



Legal Framework and Rule of Laws in The Context of Indonesia's National Resilience

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ABSTRACT

This study aims to explain the impact and pattern of the relationship between the framework and the rule of law on the quality of data-data, in particular demography, politics, society, culture, defense, and security, so as to provide an appropriate perspective on the lens of Indonesia's national resilience. This study uses a structured literature review that explains the relationship and impact of the framework and the rule of law on the Qatar-data, especially on the political, economic, demographic, social, security, and defense forces. The results of this study show that the framework and rule of law have a net relationship and have a positive correlation with political, economic, demographic, social, security, and defense forces, where the quality of both either positively or negatively affects the level of resilience or vulnerability to Indonesia's resilience as a nation-state.

Keywords: National Resilience, Legal Framework, Rule of Law, Vulnerability, Resilience.

INTRODUCTION

One might guess the poor quality of a country's legal environment may contribute to its weak resiliency; however, which aspect that constitutes a legal environment, the concept of national resilience, and how such a poor legal environment affects a country's resiliency in this study, Indonesia national resiliency is an unexplored study (Acar, 2022; Seng, 2021).

Resiliency is generally defined as the ability to recover from a previous condition after experiencing shock(s) (Briguglio, Vella, & Moncada, 2019). However, in the case of national resilience, it refers to a wider range of abilities a nation is able to demonstrate. National resilience is the ability to anticipate, withstand, and recover before, with regard to shock(s) experienced (Pelsa & Balina, 2022). The model of Indonesia's national resilience is measured by the quality or strength of its 8 (eight) aspects, with each aspect named 'gatra', and therefore its 8 gatra is

named 'Astagatra' (Ramda, 2020). The 8 gate that make up Indonesia's national resiliency model are Demography, Natural Resources, Geography, Ideology, Politic, Economy, Social-Culture, Defense, and Security. Each of the gatra connected and correlated, affecting one another. The increase of quality or strength of a gatra means an increase in the quality or strength of another gatra, and negatively applies (Acemoglu & Robinson, 2019).

The turmoil caused by the Asian Financial Crisis (AFC) of 1998 that engulfed Asia, notwithstanding Indonesia, is a perfect example to portray how the data in Indonesia's national resilience model are connected to one another (Aspinall, Fossati, Muhtadi, & Warburton, 2020; Kristimanta & Sulistyono, 2022). The economic shock brought by AFC turned out to be the straw that broke the camel's back to the already deteriorated social-cultural structure due to the socio-economical rift within Indonesian society (Diprose & Azca, 2019). The result was bloody racial-themed conflicts and riots, which to this day are considered to be one of the worst human tragedies in Indonesian history. The rift mentioned, which plays a role as the priming cause of such conflict, was the product of 32 years long of how 'Orde Baru' or the New Order under Soeharto's presidency operates, which is prevalent with corruption, collusion, and nepotism (Kammen, 2023; Wang, Luo, & Wei, 2021). The unrest from the conflict was no doubt also impacted national security. The subsequent events paved the way for a drastic change in Indonesia's political landscape, which resulted in the collapse of the Orde Baru regime. To surmise, the shock of the economic dimension has proven to have caused a chain reaction affecting socio-cultural, security and political dimensions (Diprose & Azca, 2019).

Now that the correlation of each gate has been explained, it is pivotal to the discussion of this study to disclose that each gate in the resiliency model has derivatives. The quality or strength of the derivatives of each gatra, therefore, understandably also affects the quality or strength of the gatra it belongs to and, in turn, also affects other gatra. For the purpose of this study, we will focus on 'law' as a derivative of political data (Jaffe et al., 2021).

Law is the subject that fundamentally governs and regulates how any state operates, such as in the case of Indonesia, which is set out by its constitution as a state that is based on law (rechtstaat) as opposed to power (machstaat) (Thomas P. Power, 2020). This gives the law a wide range of governing and regulating roles from the establishment and set of state institutions (Constitutional Law) and how such institutions interact with one another and the citizens (Thomas Power & Warburton, 2020). Within a society, law serves as a tool that creates and maintains order by interceding in the interest of its citizens, who may be at odds or in conflict with one (Ramirez, 2020). The law, therefore, governs and regulates the vertical and horizontal relations between the state and society (Setiawan & Tomsa, 2022). From the constitution that governs the principle on how the state operates with regards to its ideology and discharges its duties, it is also present to govern and regulate the private matter of its citizens, such as the

