



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 81/PUU-XXIII/2025**

Concerning

The Legislative Process of the Law on the National Armed Forces, Which the Petitioners Consider Formally Defective

- Petitioners** : Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI or Indonesian Legal Aid Foundation), represented by Muhamad Isnur as Chairperson and Zainal Arifin as Head of Advocacy and Network Division, et al.
- Type of Case** : Formal Review of Law Number 3 of 2025 concerning Amendment to Law Number 34 of 2004 concerning the Indonesian National Armed Forces (Law 3/2025) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Formal Review of Law 3/2025 against Article 1 paragraph (2), Article 1 paragraph (3), Article 20, Article 22A, Article 28D paragraph (1), Article 28D paragraph (3), and Article 28F of the 1945 Constitution; Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the formation of laws and regulations (P3 Law); and Regulation of the House of Representatives of the Republic of Indonesia Number 1 of 2020 concerning Rules of Procedure (Rules of Procedure of the House of Representatives of the Republic of Indonesia 1/2020)
- Verdict** : **On the Preliminary Injunction:**
To dismiss the preliminary injunction of Petitioner I through Petitioner IV
- On the Merits:**
1. To declare that the petition of Petitioner V and Petitioner VI is inadmissible
 2. To dismiss the petition of Petitioner I through Petitioner IV entirely
- Date of Decision** : Friday, September 17, 2025
- Overview of Decision** :

Whereas Petitioner I is a Legal Entity in the form of a foundation called Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI or Indonesian Legal Aid Foundation). Petitioner II is a legal entity in the form of an association named Inisiatif Masyarakat Partisipatif untuk Transisi Berkeadilan (IMPARSIAL or Indonesian Human Rights Monitor). Petitioner III is a legal entity in the form of an association named Komisi Untuk Orang Hilang dan Korban Tindak Kekerasan (KontraS or Commission for the Disappeared and Victims of Violence). Petitioner I through Petitioner III experience constitutional loss due to the enactment of Law 3/2025 because, according to Petitioner I, Petitioner II, and Petitioner III, the enactment of the revision to the Indonesian National Armed Forces Law deviates from the rule of law and democratic principles, and substantially produced provisions that reinstate the military's dual function, which is not oriented toward strengthening Indonesian National Armed Forces professionalism as well as National security and defense. Furthermore, Petitioner IV is an individual Indonesian citizen who actively expresses various views on the importance of continuing and completing the reform of the security sector to align with human rights protection principles. In addition, Petitioner IV has also publicly expressed her positions and views regarding the discussion of the revision to the Indonesian National Armed Forces Law in 2025. Meanwhile, Petitioner V is an individual Indonesian citizen and a Student at Sekolah Tinggi Hukum Jentera Indonesia. Petitioner V is concerned about the Government's commitment to addressing past gross human rights violations. Lastly, Petitioner VI is an individual Indonesian citizen who previously served as Coordinator of KontraS for the 2020-2023 term. In this regard, as the Coordinator of KontraS, Petitioner VI was actively involved in advocacy and public policy oversight on the security sector.

Whereas, regarding the Court's authority, because the Petitioners' petition is a formal review of Law 3/2025 against the 1945 Constitution, the Court has the authority to hear the petition *a quo*.

Regarding the time limit for Formal Review Submission, the petition *a quo* was submitted before the time limit, as was the time limit for resolving a formal review. The Court is of the opinion that the time limit of sixty (60) working days begins when the President and/or the House of Representatives deliver their statements in the plenary session for examination, which marks the start of the calculation of the 60 (sixty) working days for examining a formal review of a law. However, in some instances, if the President and the House of Representatives have not presented their statements in two plenary sessions with the agenda to hear the statements of the President and/or the House of Representatives, the Court may decide to use a different time limit in determining the time limit for resolving the formal review case.

