

Comparative Legal Study on The Implementation of The MK Decision No. 114/PUU-XXIII/2025 and The Doctrine of Civilian Control Over The Military/Police in The United States

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Abstract. *Constitutional Court Decision No. 114/PUU-XXIII/2025 marked a significant turning point in the history of Indonesian security reform by reaffirming the principle of civilian supremacy over the Indonesian National Police (Polri) and the Indonesian National Armed Forces (TNI). This decision prompted comparative legal discourse with the long-entrenched doctrine of civilian control over the military/police in the United States constitutional law system. This article aims to comparatively analyze the normative framework and implementation of the two systems, identifying similarities, differences, and opportunities for adopting universal values into the Indonesian legal system post-ruling. The method used is normative legal research with a comparative law approach and a conceptual approach. The results show that although both systems share the same philosophical foundation, namely the principles of constitutional democracy and the accountability of security institutions to the people, there are substantial differences in implementation mechanisms, oversight structures, and legal traditions. The United States operates a system of civilian control through three integrated branches of power supported by mature legislation such as the Goldwater-Nichols Act and the Posse Comitatus Act, while Indonesia is still in the stage of normative consolidation following the Constitutional Court decision. This research also identifies the phenomenon of erosion of civilian control that can occur even in advanced democracies, as well as the risk of erosion by deference, where civilian authorities rely too heavily on military judgment in strategic decision-making. Constitutional Court Decision No. 114/PUU-XXIII/2025 requires comprehensive legislative follow-up to ensure the effective functioning of the civilian control doctrine, by adapting, rather than simply adopting, the United States model to suit Indonesia's socio-legal context.*

Keywords: *Civilian Control; Comparative Law; Constitutional Democracy; Democratic Oversight; Indonesian National Police.*

1. Introduction

On April 22, 2025, the Constitutional Court of the Republic of Indonesia issued Decision Number 114/PUU-XXIII/2025, which became one of the most historic decisions in the

realm of post-reform Indonesian constitutional law. The decision partially granted the petition for constitutional review of several articles in Law Number 2 of 2002 concerning the Indonesian National Police and Law Number 34 of 2004 concerning the Indonesian National Armed Forces that were deemed to be contrary to the principles of a democratic rule of law as mandated by the 1945 Constitution of the Republic of Indonesia.(Indonesia 2025) The substance of this ruling directly addresses the fundamental question of how a democracy positions security institutions, both the police and the military, within a framework of civilian supremacy. In the modern constitutional law tradition, this is known as the doctrine of civilian control over the military and police, the principle that armed forces are under the control of legitimate civilian authorities and accountable to the people through democratic mechanisms.(Susanti 2025)

The United States has developed and consolidated this doctrine of civilian control over more than two centuries, making it one of the most structured systems of civilian security governance in the world. Its constitutional foundation is enshrined in Article II, Section 2 of the United States Constitution, reinforced through a series of strategic legislation such as the National Security Act of 1947, the Goldwater-Nichols Act of 1986, and the Posse Comitatus Act, as well as various operational policies that consistently place the military and police under strict civilian oversight.(Asshiddiqie 2022) Indonesia, as a country whose democratic system has continued to develop since the 1998 reforms, has had a different journey. The ABRI (Indonesian Armed Forces) dual function doctrine, which granted socio-political authority to the military and police until the end of the New Order era, left an institutional legacy that still haunts the democratization process. The separation of the National Police (Polri) from the TNI (Indonesian Armed Forces) in 1999, later reinforced through a People's Consultative Assembly (MPR) Decree and amendments to the 1945 Constitution, was an initial step toward normalizing civil-military and civil-police relations within a democratic framework. However, as argued by Croissant et al., democratic transition does not automatically result in an effective civilian control system; mature institutions and sustained normative commitment are required.(Croissant et al. 2010)

Constitutional Court Decision No. 114/PUU-XXIII/2025 comes within this context by providing a constitutional interpretation that affirms the limits of the authority of the National Police and the Indonesian National Armed Forces (TNI) while strengthening civilian oversight mechanisms. A comparative study of the United States' experience is highly relevant because Horin and Chumak, in their recent study, assert that the institutional principles of implementing civilian control in the United States' defense and security sector, particularly the integration of the civilian chain of command, legislative oversight, and independent accountability mechanisms, are the most consistently applied prototypes in liberal democracies.(Horin and Chumak 2025) Medvid and Melnyk, in their historical and theoretical study, also demonstrate that the development of democratic control over the security sector was a multi-layered historical process, beginning with the constitutional experience of 19th-century Europe and evolving into a comprehensive system in the post-World War II United States. Understanding this historical development is crucial to avoid romanticizing a particular system without considering the context in which it was formed.(Medvid and Melnyk 2025)