subject of birth, marriage, and inheritance, for example (Thomas Power & Warburton, 2020). The actions of the state and its citizens are, therefore, explained to be inescapable from the governing nature of law that dictates what may or may not be done and the capacity of law to carry out its enforcement to ensure it is obeyed through the function and action of state apparatus (McGregor & Setiawan, 2019). Therefore, it can be agreed that laws that comprise a legal framework (sets of rules) and rule of laws possess a role that affects the quality of Indonesia's national resilience (Ramirez, 2020; Warburton, 2020).

As explained above, the legal framework and rule of laws, i.e., the quality thereof, is fitting to be hypothesized to have a significant impact on the qualities of the gatra that makes out the model and strength of Indonesia's national resilience (Vellinga, 2023). A reduced view of the law as a mere political data derivative may place a law at a place vulnerable to being overlooked in the study of national resilience (Narh, 2023). The study of the legal framework and rule of laws and its relation with the gate of Indonesia resiliency model is novel where no previous studies have discussed the relation between the legal framework and rule of laws to the various data of national Indonesia's national resilience as modeled by Astragatra.

The aim of this study is to determine the relationship pattern and impact of legal framework and rule of laws with demography, politic, economy, social, defense, and security gatra and therefore provide a hopefully renewed and distinct view on their impact on the overall Indonesian national resilience. Such a view shall also hopefully invigorate the view of law as a pivotal element in Indonesia's nation-building and national resilience.

RESEARCH METHODS

The revised research methodology adopts systematic literature analysis. The aim of the literature analysis is to uncover direct and/or indirect relationships between the legal framework, the rule of law, and various aspects such as demography, politics, economy, social dynamics, defense, and security. These relationships are then elaborated upon to provide an explanation of their impact on each entry point. In this case, there is no use of sampling or a specific number of respondents as this methodology involves reviewing existing literature.

The data analysis technique employed in this study is thematic analysis. Thematic analysis involves systematically identifying, analyzing, and reporting patterns or themes within qualitative data. The qualitative data, in this context, consist of information gathered from reviewed literature regarding the relationships between the legal framework, the rule of law, and various aspects such as demography, politics, economy, social dynamics, defense, and security.

RESULTS AND DISCUSSION

Law and Democracy

Democracy is mentioned in this discussion as a governmental system on which Indonesia is based; therefore, its strength or quality affects Indonesia's national resilience.

There are different interpretations by each individual, and by scholars of law as to the understanding and definition of, however, the common consensus is that law is a set of rules made by the authorized party with the purpose of maintaining order within society by setting out the command, restriction, prohibition, and discharging coercive power with impedance to the penalty to those who violate. As mentioned before, it is certain that individuals who occupy the same space have opposing interests which may create dispute or even, without something to intercede i.e.: law, unrest or chaos shall be bound to happen to disrupt the activities of everyone's daily life. Therefore, it is impossible to comprehend how a society could remain intact and thrive without law governing the behavior of the member of society and the state itself from discharging its powers as arbitrary, undermining democracy.

The 1945 Consitution (UUD 1945) serves as the ground norm for the governmental system, how the government operates and discharges its rights and duties, and as a basis or reference for the law of the lower hierarchy. Article 1 in the opening section of the 1945 constitution sets Indonesia as a form of a republic based on the sovereignty of its people within the frame of Pancasila as a state. Such sovereignty, in practice, is carried out by the People Consultative Assembly / Majelis Permusyawaratan Rakyat (MPR), whose members comprised of a member of the House of / Dewan Permusyawaratan Rakyat (DPR) and Regional Representative Council / Dewan Perwakilan Daerah (DPD). In the context of the formulation of the law, each member of the DPR and DPD is eligible to propose a draft of the law which then requires the approval of the DPR as Indonesia's legislative body and validation from the President, who acts as an executive in the concept of separation of power. The mechanism for the formulation of law / legal framework showcases how Indonesia as a state discharges its rights and obligations based on law, in this case, its constitution.