Whereas, regarding the Petitioners' legal standing, the Court is of the view that Petitioner I, Petitioner II, and Petitioner III have described the alleged constitutional loss, which is closely related to and directly connected with the security sector, which constitutes the primary concern for Petitioner I, Petitioner II, and Petitioner III in strengthening the professionalism of the Indonesian National Armed Forces, as well as national security and defense, in pursuit of their institutional mission to contribute to society, the nation, and the state through the reform of the security sector. Thus, Petitioner I through Petitioner III have demonstrated their connection as legal entities actively engaged in activities related to the reform of the security sector with the legislative process of Law 3/2025 whose constitutionality is being challenged. Furthermore, Petitioner IV explains herself as an individual Indonesian citizen who has expressed her views and positions to the public regarding the discussion of the revision to the Indonesian National Armed Forces Law in 2025, as evidenced by her participation in the petition "Reject the Return of the Dual Function in the revision to the Indonesian National Armed Forces Law", together with the civil society coalition and other national figures. Thus, Petitioner IV has demonstrated her connection as an individual actively voicing various perspectives on reform of the security sector with the legislative process of Law 3/2025, whose constitutionality is being challenged. Meanwhile, Petitioner V explains herself as an individual Indonesian citizen and a law student who does not obtain an ideal picture of a democratic, transparent, participatory legislative process that adheres to the principles of proper formation of laws and regulations. In the Court's opinion, Petitioner V's activities do not constitute actions directly related to monitoring the legislative process of Law 3/2025. Even up to the plenary examination hearing, no legal facts could convince the Court that Petitioner V, as an

individual law student, has activities directly connected to the legislative process of Law 3/2025, which is being challenged for its constitutionality. Thus, Petitioner V does not have the legal standing to submit a formal review of the Law *a quo*. Regarding Petitioner VI, she describes herself as an individual Indonesian citizen who continuously monitors and follows the progress of the deliberations on the Bill Amending Law 34/2004 through monitoring and demonstration activities related to the Bill Amending Law 34/2004. In the Court's opinion, such actions do not constitute actions directly related to monitoring the legislative process of Law 3/2025. Furthermore, up until the plenary examination hearing with an evidentiary agenda, no legal facts could convince the Court that Petitioner VI, as an individual, conducting monitoring and demonstration activities deemed to have a relationship with the Bill Amending Law 34/2004, has been directly connected with the legislative process of Law 3/2025, which is being challenged for its constitutionality. Therefore, Petitioner VI does not have the legal standing to submit a formal review of the Law *a quo*. Thus, Petitioner V and Petitioner VI are unable to demonstrate a causal relationship (*causal verband*) between the alleged constitutional loss of Petitioner V and Petitioner VI and the legislative process of Law 3/2025 petitioned for formal review in the petition *a quo*, so that the Court does not doubt to reassess and declare that Petitioner V and Petitioner VI do not have the legal standing to submit the petition *a quo*. Meanwhile, Petitioner I through Petitioner IV (hereinafter, "the Petitioners") have the legal standing to submit the petition *a quo*.

Subject matter of the petition

Whereas, after carefully reading the Petitioners' petition, examining the evidence submitted, and considering the Petitioners' arguments, the Court will subsequently consider the Petitioners' subject matter of the petition as follows:

1. Whereas the Petitioners contend that the planning of the revision to the I Indonesian National Armed Forces Law in the 2025 priority national legislation program (priority prolegnas) has violated procedural requirements, thus it is contrary to Article 1 paragraph (2), Article 1 paragraph (3), Article 20, and Article 22A of the 1945 Constitution, the P3 Law, and Rules of Procedure of the House of Representatives 1/2020. Regarding the Petitioners' arguments *a quo*, the Court considers as follows.
2. Whereas Law 3/2025 is the result of an update to Law Number 34 of 2004 concerning the Indonesian National Armed Forces (Law 34/2004), intended to address regional security dynamics and to improve legal developments as a form of optimizing national defense and security efforts. In line with that, the Court has previously decided case Number 62/PUU-XIX/2021, which essentially contains a judicial order instructing the legislature to prioritize an amendment to Law 34/2004. Additionally, the urgency and necessity of updating the Bill Amending Law 34/2004 from a global perspective also constitute an effort for national defense to face escalating regional security dynamics, increasing geopolitical tensions, and rising frictions between the United States and China in the Indo-Pacific region, which heighten Indonesia's concerns regarding potential conflict in the area, particularly concerning the Taiwan Strait conflict. Furthermore, the current global situation shows that the world is facing potential wars in various countries across continents, such as Ethiopia, Sudan, Haiti, Burkina Faso, and Myanmar, which are facing internal conflicts. Meanwhile, interstate war is being experienced by Russia and Ukraine, Israel and Palestine, Israel and Iran, North Korea and South Korea, China and Taiwan, the United States and Russia and China, and, most recently, India and Pakistan.
3. Whereas, if examined further, the need to amend Law 34/2004 has long been planned, and such planning has been included in the National Legislation Program (Prolegnas) from 2009-2010 up to the 2025 Priority Prolegnas.
4. Pursuant to all the legal facts described above, the Court is of the opinion that Law 34/2004 has indeed been listed and repeatedly included in the Prolegnas, and has

