Second, this policy can affect the neutrality of the police institution, because increasing the number of active Polri members in strategic positions in the civil bureaucracy can create the perception of excessive closeness between the police and administrative and political power. Third, this expansion has implications for the relationship between security institutions and the civil bureaucracy,

¹⁷ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia* (Jakarta: Sinar Grafika, 2019), 62.

¹⁸ Ni'matul Huda, *Hukum Tata Negara Indonesia* (Jakarta: Rajawali Pers, 2023), 387–389.

¹⁹ Huntington, *The Soldier and the State*, 83–85.

²⁰ Ridwan HR, *Hukum Administrasi Negara* (Depok: Rajawali Pers, 2023), 97.

because one of the reform's achievements was a clear differentiation of functions between the two; blurring these boundaries risks expanding the influence of security institutions into areas that professional civil servants should manage.²¹

However, the supporting arguments cannot be ignored. From a public administration perspective, some positions do require specific competencies from Polri members, particularly those related to cybersecurity, counter-terrorism, transnational crime, border control, and national security risk management. Therefore, placing active Polri members in certain positions can be seen as an effort to increase bureaucratic effectiveness if carried out in a limited, proportional manner and based on objective needs.²²

Thus, the anatomy of Law Number 5 of 2026 reveals a tension between two equally important interests. On the one hand, there is a need to increase government effectiveness by utilizing competent police human resources; on the other, there is a need to maintain professionalism, neutrality, and civil supremacy as the foundations of a democratic, rule-of-law state. This tension forms the basis for further analysis: should the policy strengthen professionalism or expand the police institution's role into the civilian sphere?

Professionalism or Role Expansion: Assessing the Placement of Active Police Officers in Civilian Positions

These changes have sparked academic and political debate about the direction of police reform in Indonesia. The debate centers on one central question: whether expanding the scope of civilian positions for active police officers strengthens the professionalism of the police institution or undermines the principle of civilian supremacy. This question is crucial because it concerns how security institutions relate to civilian government in a constitutional democracy.

Supporters view placing active police officers in civilian positions as a rational step to increase government effectiveness. The complexity of modern security challenges makes it increasingly difficult to delineate the boundaries between security issues and public administration clearly. Cyber threats, terrorism, transnational crime, human trafficking, and money laundering demand close coordination between security and civilian institutions, so experienced police personnel are considered capable of strengthening bureaucratic capacity.²³

Policy advocates also argue that professionalism does not necessarily mean a complete separation between security institutions and the civilian bureaucracy. In some countries, security personnel can be placed in specific positions requiring specialized expertise without

²¹ Sofian Effendi, *Reformasi Tata Kelola Pemerintahan* (Yogyakarta: Gadjah Mada University Press, 2020), 221.

²² Muradi, *Politik Keamanan dan Demokrasi di Indonesia* (Bandung: Intrans Publishing, 2019), 177.

²³ Samuel E. Finer, *The Man on Horseback: The Role of the Military in Politics* (London: Routledge, 2002), 45.

diminishing the institution's professional character. In this view, professionalism is the ability to contribute effectively based on competence, not simply rigid institutional boundaries.

Furthermore, this placement is considered to accelerate policy coordination. In modern governance practices, many strategic programs require cross-sector synergy, and the presence of Polri members who understand security dynamics is seen as aiding policy formulation and implementation. From an administrative efficiency perspective, this policy is seen as optimizing the country's human resources, who have received education, training, and experience in public security.

Another argument states that the changes do not necessarily revive the dual function as it was during the New Order era. According to this view, there is a fundamental difference between limited placement based on professional needs and the involvement of security forces in the political and governmental process more broadly. As long as there are clear normative limits, effective oversight mechanisms, and adequate accountability, placing active police officers in certain civilian positions is considered to remain within the corridors of constitutional democracy.²⁴

However, concerns among academics and civil society have not completely disappeared. The main criticism stems from the principle that the professionalism of security institutions is determined by clear functional specialization; security institutions become more professional when they focus on their core tasks and do not engage in functions outside their scope of authority.²⁵ From this perspective, expanding civilian positions for active Polri members could blur the lines between police functions and civilian bureaucratic functions, especially if the criterion of "connectedness to police functions" is interpreted loosely.