Since reformation took place following the stepping down of Soeharto in 1998, Indonesia's democracy has shown promising progress; however, as Indonesia progressed, its democracy began to exhibit stagnation and decline. Such a setback of democracy does not happen suddenly but happens gradually, starting from the stagnation stage, which began in 2009 to 2014. During such a period of time, Indonesian democracy is considered to be 'stable but of low quality'. Such quality of democracy is reflected by the government's malleability in curbing radical groups of undemocratic ideology and the enactment of Information and Electronic Transaction Law, which is prone to be punitive tools rather than regulating legal framework. The 'accommodating' approach of the regime towards a group of elites with certain religious ideologies spoils them by putting them in a coveted and lucrative position within the government, which also comes with

privilege. Polarization comes as a result of how the regime during this time treated certain groups affiliated with certain ideologies lopsided by providing them privileges.

The emplacement of partisan or confidant into strategic positions of the government within the scope of the executive branch causes the consolidation or aggrandizement of executive power, in this case, held by the President. Such emplacement within the security and law enforcement institutions that wield coercive power, such as police and attorney general office (AGO), can be exploited to be a political instrument used to 'neutralize' political opposition by selectively using law and its enforcement. In other words, targeted prosecution. This is done by taking leverage on the information of criminal activity such as corruption, which is a rampant practice among state official, including the regime's political opposition, to be then utilized as a bargaining chip to alter their political orientation to be in favor of the regime. Turning political opposition into allies by 'coercive' means. In addition, a certain institution that has a role in oversight and control or 'checks and balances', which, however, pose obstacles to the regime's political goal, are curtailed, reducing its efficacy in carrying out its activity and discharging its rights and duties. With law enforcement institutions held captive by political power or influence due to the installation of partisans and confidants, civil society was ineffective in voicing their opinion or critique towards how the government carried out its practices as opposed to a democratic guarantee. This condition has led Indonesia's democracy to be named a narrow democracy.

Then, is there harm, and if there is, what harm may befall a state whose government shows undemocratic attributes as reflected by its institutions? Inclusive (democratic) political and economic institutions are characterized by the unrestricted participation of their citizens, and therefore availability of the wide talent and skill pool served from them, enabling greater contributions in nation-building, equality before the law, acknowledgment, and protection of intellectual property rights (IPR), and fair access to public services. Inclusive state institutions are the prerequisite for a nation to be prosperous. Whereas inclusive institution is characterized in opposite to the inclusive institution. Inclusive institutions are named as extractive institutions. This type of institution has no intention to make the people prosperous, instead, these institutions are used to exploit resources, be it natural resources or resources from the people by exploiting for the benefit of an elite group of people of a country, and naturally, this elite cluster of people demands status quo to maintain their power and control over these state institutions. It can be understood that extractive institutions take place in a country and reflect the characteristics of an undemocratic government that harbors no respect towards sets of rules (legal framework) and rules of laws.

The tendency to maintain the status quo exists both in inclusive and extractive institutions, but each yields a different result. Inclusive institutions enable the cycle of economic growth and

stability, whereas extractive institutions propel economic decline and distability, which may ultimately cause the creation of the failed state. Although the tendency to maintain the status quo exists, history has shown that institutional transformation took place. A pivotal event, whether something positive or in the form of a negative shock, may constitute an intersection to institutional reform. For example, the damaging effect of absolute monarchy on the economy led to the establishment of constitutional monarchy, which placed the law in a position of power over the king and nobles. As in the case of Indonesia, the 1998 AFC and the ensuing unfortunate events resulted in the declaration of a reformation agenda, which acts as the turning point or intersection that pushed the transformation of institutions in Indonesia to become inclusive.

There is a relation between openness and stability as explained by a 'J curve' by Ian Bremmer. The concept of the J curve by Bremmer can be explained by imagining an imaginary 'J' that is spread across the horizontal and vertical axis, with the horizontal axis representing openness and the vertical axis representing stability. It is explained that a country with a high level of openness is a perfectly democratic country, reflected by the transparency and inclusivity of its institutions, the presence of a check and balance mechanism, guaranteed freedom of expression, and the rule of laws. A country with a high degree of openness is also characterized by embracing globalization with an unrestricted flow of information and international trade. The position of a country with a high level of openness can be found on the right side of the horizontal axis along the J curve. The United States and the United Kingdom are examples of countries with high levels of openness and stability. On the other hand, North Korea is an example of a country positioned at the left side of the J curve, which is a 'closed' yet stable country. The most unfortunate are the countries located at the bottom of the J curve which means they are neither open nor stable.