been listed at least twice in the Priority Prolegnas. In addition to being listed and included several times in both the medium-term Prolegnas and the Priority Prolegnas, the need to update Law 34/2004 is also driven, among others, by Constitutional Court Decision Number 62/PUU-XIX/2021. Although the verdict of the Court Decision states, "To dismiss the Petitioners' petition entirely", from a legal perspective, the legal considerations in the decision have binding legal force because they form part of the Court's decision, which is constitutionally final. In addition, the Court's legal considerations, which constitute the *ratio decidendi*, have included a judicial order directing the legislature to amend Law 34/2004. Then, regarding the planning to include Law 34/2004 in the Priority Prolegnas as set out in Decision of the House of Representatives of the Republic of Indonesia Number 6.1/DPR RI/II/2024-2025 concerning Amendment to the Bills in the 2025 Priority National Legislation Program, the Court finds the legal fact that, in the House of Representatives Plenary Meeting on February 18, 2025, before commencing the first agenda item, the Chair of the Plenary Meeting requested the approval of all members of the Plenary Meeting to include the Bill concerning Amendment to Law 34/2004 in the 2025 Priority Prolegnas and to assign Commission I to deliberate on the Bill *a quo*. Notwithstanding the legal fact that the House of Representatives, in its plenary meeting attended by all members of the House of Representatives, adjusted the meeting agenda in a manner that should follow the Rules of Procedure of the House of Representatives, *in casu* Article 290, as well as Article 66 letter f and Article 67 paragraph (3) of Rules of Procedure of the House of Representatives 1/2020, the Court considers that the action of the House of Representatives can be justified, because the decision was taken in a plenary meeting attended by all members of the House of Representatives, satisfying the quorum requirements for a plenary meeting, *in casu* Article 313 paragraph (1) of Rules of Procedure of the House of Representatives 1/2020, and no faction objected to the action taken in relation to the legislative amendment process, *in casu* the Decision of the House of Representatives regarding the inclusion of the amendment to Law 34/2004 in the 2025 Priority Prolegnas. Thus, within the limits of reasonable reasoning, such actions still maintain representation, transparency, and socio-political legitimacy in every decision taken. This is in accordance with Article 256 paragraph (2) of Rules of Procedure of the House of Representatives 1/2020, which essentially provides that the House of Representatives Plenary Meeting is the highest decision-making forum in carrying out the powers and duties of the House of Representatives. Another consideration for the Court in assessing the argument *a quo* is that the Bill Amending Law 34/2004 has been included in the 2025 Priority Prolegnas, which is closely tied to the legislature's political-legal policy that acknowledges the complex dynamics of national defense and security challenges, thereby creating a national urgency. This, in the Court's opinion, is still in line with the nature and purpose of the duties of the Legislation Committee in providing considerations regarding the inclusion of a Law in a revised Prolegnas. Therefore, the approval reached by the House of Representatives in the Plenary Meeting on February 18, 2025, as the highest decision-making forum in carrying out the powers and duties of the House of Representatives, substantively represents the representation aspect and can be interpreted as the House of Representatives' agreement to include the Bill Amending Law 34/2004 in the 2025 Priority Prolegnas. Moreover, such action remains within the exercise of the legislative function of the House of Representatives, as regulated by the legal framework under Article 20 paragraph (1) of the 1945 Constitution. Accordingly, the Petitioners' argument that the planning of the revision to the Indonesian National Armed Forces Law in the 2025 Priority Prolegnas does not follow the procedure, and therefore is contrary to Article 1 paragraph (2), Article 1 paragraph (3), Article 20, and Article 22A of the 1945 Constitution, the P3 Law, and Rules of Procedure of the House of Representatives 1/2020, is legally unjustifiable.