Lunn cautioned that the challenge of ensuring democratic control over the armed forces is a persistent one, even in the most mature democracies. Each generation of

civilian and military leaders faces a new configuration of challenges that demands ongoing normative and institutional adaptation. In Indonesia, the emergence of cybersecurity threats, transnational terrorism, and regional geopolitical dynamics create new pressures that could push security institutions beyond their constitutionally mandated authority.(Lunn 2023) Beliakova, in her comprehensive analytical framework, identifies a pattern of erosion of civilian control that can occur gradually and covertly in democratic systems. This erosion does not always take the form of a coup or an overt power grab, but more often occurs through the incremental expansion of military authority into civilian policy domains, the weakening of oversight mechanisms, and the growing dependence of civilian authorities on military expertise and judgment.(Beliakova 2021)

A comparative legal study of the implementation of this ruling with the civilian control system in the United States is important for three main reasons. First, the comparison allows for the identification of proven best practices in mature democratic systems that can be adapted to Indonesia. Second, the comparison also provides a methodological warning that legal transplantation cannot be carried out mechanically but must take into account the historical, social, and constitutional context of each country. Third, this comparative study allows for the identification of risks that Indonesia must anticipate based on the experience of more mature systems.(Indonesia 2002)

This research aims to fill this academic gap by conducting a systematic and in-depth comparative analysis. Three main research questions that guide the analysis are: First, how does Constitutional Court Decision No. 114/PUU-XXIII/2025 restructure the legal relationship between security institutions and civilian authorities in the Indonesian state system? Second, how is the doctrine of civilian control over the military/police implemented within the United States legal framework normatively and institutionally? Third, what are the similarities, differences, and lessons that can be learned from the comparison of the two systems, including the threat of erosion of civilian control that Indonesia needs to anticipate?(Indonesia 2004) The academic relevance of this research is not merely theoretical. Matei and Halladay offer a control-effectiveness framework that emphasizes that effective civilian control is not merely about subordinating the military to civilian authorities, but also about ensuring the operational effectiveness of security institutions is not compromised by excessive or ineffective oversight mechanisms. This balance between control and effectiveness is the biggest challenge for Indonesia in implementing the norms stipulated in Constitutional Court Decision No. 114/PUU-XXIII/2025.(Matei and Halladay 2021) Amidst the global challenges of increasing police militarization as documented by Flores-Macías and Zarkin in the Latin American context as a warning mirror, the strengthening of authoritarian pressures, and the fragmentation of security accountability, a systemic comparison between the Indonesian and United States models provides a concrete contribution to the formation of national laws and democratic security policies.(Flores-Macías and Zarkin 2019)

2. Research Methods

This research uses a normative legal research approach which focuses on the analysis of primary and secondary legal materials.(Marzuki 2021) Methodologically, this research combines three complementary approaches, namely the comparative law approach, the statute approach, and the conceptual approach.(Peter Mahmud Marzuki

2019) The integration of these three approaches is deemed most appropriate for answering research questions that have both comparative and normative dimensions. The comparative legal approach in this research follows the methodology developed by Zweigert and Kötz and Reimann and Zimmermann, namely functional comparison, which compares not only normative texts but also the social functions and legal systems being compared. (Zweigert and Kötz 1998) Within this framework, Indonesia and the United States were chosen as objects of comparison because both are democracies undergoing significant development in civil security law, albeit at different points in their development. Lagassé and Saideman demonstrate in their comparative study that constitutional and parliamentary or presidential traditions substantially influence the concrete forms of implementation of civil control. (Lagassé and Saideman 2009)