The position of a country along the J curve may change and, therefore, move along the track of the J curve. For example, a democratic country positioned on the right side of J experiencing a democratic setback may cause the country to shift down-left ward, which means it shall not only experience a reduction in openness but will also become more unstable. Should the condition be worse, the worst thing that could happen is such a country would rest at the bottom of the J curve, which is neither democratic nor stable. The normal decision for the leader of such a country to improve such conditions is to either make it a closed country (undemocratic but stable) or restore the quality of democracy to regain its place on the right side track of the J curve.

The choice to increase stability at the cost of being a closed country is a rational and possible choice. However, it bears consequences such as the use of authoritarian and/or coercive means, which abolish its freedom. Closed countries are also prone to economic problems due to self-rawal or exclusion from international trade or international sanctions, which prevent such

countries from utilizing their comparative advantage and, therefore, experience obstacles in their efforts to grow. The passing of the authoritarian figure leading a closed country may also trigger an internal power struggle, which may create disability from within.\

The choice to shift towards the right side of the J curve by a closed authoritarian regime indeed will place such a country in a position of disability as what Indonesia experienced during the dawn of reformation following the 1998 AFC. However, a consistent choice to be more democratic will eventually, in the long run, make a country also stable.

As explained above, it, therefore, can be concluded that there is indeed a positive correlation between the legal framework and the rule of laws with a country's democracy quality. Upholding the importance of legal framework and the rule of law is the prerequisite to maintaining democracy. Without a legal framework to govern and a rule of laws ensuring enforcement, a country might descend into an authoritarian regime with its institutions being exclusive, abolishing democracy, which ultimately may lead to national instability.

Law and Economy

In accordance with the role of law to regulate with the aim to create and maintain order, the presence of a legal framework and rule of laws within any society also serves to provide assurance, fair treatment and policy required for economic activity to run productively and stable.

Justice, in the sense of equal opportunity for all members of society to gain access to both criminal and civil justice systems, ensure all member of society possesses equal opportunity and benefit with regard to economic activities, which in turn creates economic equality, which is the prerequisite for economic development. Equality in the economy also brings a positive impact in the form of strong social cohesion within society.

In a study of the history of the United States legal framework, a pair of findings were found regarding the relationship between the legal framework and the economy. The first finding found that legal framework renders an impact on macroeconomic policy, the second finding is the purpose of legal framework widens from creating, maintaining stability and fostering economic growth as measured in Gross Domestic Product (GDP) to later include the purpose of improving Human Development Index (HDI) as coined by the United Nation Development Program (UNDP) which covers aspects of life expectancy, education, and Gross National Income / GNI (GDP plus income of nationals working overseas minus the income earned by foreign nationals working domestically) and improvement on Inequality Adjusted Human Development Index (level of inequality on HDI). This study shows that legal framework and policy, as shown in this study, understand the importance of this and therefore suggest that legal framework and policy should be formulated with the aim of improving the quality of human life.

Referring to data from the Corruption Perception Index (CPI) by Transparency International, in 2023, Indonesia ranked 115th out of 180 countries. Also based on the same report, the corruption occurring in countries in the Asia Pacific region, including Indonesia, has a negative impact on the economic growth (GDP) of those countries. Such prevalence of corruption is due to the characteristics of the institutions of each country in such a way and the complexity of the legal framework, making it difficult to eradicate corruption.

This refutes the myth about the benefits of corruption, which posits that corruption can help boost the economy. Instead, it shows that corruption is inversely related to economic growth, particularly in developing countries in the Asia Pacific region, including Indonesia. Governments that are characterized by patrimonialism and clientelism create opportunities or even a fertile ecosystem for corrupt practices. Patrimonialism is when power is concentrated in the hands of a single ruling figure and there is a mix of state and personal interests. Through such power, the ruler can grant economic and/or political privileges and rights to trusted individuals in exchange for loyalty and support for their regime. Privileges granted to confidants may include strategic and coveted positions in state institutions, such as security, law enforcement, and military agencies, disregarding transparency, accountability, and meritocracy, impacting inequality and uneven economic growth and development. The phenomena and impacts of patrimonialism and clientelism reflect the failure and simultaneously be the cause that further damages the rule of law. In another word, the weak the rule of laws and practices of corruption occurs in a cyclical form.