5. Whereas the Petitioners further argue that the revision to the Indonesian National Armed Forces Law is not a carry-over item, and therefore should not bypass the planning and drafting stages in the formation of laws. In the Petitioners' opinion, this does not comply with Article 1 paragraph (2), Article 1 paragraph (3), Article 20, and Article 22A of the 1945 Constitution, the P3 Law, and Rules of Procedure of the House of Representatives 1/2020. Regarding the Petitioners' *a quo* argument, the Court considers as follows.
6. Whereas, regarding the drafting stage of the Bill Amending Law 34/2004, which begins with the preparation of the Academic Paper (*Naskah Akademik* or NA), the Bill, and the List of Issues (*Daftar Inventarisasi Masalah* or DIM), it has been established that the drafting process of the Bill Amending Law 34/2004 began in 2022 and was carried out more intensively in 2024, by the House of Representatives in terms of preparing the NA and the Bill and by the Government in terms of preparing the DIM, which also involved various elements of society through FGD sessions and discussions and/or dialogues related to the Bill Amending Law 34/2004.
7. Whereas, regarding the issue of whether the Bill Amending Law 34/2004 constitutes a carry-over item or not, under the provision of Article 71A of Law Number 15 of 2019 concerning Amendment to Law Number 12 of 2011 concerning the formation of laws and regulations (Law 15/2019), the Court finds the legal fact that the President has sent Presidential Letter Number R-25/Pres/07/2024, which essentially appointed government representatives, *in casu* the Coordinating Minister for Political, Legal, and Security Affairs, the Minister of Defense, the Minister of Administrative and Bureaucratic Reform, the Minister of Finance, and the Minister of Law and Human Rights, to participate in the deliberations on the Bill Amending Law 34/2004 on July 2, 2024. In this context, the Court understands that the discussion of the DIM must first take place as one of the requirements for a carry-over as stipulated under Article 71A of Law 15/2019. However, the House of Representatives Legislation Committee concluded that the Bill Amending Law 34/2004 would not be deliberated during the 2019-2024 membership period of the House of Representatives and would instead be handed over to the next membership period. Furthermore, until the end of the House of Representatives term of 2019-2024, no DIM had been submitted by the government, and therefore, the DIM discussion process could not be carried out at that time. It was therefore agreed in the Legislation Committee meeting that deliberations would be conducted only on Bills with DIM. Meanwhile, the government's series of activities to prepare the DIM of the Bill *a quo* was completed only on October 4, 2024. Regarding this matter, the Court considers that the termination of the deliberation process by the House of Representatives Legislation Committee, while the process had not yet reached the stage of deliberating the DIM together with the government, is understandable, given that the membership period of the House of Representatives for 2019-2024 was nearing its end. However, during that membership period, it was agreed that the legislative process of the Bill *a quo* would continue in the subsequent period of the House of Representatives. Such circumstances, in the Court's opinion, within the limits of reasonable reasoning, remain consistent with the nature and purpose of the carry-over mechanism, which emphasizes the continuity of the legislative process due to limited time for deliberations. In other words, the House of Representatives' attempt to address the limited time for deliberation by carrying over the process to the next period of the House of Representatives is substantively still coherent with the purpose stipulated in Article 71A of Law 15/2019, because legal certainty is required in the formation of laws, particularly regarding the continuity of the Bill. This decision is intended to prevent the legislative process from becoming stalled or requiring the entire process to be restarted from the beginning, or not from the beginning, to the extent that it remains within the context of fulfilling legal certainty.