The primary legal materials used include the 1945 Constitution of the Republic of Indonesia; Constitutional Court Decision No. 114/PUU-XXIII/2025; Law Number 2 of 2002 concerning the Indonesian National Police; Law Number 34 of 2004 concerning the Indonesian National Armed Forces; United States Constitution Article II Section 2; National Security Act of 1947; Goldwater-Nichols Department of Defense Reorganization Act of 1986; and Posse Comitatus Act of 1878. Secondary legal materials include academic literature, reputable international law journals, and relevant policy documents. Data collection was conducted through library research that included access to legal databases such as Westlaw, LexisNexis, HeinOnline, as well as the official repositories of the Indonesian Constitutional Court and the United States Congressional Research Service. (Soekanto and Mamudji 2021) The analysis was conducted qualitatively using descriptive-analytical and prescriptive techniques to produce relevant normative recommendations. (Hadjon 2017) A methodological limitation that needs to be addressed is that Constitutional Court Decision No. 114/PUU-XXIII/2025 is a relatively recent decision, so its implementation analysis is prospective and normative in nature and cannot yet be fully based on empirical implementation data. Therefore, some analyses concerning the decision's impact use a legal anticipation framework based on predictable legal logic. (Dworkin 1986)

3. Results and Discussion

3.1. Normative Reconstruction of Civil Control in Constitutional Court Decision No. 114/PUU-XXIII/2025: Constitutional Analysis, Systemic Implications, and Challenges to Democratization

The Constitutional Court in Decision No. 114/PUU-XXIII/2025 built its constitutional argument on three main pillars. The first pillar is the principle of popular sovereignty as stipulated in Article 1 paragraph (2) of the 1945 Constitution, which requires that every state institution, including armed security institutions, must be accountable to the people through democratic representation. The second pillar is the principle of the rule of law (*rechtsstaat*) in Article 1 paragraph (3) of the 1945 Constitution, which requires that every state action, including the use of coercive force by the Indonesian National Police (Polri) and the Indonesian National Armed Forces (TNI), be subject to the law and can be legally controlled. The third pillar is the principle of separation of powers and the system of checks and balances, which implies that no institution, including security institutions, is beyond the reach of civilian oversight. (Janowitz 1960)

In its legal reasoning, the Court explicitly rejected interpretations that allow the National Police and the Indonesian National Armed Forces (TNI) to exercise institutional discretion beyond the limits set by the constitution and law. The Court stated that interpretations of articles granting broad authority without proportional accountability mechanisms have the potential to create a space for institutional autonomy that contradicts the spirit of reform and constitutional democracy. This aligns with Beliakova's conceptual framework on the erosion of civilian control. Beliakova cautioned that the erosion of civilian control is not always dramatic, but often occurs gradually through the accumulation of uncontrolled institutional discretion. The Constitutional Court's ruling accurately identifies this risk and attempts to close the normative gap that has historically served as a gateway for the expansion of informal authority by security institutions.

This ruling also introduces the concept of institutional proportionality in the context of national security, namely that the authority of security institutions must be proportional to the threats faced and may not be used as an instrument of socio-political control that exceeds its constitutional mandate. This concept aligns with what Matei and Halladay call the control-effectiveness nexus, namely that successful civilian control is not one that hinders effectiveness, but rather one that sets the limits of authority proportionally so that security institutions can operate professionally within the established corridors. (Matei and Halladay 2013)

At least five new constitutional norms can be identified from this ruling. First, the prohibition on holding concurrent positions between active-duty TNI/Polri structural positions and civilian positions outside the defense and security domain without a clear retirement or status transfer mechanism. Second, the constitutional obligation for lawmakers to establish an independent and effective external oversight mechanism for the Polri and TNI. Third, the constitutional limitation on TNI involvement in domestic security operations, which are the Polri's domain, except in emergencies determined through strict legal procedures. Fourth, the affirmation that Polri and TNI budgets must be transparent and subject to an audit mechanism involving an independent civilian institution. Fifth, the strengthening of citizens' rights to legal protection against abuse of authority by security forces. (Huda 2023)

These norms did not emerge in a vacuum. The Court developed its reasoning by drawing on international human rights standards, the Paris Principles on national human rights institutions, and the comparative practices of democratic states. From a comparative perspective, these norms demonstrate convergence with the principles identified by Yarkovsky and Kovalenko as universal elements of democratic oversight of security institutions in the United States and the United Kingdom: transparency, hierarchical accountability, separation of military and civilian functions, and substantive legislative involvement. (Yarkovsky and Kovalenko 2026) However, it is worth noting that these norms are still principled and require detailed legislative implementation. Kohn, in his classic and still relevant study, emphasized that effective civilian control over the military cannot rely solely on constitutional norms but must be reinforced through tradition, operational legislation, and, most importantly, the cultural commitment of all stakeholders, both civilian and military. (Risky and Kartikasaari 2025)