Indonesia is endowed with a vast territorial area. As an archipelago, the total land and maritime sovereignty of Indonesia covers 5.180 million km². Within the vast territory of Indonesia, there is an abundance of natural resources; however, the endowment of these natural resources is not enjoyed equally by its people.

Inequality as measured by the Gini coefficient, ranges from 0 to 1, with a value of 0 showing perfect equality and a value of 1 showing perfect inequality. A country is categorized as having 'high inequality' if it has a value between 0.5 and 0.7 and as 'moderately unequal' if it has a value between 0.2 and 0.35. According to the Central Statistics Agency (BPS), as of March 2023, Indonesia has a Gini coefficient of 0.388. The wealth of natural resources in Indonesia does not seem to correlate with the equitable distribution of income among its people, reminding us of the concept of the resource curse. The resource curse is a condition where abundant natural resources do not contribute to economic development but create inequality and problems in government institutions. This inequality and poor institutional quality are caused by issues in the legal framework that fail to regulate practices of clientelism, corruption, and other practices that exploit weaknesses in the political and economic environment and the failure rule of laws carried

out by law enforcement to regulate and ensure the equality in the opportunity to enjoy the benefit from a country's natural resources/wealth.

Compared to developed countries with already optimized legal systems, the impact of improving governance, i.e., legal system, in developing countries, which covers the aspects of the rule of laws, compliance with regulations, law enforcement, and legal institutions, yields more significant positive effects on economic development levels.

Economic growth alone does not reflect improvements in the aspect of human quality of life. A country's economy might grow based on GDP calculations due to the concentration of economic activities by only a group of individuals within such a country. On the other hand, economic development reflects both growth and the equal economic distribution. Without a legal framework and the rule of laws that ensure compliance with regulations, which play a role in the implementation of governance that adheres to general principles of good governance and is, therefore, able to ensure the equal distribution of economic opportunities and the benefits thereof, economic growth prone to be riddled with disruptions and, not to mention economic development which come to be impossible to achieve. It can be concluded that the legal framework and rule of law have a positive correlation with the economy, both in terms of growth and development, and therefore impact Indonesia's national resilience.

Law and Social aspect

The nature of the laws governing economic activities has been previously explained to have a role in creating a stable economic ecosystem and equal economic opportunities to participate in the economy; in other words, law is contributing to the reduction of the level of inequality in society. However, a legal framework (regulations) formulated and enacted with the intention or to be in favor of the interests of a specific group of individuals will increase inequality and marginalization, resulting in the potential for conflict.

Economic inequality has 3 (three) types: vertical, horizontal, and regional. Vertical inequality can be seen from the creation of stratification in society that classifies certain groups as superior, thus placing them in a higher economic stratum compared to others. The conflict resulting from this vertical inequality is between the groups that feel marginalized due to government policies and decisions that cause or are responsible for deprivation, which causes inequality. The conflict in this vertical form of inequality is between the deprived group and the government. Horizontal inequality is the disparity between specific ethnic groups in society. The potential conflict arising from this inequality in society takes the form of inter-ethnic conflict or rebellion by ethnic groups that feel deprived. The inequality occurring between regions in a country can cause more prosperous areas to be driven to seek independence because they feel burdened by supporting less prosperous areas, thereby inevitably triggering conflict with the central government.

Throughout its history, Indonesia has experienced a fair share of conflicts, both horizontal and vertical, with various forms of conflict including rebellions, communal conflicts, and terrorism. The conflict that entails the monetary crisis in 1998 in Indonesia is regrettably one example of how the weakening of the laws contributed to the cause of conflict. Indonesia's journey towards democracy began with uncontrolled and deep-rooted corruption, collusion, and nepotism during the New Order regime, which made the economy at that time fragile. When this already fragile economy was shaken by the Asian financial crisis, it collapsed. Dissatisfaction and resentment towards the mismanagement of the government erupted into conflicts and spread into ethnic violence.