Furthermore, regarding the absence of a DIM, which was also one of the factors preventing the continuation of the deliberations on the Bill Amending Law 34/2004 by the 2019-2024 House of Representatives and Government, the Court is of the opinion that the preparation of the DIM for the Bill Amending Law 34/2004 has, in principle, already been carried out by the 2019-2024 Government. Thus, the fulfillment of the DIM requirement has been administratively available as a DIM continuation, which has adopted the complexities and dynamics evolving within society. In line with the aforementioned legal considerations, the Court also found legal facts during the hearings indicating that the legislative process of the Bill Amending Law 34/2004 continued along with the stages in the formation of the Law by the 2024-2029 House of Representatives and Government, evidenced by Presidential Letter Number R-12/Pres/02/2025 dated February 13, 2025. Moreover, the Bill *a quo* has also been included in the 2025 Priority Prolegnas by the House of Representatives, followed by deliberation at the Level I Discussion Meeting by the House of Representatives and the Government. Furthermore, during the Level I Discussion Meeting, the DIM used was the 2024 DIM, which underwent legal developments during the discussion and was subsequently updated to the 2025 DIM. In the Court's opinion, this continuity of process, without intending to examine the constitutionality of Article 71A of Law 15/2019, is not contrary to the requirement that a DIM must first be deliberated in the previous period for a carry-over to occur, because the DIM deliberation has been carried out continuously in accordance with the stages of legislative process by the 2024-2029 House of Representatives and Government, and may be perceived as a political-legal agreement to continue the legislative process of the Bill *a quo* which remains within the legal framework as referred to in Article 20 paragraphs (1) and (2) of the 1945 Constitution. Accordingly, the Petitioners' argument that the revision to the Indonesian National Armed Forces Law is not a carry-over and therefore should not bypass the planning and drafting stages in the formation of laws, thus the Petitioners deem it violating Article 1 paragraph (2), Article 1 paragraph (3), Article 20, and Article 22A of the 1945 Constitution, the P3 Law, and Rules of Procedure of the House of Representatives 1/2020, is legally unjustifiable.

8. Whereas the Petitioners also argue that the revision to the Indonesian National Armed Forces Law is not in line with the Indonesian National Armed Forces reform agenda established by various political-legal policies concerning the Indonesian National Armed Forces after the 1998 reform, and therefore contradicts the principle of clarity of purpose as referred to in the P3 Law. Regarding the Petitioners' arguments *a quo*, in the Court's opinion, the formation of Law 3/2025, which amends Law 34/2004, has proportionally fulfilled the principles of suitability, necessity, and balancing, which include: *Firstly*, the suitability reflected in the legislative purpose of the Law *a quo*, which is directed at addressing the complexity and challenges of national defense, supporting the optimization of the duties and functions of specific ministries/agencies so as to allow the involvement of military personnel in accordance with their specialties, as well as meeting the organizational needs of the Indonesian National Armed Forces related to the retirement age limit of soldiers; *Secondly*, the actual necessity, given that Law 34/2004 has been in force for more than twenty (20) years and therefore adjustment is needed to respond to the challenges and increasing dynamics and complexity of national defense, and furthermore, to fulfill legal needs as a follow-up to Constitutional Court Decision Number 62/PUU-XIX/2021; *Thirdly*, the aim of achieving balance, as reflected in the purpose of the formation of the Law *a quo*, while still adhering to the values and principles of democracy, civilian supremacy, human rights, national law, and international law, all of which align with the spirit of reform to structure a better future for the nation, *in casu* the transformation of the national defense system. Therefore, in the Court's opinion, the formation of Law 3/2025 is consistent with the principle of clarity of purpose in the formation of laws and regulations and has been

carried out proportionally. This has been clearly set out in the Preamble and the General Elucidation of Law 3/2025, which provide the background, intent, and purpose of the Law *a quo*. Accordingly, the Petitioners' argument *a quo*, that the revision to the Indonesian National Armed Forces Law is not in line with the Indonesian National Armed Forces reform agenda established by various political-legal policies concerning the Indonesian National Armed Forces after the 1998 reform, thus the Petitioners deem it contrary to the principle of clarity of purpose as set out in the P3 Law, is not proven and therefore must be declared legally unjustifiable.