The systemic impact of this ruling goes beyond the mere constitutionality of certain articles. It fundamentally reconfigures the legal relationship between the civilian

executive and armed security institutions. In the relationship between the National Police (Polri) and the President, the ruling affirms that the President's control as head of government is not merely symbolic but substantive, encompassing control over policy, budget, and professional accountability. The President cannot delegate this control in a way that creates a space of institutional autonomy beyond civilian oversight.(Isra 2024) For the DPR, this ruling strengthens the legislative oversight authority over the National Police (Polri) and the Indonesian National Armed Forces (TNI), including the appointment of high-ranking security officials, which must undergo confirmation or at least consultation with the DPR. This represents a significant breakthrough, considering that the appointment of the National Police Chief requires DPR approval under the law, but this is not the case for the appointment of high-ranking TNI officials, which rests entirely with the President. Comparatively, strong legislative oversight is a key characteristic of successful civilian control systems in various democracies.(Desch 1999)

The most important implication is the need for lawmakers to immediately revise the National Police Law and the Indonesian National Armed Forces Law to align them with the constitutional norms established by the Court. Without comprehensive legislative follow-up, the Constitutional Court's ruling risks becoming a dead letter law, beautifully written in law but ineffective in institutional practice. Croissant et al. warn that many new democracies experience this phenomenon: normative reforms that progress on paper but stagnate in implementation due to the lack of concrete changes in institutional incentive structures and organizational culture.(Noer 2025)

One of the most important analytical contributions to be gained from the comparative literature is an understanding of how civilian control can erode even in systems that appear normatively strong. Beliakova, in her recent study on erosion by deference, identifies a crucial paradox: the higher the civilian public's trust in the military's professionalism, the more likely civilian authorities are to grant the military excessive discretion in the security policymaking process, ultimately eroding the substance of civilian control even while the formal hierarchical structure remains intact.(Beliakova 2025)

This phenomenon is particularly relevant to anticipate in the post-Constitutional Court ruling context of Indonesia. High public trust in the Indonesian National Armed Forces (TNI), which consistently ranks at the top of institutional trust surveys, could create socio-political pressures that encourage excessive reliance on the TNI by the civilian government to address security challenges. Under such conditions, the formal oversight mechanisms established by the Constitutional Court ruling could gradually degrade into administrative formalities.(Brownlee and Masoud 2024) Brooks and Grewal identified a similar phenomenon in the United States, where attitudes of superiority among military officers the belief that the military is morally and professionally superior to civilian politicians can undermine civilian control from within. They found that these attitudes have grown alarmingly in the past two decades, creating a latent tension between the military's organizational culture and constitutional norms of civilian control. These findings serve as a warning to Indonesia that legal reform must be accompanied by profound reform of its institutional culture.(Brooks and Grewal 2022)

The implementation of this decision faces several structural and cultural challenges. Structurally, the long institutional legacy of the era when the military and police had dual socio-political functions creates bureaucratic resistance that cannot be easily overcome through normative changes alone. Culturally, there is a perception within some TNI and Polri circles that strong civilian control poses a threat to the institutions' operational effectiveness and professional autonomy.(Locher III 2004)

From an institutional oversight perspective, the National Police Commission (Kompolnas) and the National Human Rights Commission (Komnas HAM), as external oversight bodies, still face limitations in authority and capacity, which pose serious obstacles to their effective oversight function. A literature review of civilian oversight of the police conducted by Keyes and Keyes shows that the effectiveness of external oversight bodies is largely determined by four factors: structural independence, adequate investigative authority, sufficient technical capacity, and strong public legitimacy. Currently, the National Police Commission (Kompolnas) in Indonesia still faces deficits in nearly all of these dimensions.(Keyes and Keyes 2023)

Adams et al., through their experimental study of top-down police reform, found evidence that the success of civilian oversight of the police force is highly dependent on support from the police leadership itself. Forced reforms without building internal consensus risk producing a pseudo-compliance, formally complying with oversight provisions but substantively avoiding true accountability. This finding implies that the implementation of Constitutional Court Decision No. 114/PUU-XXIII/2025 needs to be accompanied by engagement and trust-building strategies with the leadership of the National Police and the Indonesian National Armed Forces (TNI).(Adams et al. 2024) There are also challenges in inter-institutional coordination, given that civilian oversight of security involves multiple actors: the President, the House of Representatives (DPR), the Constitutional Court, the Supreme Court, the National Police Commission (Kompolnas), the Ombudsman, and various other institutions. Without a clear coordination mechanism, there is a risk of overlapping authority on the one hand and gaps in oversight on the other.(Rochaeti 2023)