Problematic legal frameworks and rule of laws, limited literacy, and dissemination of legal provisions, as well as their enforcement, contribute to the occurrence of conflicts. Conversely, the presence of a legal framework of quality, a strong rule of law, widespread literacy, and consistent law enforcement can be pathways to resolving conflicts. As occurred in Poso (1998), the gaps between religious community groups were exacerbated by political competition for positions within the government structure that were self-beneficial by exploiting central government policies (rent seeking) such as development funding, poverty alleviation program funds, and subsidies, which became triggering factors for conflict. Conflict then erupted in Poso, and all that was needed was a trivial issue to ignite those factors. The resulting conflict was a communal one that lasted for three years until it was finally resolved through an agreement between the parties, encapsulated in the Malino Accord, which included, among other points, an agreement to submit the disputes for resolution under the applicable law and its enforcement.

Another case of conflict that occurred in East Nusa Tenggara was a conflict that stemmed from a land dispute between the local community and the government. In this case, the local community felt disadvantaged and marginalized by the eviction of their land, as the eviction was considered arbitrary and without regard to the community's customary law. The eviction resulted in the loss across aspects of society: loss of the local community's livelihoods, access to educational facilities (schools), and psychological trauma. This occurred because the existing legal framework, the agrarian reform law, did not include provisions that accommodated the values and customary laws of the Indonesian tribes. The local community also lacked knowledge about the law or access to legal aid. From the governmental side, the relevant government institutions lacked expertise in managing agrarian conflicts, which necessitates regard to the aspect of customary law. All these are the causes of the occurrence of such conflict.

Law and Demography

A country may experience economic growth through the increase of its national income but without experiencing economic development, which is reflected by the equitable distribution of wealth and improvements in the quality of human life in its society.

The Human Development Index (HDI) by the UNDP portrays the concept of economic development with more comprehensive indicators consisting of Gross National Income (GNI), which provides a more precise description of a country's income by adding GDP and the income from nationals working abroad minus the income from foreign nationals working within the country, life expectancy (the average lifespan of an individual from birth), and education (the actual duration of educational attained and the expected educational achievement). HDI factors also have interrelated influences. For example, economic capability will determine whether an individual can enjoy education, and the knowledge gained from education enables the individual to make informed decisions about their health while equipping them with skills to compete and innovate in economic activity. In this context, the rule of law plays a positive role by creating an environment that fosters education and the economy to develop through the creation of equality and respect for property rights.

In countries with advanced education levels, a positive correlation is found between the quality of the legal framework and the level of education. The quality of the legal framework can be measured by how well-structured and orderly the legal regulations are, whether they create efficiency and positively impact socio-economic aspects, including economic growth, improvement in HDI, and the number of scientific publications issued by a country. Conversely, a legal framework cluttered with numerous complex regulations can hinder output in these socio-economic areas. In addition to the quality of the legal framework, an established rule of law is pivotal for an effective legal system to serve as the basis for legal compliance, ensuring equality exists in governance, which then also contributes positively to supplementing the increase of outputs by a quality legal framework.

Law and Defense & Security

As mentioned at the beginning of this study, Indonesia, as a country based on a constitution (rechtstaat), requires legal frameworks as a basis for exercising its authority in all aspects, including in the field of defense and security. This encompasses the establishment of defense and security institutions, their respective objectives, powers, limitations of authority, their relationship with other state institutions, and their interactions with society.

The improper and unfit use of security and defense institutions, or other institutions wielding coercive authority, has been noted to have a detrimental impact on democracy as previously has been discussed. Therefore, adherence to the existing legal framework as a means of oversight and control (checks and balances) over these institutions is crucial not only to preserve the quality of democracy but also to prevent these institutions from contributing to a state's failure. The following discussion will outline a case in Indonesia where misuse has had adverse effects on the society, the institutions themselves, and the state.

Law and Security

Buzan's work on securitization describes it as an action by an actor with authority (securitizing actor), through the form of a statement or declaration of something as a security issue, which constitutes a threat to an object that needs to be protected from existential threats, where such a declaration requires approval or acceptance by an audience. What needs to be considered a security issue and what requires securitization continues to evolve according to the development of age, as witnessed in the event of the Coronavirus Disease 2019 (COVID-19) pandemic. The attempt to curb the spread of COVID-19 led to regulations on social distancing, including in educational activities. In this case, face-to-face teaching activity is an example of the application of securitization. Technological advances are evidently also a subject of securitization. The development of technology that has produced artificial intelligence (AI), perceived by countries as both a potential and a threat to national security, has made AI an object of securitization, as China has done. China's concerns are driven by its history of technological inferiority in the past, the survival of the Chinese Communist Party, and the competition to dominate AI technology against geopolitically opposing countries, which have prompted China to securitize AI.