9. Whereas the Petitioners argue that the deliberation process of the revision to the Indonesian National Armed Forces Law has been intentionally carried out in a non-transparent, non-accountable manner and not allowing public participation, which is contrary to Article 1 paragraph (2), Article 1 paragraph (3), Article 20, Article 22A, Article 28D paragraph (1), Article 28D paragraph (3), and Article 28F of the 1945 Constitution, as well as the P3 Law and the Rules of Procedure of the House of Representatives 1/2020. Regarding the Petitioners' argument *a quo*, the Court considers as follows.
10. Whereas, regarding the formal fulfillment of the principle of openness in the formation of laws and regulations, *in casu* a law, the Court is of the opinion that, juridically, several methods or mechanisms for public participation are available, which generally depend on the extent to which the public exercises its right to participate in the legislative process. Meanwhile, lawmakers are expected to notify, announce, or publicize information, including providing the public with easy access throughout the legislative process. Therefore, in order to determine whether the principle of openness has been formally fulfilled, the efforts undertaken by lawmakers to disseminate information and open rooms for public discussion must be taken into consideration, or conversely, whether lawmakers undertake deliberate attempts to prevent or impede the dissemination of information or the room for public discussion during the legislative process.
11. Whereas the lawmakers have undertaken efforts to open the legislative process of the Bill Amending Law 34/2004 for public participation. In line with this, the lawmakers have also taken steps through face-to-face public discussions and by sharing information electronically via official websites and YouTube channels accessible to the public, particularly stakeholders wishing to exercise their right to participate. In other words, the lawmakers have provided several options or mechanisms for public participation, and there are no attempts to prevent the public who wish to participate in the legislative process of the Bill Amending Law 34/2004, which could be used as material for decision-making in formulating norms in the formation of laws, *in casu*, the Bill Amending Law 34/2004.
12. Whereas, regarding the Petitioners' argument on limited access to documents and absence of openness of information during the deliberative meetings, the House of Representatives, in its explanation, explains that documents, *in casu* the NA and the Bill, can be accessed on the House of Representatives' official website, as described in the factual findings in Sub-paragraph **[3.23.2]** of the Decision *a quo*. In this context, the House of Representatives has provided public access to the Bill draft and the NA, as evidenced by a Policy Brief prepared by the Indonesia Strategic & Defense Studies (ISDS) entitled "The Revision to the Indonesian National Armed Forces Law Shall Consider Long-Term Orientation". Such an analysis demonstrates that ISDS can access the Bill draft from Legislation Committee of the House of Representatives. As for the DIM, as previously considered by the Court in Sub-paragraph **[3.21.2]** of the Decision *a quo*, the DIM in question is available and constitutes a continuation of the series of stages in the legislative process of the Bill Amending Law 34/2004.

Furthermore, at the stage of discussing the DIM through the Intensive Work Meeting of the Working Committee for the Bill Amending Law 34/2004, held at the Fairmont Hotel on March 14 and 15, 2025, and referring to the relevant minutes of the meeting, the chair of the meeting stated that the meeting was open to the public. Pursuant to these legal facts, the Court is of the opinion that the issue of inaccessible documents cannot be characterized as a violation of the principle of openness, as argued by the Petitioners. This is because, if the Petitioners wish to obtain access to documents related to the Bill *a quo*, the public access is available through the House of Representatives' official website and YouTube channel, and such information can also be obtained through media interviews conducted after the deliberative meetings, as well as interviews concerning the progress of the formation of the Bill Amending Law 34/2004. Thus, pursuant to these legal facts, the lawmakers have provided access through the House of Representatives' official website and YouTube channel, as well as media interviews conducted at each stage of the deliberations of the Bill *a quo*, which further demonstrate the efforts of the lawmakers to open information access as widely as possible to the public.

13. Furthermore, regarding the Petitioners' argument on the excessive use of force to close rooms for public participation, the Court is of the opinion that, if the Petitioners' argument relates to the protest action by the Civil Society Coalition on the Security Sector during the Working Committee Meeting held closely at the Fairmont Hotel on March 14 and 15, 2025, then although it cannot be denied that the protest occurred in relation to the holding of that meeting, in fact the meeting was conducted openly as considered in Sub-paragraph [3.23.3] of the Decision *a quo*. Therefore, the Petitioners' argument on the excessive use of force to close rooms for public participation is incorrect, and thus cannot be interpreted as an obstruction of the expression of public aspirations, to the extent that such expression is conveyed through the methods and means as referred to by the Court in its legal considerations in Sub-paragraph [3.23.1] of the Decision *a quo*. Although what happened during the Working Committee Meeting for the Bill Amending Law 34/2004 on March 14 and 15, 2025 at the Fairmont Hotel has resulted in unwanted incidents regrettable by all parties, such incidents cannot be interpreted as excessive use of force. On the other hand, it has been proven that the House of Representatives has been open to public hearings and public input, and has invited the civil society coalition on the security sector, including Imparsial, KontraS, and YLBHI, on March 18, 2025. Accordingly, the Petitioners' argument that the discussion process of the revision to the Indonesian National Armed Forces Law was deliberately non-transparent and non-accountable, thereby closing rooms for public participation and violating Article 1 paragraph (2), Article 1 paragraph (3), Article 20, Article 22A, Article 28D paragraph (1), Article 28D paragraph (3), and Article 28F of the 1945 Constitution, the P3 Law, and Rules of Procedure of the House of Representatives 1/2020, is legally unjustifiable.
14. Whereas the Petitioners argue that the President and the House of Representatives have deliberately prevented the dissemination of the revision to the Indonesian National Armed Forces Law document, not immediately providing public access to the document after the enactment of the revision to the Indonesian National Armed Forces Law. Regarding the Petitioners' *a quo* argument, once the entire sequence of the formation of the Bill Amending Law 34/2004 was completed, the Government promulgated the Bill Amending Law 34/2004 in the State Gazette, which constitutes a manifestation of the principle of open access and serves as a constitutional mechanism enabling every citizen to know, understand, and adjust to the law in force. In the Court's opinion, the key matter to assess in relation to the argument *a quo* is the extent to which the lawmakers have earnestly endeavored to disseminate the Law *a quo* to the public. It is a mere assumption that the lawmakers prevent the dissemination of the