3.2. The Doctrine of Civilian Control over the Military/Police in the United States: Normative Framework, Institutional Evolution, and Comparative Learning

The doctrine of civilian control over the military in the United States is rooted in the historical experience of the nation's founders, who were deeply wary of the threat of military tyranny. The Founding Fathers' tradition of inheriting concerns about standing armies from the British inspired several provisions in the 1787 Constitution that systematically placed the military under civilian control. The Commander-in-Chief clause in Article II, Section 2, establishes the President as the supreme civilian authority over all armed forces, while Congress holds the authority to declare war, regulate the army and navy, and set the defense budget.(Amrani 2024) Pearlstein, in his study of the relationship between the military, the state, and the separation of powers, reminds us that the constitutional dimensions of civilian control in the United States are far more complex than simply the Commander-in-Chief clause. The separation of powers between the President and Congress in the defense domain creates a system of dual civilian control in which the military is accountable to both the executive and legislative branches of government. This complexity, while sometimes

creating institutional friction, is actually a built-in safeguard mechanism that prevents civilian control from being concentrated in one hand and potentially abused.(Pearlstein 2011)

Theoretically, the doctrine of civilian control in the United States was systematically developed by Samuel Huntington in his work *The Soldier and the State* (1957) and Morris Janowitz in *The Professional Soldier* (1960). Huntington advocated objective civilian control, namely high military professionalization with clear subordination to civilian authority, while Janowitz emphasized the importance of integrating civilian values into military institutions. Brooks, in a highly influential contemporary study, identified a paradox in Huntington's approach: the higher the military professionalization, the greater the likelihood of the growth of an ethos of separateness from civilian society, which could actually substantially weaken civilian control.(Brooks 2020)

In their recent study, Horin and Chumak identified six institutional principles that underpin the implementation of civilian control over the defense and security sector in the United States: the rule of law in military operations; a clear and unbroken civilian chain of command; a defense budget controlled by a civilian legislature; operational transparency to elected civilian representatives; an independent inspectorate mechanism; and a cultural tradition of military subordination to constitutional authority. These six principles can be used as benchmarks to evaluate the extent to which Constitutional Court Decision No. 114/PUU-XXIII/2025 has succeeded in establishing an equal foundation in the Indonesian context.(Ashady and Dudy 2026)

The most significant turning point in the development of modern civilian control in the United States was the passage of the Goldwater-Nichols Department of Defense Reorganization Act of 1986. This act arose from deep concern over operational failures fueled by the fragmentation of military command, most dramatically reflected in the disastrous 1980 Iran hostage rescue mission (Operation Eagle Claw). Goldwater-Nichols fundamentally restructured United States military command by strengthening a clear chain of command from the President through the Secretary of Defense to the Combatant Commanders, while marginalizing the Joint Chiefs of Staff from the operational chain of command to a purely advisory body.(Minerva 2023)

In their study of the evolution of democratic oversight in the United States and the United Kingdom, Yarkovsky and Kovalenko assert that the Goldwater-Nichols Act is a paradigmatic example of how detailed and bold legislative reform can transform the military command structure to meet the needs of effective civilian control, without sacrificing operational effectiveness. They point out that the success of this reform depended heavily on two factors: bipartisan consensus in Congress and a commitment by the Department of Defense's civilian leadership not to sacrifice the substance of the reform for short-term political gain.(Bexheti 2026)

The most important impact of the Goldwater-Nichols Act on the doctrine of civilian control was the affirmation that military operational authority rests entirely with the civilian chain of command, led by the President and the Secretary of Defense, the two highest civilian positions in the national security structure. The Secretary of Defense, who cannot have served in the active military for the past seven years under 10 USC § 113 (with some exceptions requiring a Congressional waiver), serves as an institutional bridge that ensures military professionalism does not erode civilian supremacy.(De Bruin 2022) Krebs, Ralston, and Rapport, in an empirical study of the American public's perception of civil-military relations, found that a majority of Americans do not believe the military has the right to publicly diverge from the civilian government's policies on major policy issues. This finding suggests that the norm of civilian control is not only

embedded in legal texts but has also become part of the political culture of citizens, a social capital that is crucial for the sustainability of a democratic system of civilian control.(Krebs, Ralston, and Rapport 2021)