This concern becomes even more relevant given Indonesia's historical experience. During the New Order, the involvement of security forces in various civil service positions was a key feature of the centralized political system, and the 1998 reforms sought to end this by separating security and civil service functions. Therefore, any policy that reopens the possibility of active security forces being involved in civil service positions is always viewed critically.²⁶

From a constitutional law perspective, the primary issue lies not in the capacity of individual members of the Indonesian National Police, but rather in the institutional design established by legal norms. Highly competent individuals can indeed make positive contributions; however, when norms open broad space for certain institutions to enter the civil bureaucracy, questions arise about the balance of power. In a democratic state governed by

²⁴ Mahfud MD, *Demokrasi dan Konstitusi di Indonesia* (Jakarta: Rineka Cipta, 2017), 176.

²⁵ Huntington, *The Soldier and the State*, 83–85.

²⁶ Jowan dan Zukriadi, "Militer di Balik Meja Birokrasi," 4288–4290.

the rule of law, limiting power is a fundamental principle that cannot be set aside for administrative efficiency.²⁷

Another risk is institutional conflicts of interest. Active members of the Indonesian National Police (Polri) remain bound by the police system of command, discipline, and hierarchy; when they hold civilian positions, dual loyalties can arise between the interests of their original institution and the interests of the position they hold. This situation can compromise independent decision-making and create unclear public accountability.

The expansion of civilian positions for active-duty Polri members can also affect public perceptions of police neutrality. Neutrality is crucial social capital for law enforcement institutions; public trust is built not only through effective law enforcement but also through the belief that the institution has no political or administrative interests beyond its primary duties. Adding active-duty Polri members to strategic positions in the civilian bureaucracy risks undermining the perception of the institution's independence.

In the context of governance, this expansion also impacts the development of the State Civil Service. One goal of bureaucratic reform is to establish a merit system that fills positions based on civil servants' competence, qualifications, and professionalism. If more civil service positions are filled by personnel from outside the ASN system, the meritocratic principle that underpins national bureaucratic reform may be distorted.²⁸

Based on this description, this debate cannot be simplified into a conflict between supporters and opponents, as both positions have academically sound arguments. Supporters emphasize effectiveness, organizational needs, and human resource optimization; critics emphasize the importance of maintaining professionalism, neutrality, civilian supremacy, and a balanced distribution of power.

The author argues that placing active police officers in civilian positions cannot be judged unequivocally as professionalism or role expansion. Assessment must be based on objective criteria. If placements are limited, based on clear needs, in positions directly related to security functions, and accompanied by strong oversight, the policy can be seen as strengthening professionalism. Conversely, if implemented broadly, without strict limitations, and in sectors not directly related to police functions, the policy could develop into an institutional role expansion that threatens civilian supremacy.

Thus, the primary issue is not whether active police officers can hold civilian positions, but rather the extent to which legal norms can establish clear boundaries, effective oversight mechanisms, and adequate accountability systems. Within this framework, analyzing the legal system is crucial to assess whether the policy truly realizes the public good or creates mischief within the Indonesian constitutional system.

²⁷ Ridwan HR, *Hukum Administrasi Negara*, 102.

²⁸ Eko Prasjo, *Reformasi Birokrasi dalam Praktik* (Jakarta: Kompas, 2021), 147.

Siyāṣah Dustūriyyah's Review of the Placement of Active Police Officers in Civilian Positions

The placement of active police officers in civilian positions cannot be analyzed solely through positive law. As a public policy issue related to the distribution of state authority, it can be examined through *siyāṣah dustūriyyah* (legality). In the Islamic constitutional law tradition, the use of state authority is measured not only by formal legality but also by its conformity to the public interest, justice, trustworthiness, and the protection of the social order. The fundamental question is whether such placement provides greater public benefit than the potential harm it may cause.