Law *a quo, quod non*, because, upon the Court's examination of the Law *a quo*, the document is accessible and downloadable from the official government website, *in casu*, the website of the State Secretariat. Therefore, in the Court's opinion, no prevention of the dissemination of Law 3/2025 has occurred. Even if there were obstacles in locating the promulgated Law *a quo*, such circumstances do not automatically render the legislative process of the Law *a quo* formally defective. Accordingly, pursuant to these legal considerations, the Court is of the opinion that the Petitioners' argument, that the President and the House of Representatives have deliberately prevented the dissemination of the revision to the Indonesian National Armed Forces Law document, not immediately providing open public access to those documents after the enactment of the revision to the Indonesian National Armed Forces Law, is legally unjustifiable.

Whereas although there is no formal defect in the legislative process of Law 3/2025, it is nevertheless essential for the Court to emphasize that every legislative product inherently has limitations, whether in terms of the formulation of norms or the substance of its regulation, and thus cannot be expected to attain absolute perfection. Should a law contain norms or substantive provisions that are contrary to the constitution, the Court, through a material review (constitutional review), has the authority to annul or reinterpret such norms and substantive provisions so that they conform to the constitution. This is different in the case of a formal review of a law, which carries highly fundamental consequences because it may annul the law if it is found defective in its legislative process. In fact, the failure to meet the 'ideal requirements' of a legislative process should not automatically render a law null or formally defective. Deficiencies in the legislative process may, on the one hand, lead to imperfections in its substantive content, yet, on the other hand, result in a law that contains sound material.

Whereas up to this point, regulations concerning the procedures for the formation of laws are still placed within the framework of Law Number 12 of 2011 concerning the formation of laws and regulations (and its amendments), which is designed to become a law that regulates the formation of laws and regulations in general, both laws and subordinate regulations. In fact, Article 22A of the 1945 Constitution, *expressis verbis*, provides a constitutional mandate to lawmakers to regulate the procedure for the formation of laws through a law. The Court is of the opinion that Article 22A of the 1945 Constitution should be understood as a mandate to form a specific law governing the procedures for the formation of laws, not a law that regulates the formation of laws and regulations in general. Moreover, within Indonesia's constitutional system, two regimes of legal norms review are in effect, namely: (i) the regime for reviewing laws against the Constitution, which falls under the authority of the Constitutional Court, and (ii) the regime for reviewing regulations subordinate to laws against the laws, which falls under the authority of the Supreme Court. Therefore, the Court is of the opinion that the formation of organic laws concerning the procedures for the formation of laws is a strategic step to restructure the legislative system and, at the same time, strengthen the framework for the constitutional review of laws, which is different from the judicial review of subordinate regulations, in order to ensure the upholding of the rule of law principle as provided in Article 1 paragraph (3) of the 1945 Constitution.

Whereas pursuant to the entirety of the above-mentioned legal considerations, the Court is of the opinion that the legislative process of Law 3/2025 formally is not contrary to the 1945 Constitution. Therefore, Law 3/2025 continues to have binding legal force. Accordingly, the Court has no hesitation in assessing and declaring that the Petitioners' arguments are entirely legally unjustifiable.

Accordingly, the Court subsequently passes down a decision in which the verdicts were as follows:

On the Preliminary Injunction:

To dismiss the preliminary injunction of Petitioner I through Petitioner IV.