For securitization to work, it requires approval or acceptance from the audience. In the context of a democratic country like Indonesia, this is done by the proper mechanism involving its legislative body, which, by the constitution, is established as the representative of the Indonesian people and related to its function in enacting legal frameworks. The coercive nature of law makes the implementation of securitization possible, ensuring the achievement of securitization objectives. Indonesia has a diverse legal framework covering a wide range of aspects. However, the number of legal frameworks is relatively less strategic than their application, which necessitates a proactive and cautious approach and application of these frameworks. Failure to implement proactive and cautious steps can have detrimental effects on the objectives of securitization itself, as exemplified by the following.

Terrorism is undoubtedly established as a serious crime by countries and, therefore, requires securitization, allowing for extraordinary efforts to mitigate and combat terrorism. Since the tragic Bali Bombing incident, Indonesia's efforts in counterterrorism have made progress, among other things, thanks to the enactment of legal frameworks to combat terrorism, namely Law No. 15 of 2003 as revised by Law No. 5 of 2018 on the Eradication of Criminal Acts of Terrorism. In addition to the aforementioned law that provides a basis for POLRI (Indonesian National Police) and TNI (Indonesian National Armed Forces) to conduct counter-terrorism operations, the constitution also plays a role in providing balance in protecting human rights, in this case, ensuring that counter-terrorism operations by security forces do not violate human rights. What this means is that the balance between the aggressiveness of counter-terrorism operations and the protection of human rights is important in maintaining democracy and closing

the gap or loophole that may be exploited by terrorism defendants to conjure errors in the due process of law of counter-terrorism operations and the ensuing legal proceeding.

Unfortunately, the study by Rucktäschel & Schuck (2019) did not address the constitutional court's judicial review of Law No. 15 of 2003, which was petitioned by the Bali Bombing defendants as an important example of the need for proactive steps in law enactment, especially regarding security and public safety. The basis for filing this judicial review was the retroactive nature of Law No. 15 of 2003, which contradicts the principle of legality in the Indonesian criminal legal system. The Constitutional Court ruled that Law No. 15 of 2003 violated the non-retroactive principle of the Indonesian legal system but also decided that their own ruling would not apply retroactively, allowing the prosecution and examination of the defendants to continue and yield a verdict. Had the judicial review fully invalidated Law No. 15 of 2003, the state would not have been able to provide justice and restitution to the victims of the Bali Bombing tragedy, effectively nullifying securitization efforts. Therefore, a proactive and careful approach to creating legal frameworks is important in ensuring security.

Proactive steps also mean that the state needs to continuously establish legal frameworks over other aspects and their derivatives, which are fundamentally new to society. Therefore, anticipating by enacting legal provisions is an effort toward effective securitization. The following discussion underscores the importance of law, particularly legal frameworks, in preventing losses and ensuring the success of securitization objectives.

The sophistication of AI also brings developments in the transportation sector by integrating AI into electric cars, resulting in the concept of autonomous electric cars. As the name implies, the operation of these cars involves a fully integrated electronic system in the vehicle. This new concept requires a specific legal framework, as has been enacted by the European Union (Automated and Electric Vehicles Act). However, a new study has emerged criticizing the inadequacy of the legal framework, which is seen as lacking in regulating how to handle liabilities from damages resulting from cyber attacks on autonomous electric cars. The study is an example of a proactive approach through the identification of weaknesses in the legal framework on autonomous electric cars that can be adopted by the government by formulating revision thereof before a hypothetical incident mentioned in the study comes into reality.

Facial Recognition Technology (FRT) can be used for law enforcement purposes within the jurisdiction of the European Union due to its ability to identify individuals targeted in security operations. However, its potential to violate human rights necessitates an updated legal framework. Research indicates the need for a legal framework update to balance the benefits provided in the context of law enforcement and the protection of personal data. This means that without revision to the legal framework, the use of FRT is certain to also become a threat to the quality of democracy of countries that use FRT.