In classical literature, Al-Māwardī explains that the primary goal of government is to maintain order in social life and ensure the implementation of public functions for the public good.²⁹ The government has the authority to make policies as long as they benefit society and prevent greater harm. A policy is not judged solely by who implements it, but by its objectives, impact, and conformity to the principles of justice. This principle is reflected in the *ruleṣaṣarruf al-imām 'alā ar-ra'īyyah manūṭun bil-maṣlaḥah* (The leader's policies regarding the people must be based on the public interest).³⁰

This principle makes public interest the primary criterion for assessing the legitimacy of state policy. Therefore, if the government believes that placing active police officers in civilian positions is necessary to increase bureaucratic effectiveness, strengthen institutional coordination, and improve the quality of public services, this argument is in principle acceptable as long as it truly results in tangible public benefits.

From this perspective, several *maṣlaḥah* can serve as a basis for justification. First, increasing the effectiveness of inter-agency coordination in facing modern security threats such as cybercrime, terrorism, human trafficking, and transnational crime, which require synergy between security and civilian institutions. Second, optimization of the country's human resources, because members of the Indonesian National Police have special competencies that are not easily obtained in the general bureaucratic system. Third, in certain circumstances, state organizations need to use resources quickly and effectively; in the concept of *siyāṣah syar'īyyah*, the ruler has policy space (discretionary authority) in the public interest as long as it does not conflict with the principles of Sharia and justice.³¹

However, the concept of benefit in the legal system is not absolute. Not every benefit claimed by the government automatically constitutes a basis for legitimacy. Scholars emphasize that benefit must meet certain requirements, including being real (truth), general

²⁹ Abu al-Hasan al-Māwardī, *Al-Aḥkām al-Sultāniyyah* (Beirut: Dar al-Kutub al-'Ilmiyyah, 1985), 15.

³⁰ Muhammad Iqbal, *Fiqh Siyasah: Kontekstualisasi Doktrin Politik Islam* (Jakarta: Prenadamedia, 2014), 201.

³¹ Yusuf al-Qaradawi, *Min Fiqh ad-Dawlah fi al-Islam* (Kairo: Dar al-Syuruq, 1997), 89.

(mother), and not contradicting the basic principles of Sharia.³² Therefore, any claim of benefit must be compared with the potential for harm that may arise.

In the context of placing active members of the Indonesian National Police in civilian positions, several potential mafsadah exist. First, the blurring of boundaries between police functions and civil bureaucratic functions, even though one goal of security sector reform is clear institutional differentiation. Second, the police institution's reduced neutrality, because public trust in law enforcement depends heavily on perceptions of independence and neutrality. Third, the disruption of civil supremacy, which requires security institutions to be under the control of civil authorities and not dominate the government administration space. These three potential mafsadah become more apparent if expansion is carried out without clear limits.³³

The potential for corruption becomes important when linked to the rule that dar' al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ (preventing harm takes precedence over seeking benefit).³⁴ If a policy produces certain benefits but also risks causing greater harm, priority is given to preventing the harm. In this context, administrative benefits are not enough to justify expanding civil positions for active members of the Indonesian National Police if the policy could disrupt the constitutional order and civil supremacy.

In addition to the maṣlaḥah and mafsadah approaches, siyāsah dustūriyyah emphasizes the principle of trust (amanah). Public office is not merely an administrative position, but rather a trust that must be carried out according to its purpose. Ibn Taimiyah explained that power is a trust that must be used to uphold justice and prevent abuse of authority.³⁵ Consequently, civil service positions should not be awarded solely based on membership in a particular institution; placing active Polri members can be justified only if it is based on the organization's real needs, relevant competencies, and transparent selection. Conversely, granting positions based on structural proximity or non-professional considerations is contrary to the principle of trust.³⁶

Another relevant aspect is ḥifẓ an-nizām (maintaining order). In contemporary maqāṣid thought, maintaining the stability and order of the government system is part of the goal of sharia. A good state is not only required to produce beneficial policies, but also to maintain the

³² Ahmad al-Raysuni, *Nazariyyat al-Maqasid 'inda al-Imam al-Syatibi* (Virginia: IIIT, 1995), 227. Bandingkan Abdurrahman N. Rohman, "The Existence of Maslahah Mursalah as the Basis of Islamic Law Development in Indonesia," *Krtha Bhayangkara* 13, no. 2 (2019): 251–260, <https://doi.org/10.31599/krtha.v13i2.9>.