On the Merits:

1. To declare that the petition of Petitioner V and Petitioner VI is inadmissible;
2. To dismiss the petition of Petitioner I through Petitioner IV entirely.

Dissenting Opinion

Against the Court's Decision *a quo*, there are dissenting opinions from four (4) Constitutional Justices, namely Constitutional Justice Suhartoyo, Constitutional Justice Saldi Isra, Constitutional Justice Enny Nurbaningsih, and Constitutional Justice Arsul Sani.

Dissenting opinion of Constitutional Justice Suhartoyo

Whereas having considered the above-mentioned various factors, I have concluded to present a dissenting opinion from the majority of justices who hold that the petition *a quo* is legally unjustifiable. I am of the opinion that the Court should have granted the Petitioners' petition by declaring that the legislative process of Law 3/2025 is (formally) defective in terms of procedures and should, conditionally, require the improvement of the legislative process of Law 3/2025 and provide the public with the opportunity for meaningful participation in such process improvement. Moreover, it should be required that lawmakers be given a maximum of two (2) years to improve the formal defects. With the two years to such improvement, the Petitioners' petition should have been declared legally justifiable in part.

Dissenting opinion of Constitutional Justice Saldi Isra

Whereas having considered the above-mentioned various factors, I have concluded to present a dissenting opinion from the majority of justices who hold that the petition *a quo* is legally unjustifiable. I am of the opinion that the Court should have granted the Petitioners' petition by declaring that the legislative process of Law 3/2025 is (formally) defective in terms of procedures and should, conditionally, require the improvement of the legislative process of Law 3/2025 and provide the public with the opportunity for meaningful participation in such improvement process. Moreover, it should be required that lawmakers be given a maximum of two (2) years to improve the formal defects. With the two years to such improvement, the Petitioners' petition should have been declared legally justifiable in part.

Dissenting opinion of Constitutional Justice Enny Nurbaningsih

Whereas under Article 51A paragraph (3) of the Constitutional Court Law, it is stipulated that, "In cases where the petition for review is a petition for formal review, the examination and decision rendered by the Constitutional Court shall be based on the laws and regulations governing the procedures for the formation of laws and regulations". Such procedures refer to Article 22A of the 1945 Constitution, which is further regulated in Law 12/2011 and its amendments, including the regulations within the scope of the House of Representatives (the Rules of Procedure of the House of Representatives) and the Government (Presidential Regulation No. 87/2014), all of which concern the procedures for the formation of laws. Since some procedures have not been fulfilled in the formation of the Indonesian National Armed Forces Law, while an amendment to the Indonesian National Armed Forces Law indeed needs to be made, one of which concerns the regulation of retirement age for members of the Indonesian National Armed Forces as mandated by Constitutional Court Decision Number 62/PUU-XIX/2021, then, in order to comply with all procedures or the legislative process of the Indonesian National Armed Forces Law, the said procedural deficiencies must be improved within

two (2) years from the date this decision is pronounced. Therefore, in my opinion, Law 3/2025 is conditionally constitutional to the extent that such improvements are carried out.

Dissenting opinion of Constitutional Justice Arsul Sani

Whereas considering the above-mentioned matters, I am of the opinion that there are: (i) shortcomings in the fulfillment of legislative procedures, and (ii) access impediments for the public to participate meaningfully in the legislative process of the Bill Amending Law 34/2004. Nevertheless, in my opinion, these two issues are insufficient to conclude that the legislative process of Law 3/2025 is contrary to the 1945 Constitution of the Republic of Indonesia (1945 Constitution), and thereby Law 3/2025 is deemed not legally binding. In my opinion, given the shortcomings in the fulfillment of procedural requirements in the legislative process and the impediments to the public's meaningful participation, the lawmakers must improve the legislative process for Law 3/2025 within a reasonable period, namely two (2) years.

Therefore, the Petitioners' petition may only be granted in part, not in the manner petitioned by the Petitioners. The Court's verdict should read: "To declare that Law Number 3 of 2025 concerning Amendment to Law Number 34 of 2004 concerning the Indonesian National Armed Forces, conditionally, is not contrary to the 1945 Constitution and shall remain legally binding to the extent that it is interpreted that relevant improvements must be made to its legislative process within two (2) years from the date this decision is pronounced."