In contrast to civilian control of the military, police in the United States are organized in a decentralized manner, following a federal structure. Policing is primarily the responsibility of state and local governments, while federal law enforcement is carried out by agencies such as the FBI, the DEA, and the US Marshals under the civilian Department of Justice. The most relevant doctrine in this regard is the Posse Comitatus Act of 1878, which expressly prohibits the use of federal military force to carry out domestic civilian law enforcement functions unless explicitly authorized by the Constitution or Congress.(Gomez, Rangel, and LoBue 2025) The implications of the Posse Comitatus Act are fundamental to the separation of military and civilian police functions a separation that in Indonesia became a central issue in Constitutional Court Decision No. 114/PUU-XXIII/2025. Farris and Holman, in their recent study of civilian oversight of law enforcement in the United States federal system, identified significant structural tensions between oversight mechanisms at the federal and local levels. The federal system, which divides police authority across multiple jurisdictions, creates oversight complexity that, on the one hand, prevents the monopoly of security power, but on the other hand, results in inconsistent accountability standards that constitute a significant gap.(Farris and Holman 2025)

The prohibition of police militarization and the use of the military in civilian police operations is a closely guarded principle in the United States legal tradition. Flores-Macías and Zarkin, through a comparative study in Latin America, demonstrate the serious consequences of the absence of a clear separation between military and police functions: increased human rights violations, weakened public trust in security institutions, and increasingly difficult democratization processes. This Latin American experience serves as a relevant cautionary tale for Indonesia in ensuring a clear separation between the defense domains of the Indonesian National Armed Forces (TNI) and the domestic security domains of the Indonesian National Police (Polri), as mandated by the Constitutional Court ruling.(Anwar, Salmah, and Fatkhurohman 2024) Despite its mature system of civilian control, the United States is not immune to the threat of erosion. Dempsey, in a recent study of the shifting dynamics of civil-military relations, identified worrying trends over the past decade: a growing reluctance by civilian leaders to pursue policies contrary to military advice, the increasing prevalence of four-star generals being appointed to senior civilian policy positions, and a weakening culture of open debate between civilian and military officials on national security strategy.(Dempsey 2025) Brooks, in his analysis of the paradox of US military professionalism, argues that the growing civil-military gap following the end of military service has created a situation where most civilian leaders lack sufficient military experience to critically evaluate the military advice they receive. This information asymmetry between civilians and the military, in the long run, has the potential to undermine the substance of civilian control even if its formal structure remains intact.(Friend and Weiner 2022)

Beliakova calls this phenomenon erosion by deference, a condition in which civilian authorities voluntarily cede decision-making power to the military because they feel they lack the capacity to independently evaluate policy alternatives. This finding is particularly relevant for Indonesia, where the technical capacity gap between civilians and the military is even greater than in the United States, and where a culture of deference to uniformed authority figures has deep historical and cultural roots.(Heward and Li 2026)

One of the strengths of the United States' civilian oversight system is its comprehensive and institutionalized congressional oversight mechanism. The Senate Armed Services Committee (SASC) and the House Armed Services Committee (HASC) have broad authority to authorize defense spending, confirm senior military and civilian officials, and hold hearings requiring military and defense officials to testify publicly.(Ladwig III and Mukherjee 2024) Lunn asserts that effective democratic control over the armed forces requires more than formal mechanisms. It requires parliamentary capacity to understand complex military technical issues, the political will to act when abuses are discovered, and an institutional tradition that supports transparency in the security domain. In this regard, the United States has advantages in the form of experienced committee staff, independent analytical bodies like the CBO and the GAO, and a long tradition of institutionalized congressional oversight.(Dudley 2022)

Keyes and Keyes, in their comprehensive literature review of civilian oversight of the police, found that the diversity of oversight models, from directly elected oversight commissions to commissions appointed by regional heads to independent inspector offices, demonstrates that there is no single, universally best model. The most important determinant of oversight effectiveness is a combination of structural independence, clear investigative authority, and strong public support. This lesson is relevant for Indonesia in its institutional redesign of the National Police Commission (Kopolnas) following the Constitutional Court ruling. The following is a systematic comparison between Indonesia's civilian control system based on Constitutional Court Decision No. 114/PUU-XXIII/2025 and the civilian control doctrine in the United States:

Table 1.A Comprehensive Comparison of Civilian Control Systems over Security Institutions in Indonesia and the United States