Law and Defense

According to its two prominent figures, Sun Tzu and Kautilya Chanakya, the scope of intelligence activities is defined more than its role in the art of warfare; instead, it covers domestic, foreign, and economic affairs. The commonality between these two views is that intelligence is an activity involving the collection of valuable and/or secret information through clandestine means. From this definition, it is clear that intelligence is an essential part of maintaining a country's security and defense. Intelligence activities include but are not limited to information gathering, evaluation, analysis, report production, early detection, anticipation, or prevention of threats before they occur, but also include activities categorized as counter-intelligence. Counter-intelligence is defined as actions to protect intelligence activities and products through defensive and offensive means such as sabotage, deception, disruption, neutralizing actions, and exploitation. To conduct intelligence activities, individuals with specialized skills known as 'agents' or intelligence officers who work under the command of an intelligence institution or an institution with intelligence functions are required.

It is understandable to have the impression that intelligence activities and their institutions might be perceived as something that operates outside the scope of legality due to their elusive and obscure nature. However, a legal framework does exist which sets out the basis for the establishment, duties, and authority. This is evidence that shows the legal framework is deemed necessary as a check and balance for the intelligence service in performing its duties and discharging authority.

An undemocratic governance style or the absence of a legal framework can result in deviations in intelligence services usage by individuals in positions of power. Intelligence services can be misused to serve political interests and neglect the true mandate of intelligence, which is to ensure the safety and welfare of the public. In the case of Indonesia, the excessive use of intelligence apparatus during the New Order regime aimed at maintaining and consolidating Suharto's power is an example of how deviations in the use of intelligence services were detrimental in Indonesian history. It should be noted that the National Intelligence Law was only enacted in 2011 through Law No. 17 of 2011, 13 years after the collapse of the New Order. The New Order's absolute and extensive use of intelligence range on wide aspects of societal life, from combating separatism, engineering politics, maintaining security and order in repressive ways, extreme media control, and including actions that violated human rights for the benefit of the New Order. Suharto and his intelligence institution's authority was unaccountable and arbitrary, but ironically, this misuse led to the fall of the New Order regime. Intelligence at that time was too focused on business as usual and failed to pay attention to new and rapid developments both domestically and internationally. Disagreements were met with hostility, as experienced by Benny Moerdani, a prominent intelligence figure and Suharto's confidant when

he expressed concerns about the burgeoning business interests of Suharto's children. What Benny Moerdani said led to his removal from a prestigious position in the intelligence institution, followed by a purge of loyalists from the institution. The restructuring after Benny's removal resulted in a shortage of competent intelligence officers. The remaining officers chose to play it safe by providing reports that Suharto wanted, not those that were needed. The combination of external shocks in the form of the Asian Financial Crisis and a wave of domestic desires for democratization from a coalition of civil society and academics was not a focus of the intelligence, and Suharto became negligent, which along with the ongoing dynamics led to the end of Suharto's 32-year regime along with unfortunate turn of events experienced by the people.

What happened during the New Order regime shows how the absence of a legal framework and the severe damage to the rule of law had long-lasting effects on the corruption of the intelligence institution itself and its failure to fulfill the *raison d'être* of any intelligence institution standard. The legal frameworks that were established could not fully prevent the misuse or exploitation of intelligence institutions from politicization by powerful figures. However, at the very least, the existence of a legal framework means there is still a channel for oversight or checks and balances as long as the constitution and democracy are upheld, and internally, by the integrity of its officials to remain true to the constitution.

CONCLUSION

This study highlights the integral connection between Indonesia's legal framework, the rule of law, and the nation's resilience across political, economic, social, demographic, security, and defense spheres. The quality of democracy is intricately linked to the quality of the legal framework, as dirty politics can lead to poor legal formulations, weakening the rule of law and democratic foundations. Moreover, a robust legal framework is essential for economic development, which in turn enhances social stability. Security measures, including securitization, rely heavily on legal frameworks for success, while historical examples illustrate the importance of legal structures in national defense. Overall, the legal framework and the rule of law are intertwined, serving as vital pillars for Indonesia's national resilience, and their inadequacy could significantly impact the nation's ability to withstand internal and external shocks. Thus, addressing and enhancing these aspects are imperative for fostering robust national resilience.

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