³³ Sembiring dan Khalid, "Implementasi Undang-Undang Nomor 3 Tahun 2025," 318–320.

³⁴ Al-Suyuthi, *Al-Asybah wa al-Nazair*, 87.

³⁵ Ibn Taymiyyah, *As-Siyāsah asy-Syar'iyah fi Iṣlāḥ ar-Rā'ī wa ar-Ra'iyah* (Kairo: Dar al-Hadits, 2005), 23–24.

³⁶ Bandingkan Mustafid, "Etika Pemerintahan Berbasis Fikih Siyasah di Era Digital," *El-Sirry: Journal Hukum Islam dan Sosial* 2, no. 1 (2024): 29–42, <https://doi.org/10.24952/ejhis.v2i1.11025>.

balance of institutional structures to prevent excessive domination of power.³⁷ Therefore, the placement of active Polri members in civil positions must be assessed from its impact on the balance of the state system: if it strengthens coordination without disrupting the independence of civil institutions, it is part of maintaining order; if it creates an excessive concentration of power or narrows the space of the civil apparatus, it is contrary to the goal. *ḥifẓ an-nīẓām*.

Based on this analysis, this study formulates several normative limitations (*ḍawābiṭ*) that must be met for placing active Polri members in civilian positions to be justified under *siyāsah dustūriyyah*. First, placement may only be in positions directly related to security functions, law enforcement, or national security risk management. Second, placement must be based on real organizational needs and can be objectively proven. Third, statutory regulations must clearly limit the number and scope of positions to prevent excessive expansion of authority. Fourth, an effective monitoring and accountability mechanism must be available. Fifth, policies should not reduce the opportunities for professional civil servants to develop through the merit system. Sixth, each placement must be evaluated periodically to assess whether the promised benefits are achieved and whether it causes new harm.

Thus, the political system does not grant unlimited legitimacy to placing active police officers in civilian positions. Such a policy can only be justified if it is proven to provide greater public benefits than the resulting harm, while maintaining trust, justice, and a balance of power. Within this framework, placing active police officers in civilian positions is not an end in itself, but an instrument that must be continually tested based on its benefits to society and its contribution to realizing a just, constitutional, and public-benefit-oriented government.

Conclusion

The regulation of the placement of active police officers in civilian positions in the Third Amendment to Law Number 2 of 2002, as stipulated in Law Number 5 of 2026, specifically Article 28A, cannot be considered absolute as strengthening professionalism or as an expansion of roles. This policy can be read as an instrument for strengthening professionalism if it is implemented in a limited, proportional manner, based on objective needs, and in positions directly related to security or law enforcement functions. Conversely, if applied broadly and without clear limits especially because the criterion of "connection to police functions" has not been given a limiting measure—this policy risks developing into an expansion of institutional roles that blurs the functional differentiation between the police and the civilian bureaucracy and undermines civilian supremacy. Therefore, the main issue is not whether placement is permissible, but whether legal norms can establish clear boundaries, effective oversight, and adequate accountability.

³⁷ Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: IIIT, 2008), 56–58.

From the perspective of *siyāsah dustūriyyah*, the policy is not absolutely rejected, but it is also not unconditionally justified. The principle of *taṣarruf al-imām ‘alā ar-ra’iyyah manūṭun bil-maṣlahah* provides room for the government to adopt beneficial policies, as long as the benefits are real, general, and do not conflict with the principles of justice and trust. However, this legitimacy is limited by the principle of *dar’ al-mafāsīd muqaddam ‘alā jalb al-maṣāliḥ*, so that administrative benefits are not enough to justify the placement if the resulting *mafsadah* blurred boundaries of authority, erosion of neutrality and civil supremacy, and distortion of the merit system is actually greater. Based on the principles of *amanah* and *ḥifẓ an-niẓām*, this study emphasizes that the placement of active Polri members in civilian positions is only legitimate if it meets the normative limitations (*ḍawābiṭ*) that have been formulated, namely a direct connection to security functions, objective needs, firm limitations, strong supervision and accountability, respect for the merit system, and periodic evaluation so that state policy does not develop into an instrument of excessive concentration of power.

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