Comparative Aspects	Indonesia (Post-MK 114/2025)	United States of America
Constitutional Basis	Article 30 of the 1945 Constitution; Article 1 paragraph (2) and (3); confirmed through Constitutional Court Decision No. 114/PUU-XXIII/2025	Article I §8 (Congressional war powers); Article II §2 (Commander in Chief); Bill of Rights (Amendments II, III)
Main Legislative Platform	Law No. 2/2002 (Indonesian National Police); Law No. 34/2004 (Indonesian National Armed Forces) [under review after the ruling]; Law No. 17/2011 (Intelligence)	National Security Act of 1947; Goldwater-Nichols Act of 1986; Posse Comitatus Act 1878; NDAA (annual); 10 U.S.C
Executive Control Structure	President (head of state and government) → Chief of Police (directly responsible to the President); Commander of the Indonesian National Armed Forces (responsible to the President). Post-decision: strengthened control mechanisms, prohibition of excessive institutional discretion	President (Commander in Chief) → Minister of Defense (civilian mandatory) → Combatant Commanders. The chain of command is clear and written; the Minister of Defense must have a civilian background (7 years cooling-off period)
Legislative Oversight	DPR: approval of the appointment of the National Police Chief; rights of inquiry, interpellation, and investigation. Post-decision: constitutionally strengthened oversight, specific mechanisms still under legislative process	Senate/House Armed Services Committee: annual NDAA authorization; confirmation of senior officials; mandatory hearings; experienced technical staff; separate authorization & appropriation mechanisms

Independent Supervisory Body	National Police Commission (limited capacity and authority); National Human Rights Commission; Indonesian Ombudsman. Post-ruling: strengthening is constitutionally driven, implementation still requires legislative revision.	GAO (independent audit); Inspector General of each department; Congressional Budget Office; Federal Courts; DOJ Civil Rights Division
Separation of Military-Police Functions	The separation of the TNI and Polri since 1999; the Constitutional Court's decision confirms that the TNI is prohibited from carrying out police functions except in emergency situations based on strict legal procedures.	The Posse Comitatus Act prohibits military involvement in civilian law enforcement; a clear separation of DOD (military) vs. DOJ/DHS (police); the National Guard as a bridge institution
The Phenomenon of Erosion of Civil Control	Risks: legacy of ABRI's dual function; cultural deference to uniformed figures; large civil-military technical capacity gap; potential erosion by deference	Risks: civil-military gap post-conscription; military superiority attitudes; erosion by deference; post-9/11 expansion of executive authority (USA PATRIOT Act)
Budget Accountability Mechanism	The State Budget (APBN) is handled by the DPR; the Supreme Audit Agency (BPK) acts as auditor; and Commission I (TNI) and Commission III (Polri). Transparency is still limited to certain components.	Dual process: Authorization Act + Appropriations Act; GAO audit; Inspector General; FOIA for transparency; classified budget with special oversight mechanisms
Supervision of the Police	National Police Commission (limited); National Human Rights Commission; general courts. The Constitutional Court's decision encourages a more substantive and independent oversight mechanism.	Various models: independent oversight commissions; DOJ consent decrees; federal civil rights suits (42 USC §1983); Police Accountability Act
Civil-Military Career Arrangements	The ban on holding dual active positions was strengthened following the Constitutional Court ruling; a comprehensive mechanism still needs to be codified.	7-year cooling-off period for Secretary of Defense; strict ethics requirements for defense officials going to the private sector; Goldwater-Nichols reform for joint duty
Legal Traditions and Culture	Civil law (Netherlands); legacy of 32 years of the New Order; 1998 reforms; continuing democratic consolidation; high public trust survey in the TNI	Common law (England); 200+ years of constitutional democracy; constitutional skepticism towards standing armies; culturally strong norms of civilian control
Current Stage of Development	Post-MK Decision normative consolidation phase: requires comprehensive legislative revision, institutional strengthening, and institutional cultural reform.	Mature systems face adaptation challenges: counter-terrorism, great power competition, cyber, civil-military gap debate

Source: Compiled from various primary and secondary legal sources by the Author (2025–2026)

From the comparison table above, fundamental philosophical similarities between the two systems can be identified. Both start from the same premise that in a democratic state, armed security institutions must be accountable to the people through mechanisms of civilian representation and oversight. Both also reject the concept of a praetorian state, a state in which the military or police have a dominant political role and are independent of civilian control. This philosophical similarity provides a strong basis for comparative study.(Blum and Hays 2024)

Croissant et al. caution that when comparing civilian control systems, we must avoid the fallacy of coup-ism, the tendency to measure the success of civilian control solely

by the presence or absence of military coups. True civilian control is a multidimensional process encompassing control over security policy, budgeting, recruitment, operational doctrine, and institutional cultural values. Using this multidimensional framework, the gap between the Indonesian and US systems becomes clearer and more comprehensive.(Eldem 2023) However, the institutional and structural differences are substantial. The United States has built its civilian control system over more than two centuries on a solid constitutional foundation, a strong legal culture, and an active Congress as a counterweight to the executive branch in the security domain. Indonesia, by contrast, faces serious path dependency challenges. The institutional legacy of the New Order, with its dual function doctrine of the Indonesian Armed Forces (ABRI), has shaped not only the organizational structure but also the institutional culture and role perceptions that are not easily changed through normative reform alone.(Haris 2026)

This comparative study identifies several elements of the United States system that are relevant for adaptation to the Indonesian legal system to strengthen civilian oversight of security institutions. One crucial aspect is a clear and normatively defined chain of command mechanism, as developed through the Goldwater-Nichols Act. In the Indonesian context, more detailed and explicit legislative arrangements are needed regarding the civil-military and civil-police command hierarchies, not only at the constitutional level but also at the operational level, so that the boundaries of authority and responsibility of each actor can be clearly understood. This strengthening needs to be accompanied by the development of a more structured legislative oversight system through special committees with adequate technical competence and oversight capacity.(Tushnet 2022) Lagassé and Saideman's findings in a comparative study of parliamentary oversight of the military in Belgium and New Zealand indicate that the effectiveness of parliamentary oversight is largely determined by the institutionalization of procedures, the availability of staff with technical expertise, and the development of a bipartisan tradition on defense and security issues.(Dreyer 2025) These three factors remain challenges that need to be developed systematically in the Indonesian state system.

The United States' experience demonstrates that effective police oversight need not rely on a single institutional model. Keyes and Keyes's study demonstrates that successful civilian oversight can be achieved through a combination of complementary mechanisms. In Indonesia, this approach can be realized through strengthening the authority of the National Police Commission (Kopolnas), optimizing the mechanism for regular reporting to the House of Representatives (DPR), establishing a regional police ombudsman, and expanding public access to data on police performance and violations. Such a multi-layered oversight system has the potential to be more effective than a centralized model.(Maulana and Dewanto 2026) At the same time, Indonesia also needs to proactively anticipate the phenomenon of erosion by deference, as identified by Beliakova, namely the weakening of civilian control due to excessive reliance on the assessments of security institutions. Anticipating this phenomenon requires long-term investment in strengthening civilian analytical capacity through the establishment of independent security policy research institutions, the development of national security education programs for civilians, and the establishment of a tradition of critical and substantive public discourse on defense and security policy. Thus, civilian oversight relies not only on formal institutional design, but also on the capacity for knowledge and public participation in overseeing security sector accountability.

It should be emphasized that this adaptation is not a mechanical adoption. As Tushnet emphasized in his study of constitutional law transplantation, the success of norm

transfer depends heavily on the recipient's context. The United States federal system differs fundamentally from Indonesia's unitary system. The common law tradition, which places judicial precedent as the primary source of law, differs from Indonesia's civil law tradition, which relies more heavily on normative codification. Therefore, the adaptation process must be conducted using a contextual transplantation methodology, capturing the functional essence of the source model while adapting its institutional form to the Indonesian legal and social context.

4. Conclusion

Constitutional Court Decision No. 114/PUU-XXIII/2025 can be seen as a significant step in strengthening the legal architecture of civilian control in Indonesia because it not only resolves the constitutionality of norms but also affirms new principles that strengthen the subordination of security institutions to civilian authorities. This finding aligns with the practice of civilian control in the United States, which is built on the rule of law, a clear civilian chain of command, legislative oversight, transparency, and strong accountability mechanisms. However, the experience of various countries shows that civilian control can gradually erode through excessive dependence of civilian actors on security institutions or the development of attitudes of institutional superiority. Therefore, its success is not solely measured by the absence of coups but also by the ability of civilian authorities to substantively control security policies, budgets, and doctrines. Therefore, the effectiveness of Constitutional Court Decision No. 114/PUU-XXIII/2025 depends on follow-up actions such as revising the National Police Law and the Indonesian National Armed Forces Law, strengthening external oversight institutions, optimizing oversight by the House of Representatives (DPR), increasing civilian analytical capacity in the security sector, and reforming institutional culture that internalizes the value of civilian supremacy. Thus, the decision must be understood as a normative foundation for the long-term process towards a democratic security system that places people's sovereignty as the highest source of legitimacy for all coercive state authority.

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