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Beneath the Gavel: Business Law and the Specter of Authoritarian Capitalism in Indonesia

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Abstract
The evolution of the Indonesian government into authoritarian capitalism since the Reformation era, especially under Joko Widodo's administration, has triggered significant legal issues in the development of economic policy. This study examines how authoritarian tendencies intersect with legal instruments and economic development, focusing particularly on legislative practices like the Job Creation Omnibus Law, which has drawn public criticism for undermining democratic principles and the supremacy of law. Using a normative juridical approach and the doctrinal legal method as defined by Terry Hutchinson, this research analyzes the principles and norms of economic law in the context of an authoritarian regime. The findings suggest that although laws like the Omnibus Law are claimed to attract foreign direct investment, the way they are drafted and enacted tends to reflect elite interests and lacks adequate public participation. This points to a broader pattern of authoritarian capitalism, where law functions more as a tool of political control than as a safeguard of social justice. Compared to countries like China and Singapore, Indonesia illustrates a weaker institutional capacity to uphold impartial and accountable legal frameworks. The study concludes that without substantive legal reform and stronger democratic oversight, the use of law for political gain will continue to undermine social stability and long-term economic sustainability. For that reason, legal development rooted in justice, participation, and the supremacy of law should be seen as a priority in improving Indonesia's economic governance.

1. Introduction

In the past decade, the Indonesian government has faced criticism for its authoritarian tendencies. A notable example of this pattern is the issuance of the so-called Omnibus Law—specifically, Government Regulation in Lieu of Law (Perppu) No. 2/2022 on Job Creation—which sparked strong criticism from civil society organizations such as the Indonesian Legal Aid Foundation (YLBHI) and the Commission for the Disappeared and Victims of Violence (KontraS). These groups viewed the regulation as disregarding the Constitutional Court's ruling and reinforcing authoritarian tendencies within the government.[1]

Another significant example, according to critics, is the Indonesian government's ambitious development of the Rempang Eco-City. This project attracted criticism from the Indonesian Forum for the Environment (WALHI), and even the National Commission on Human Rights (Komnas HAM) identified several violations of the law and human rights of the indigenous people of Rempang Island. Additionally, the use of state apparatus to facilitate the successful implementation of the Rempang Eco-City project has been seen as prioritizing

[1] The Jakarta Post, "Analysis: Perppu Creates Problems Not Jobs," 2023, https://www.thejakartapost.com/opinion/2023/01/09/analysis-perppu-creates-problems-not-jobs.html.

investor interests over the rights of local communities. Komnas HAM further stated that the designation of the Rempang Eco-City as a national strategic project was not carried out using a human rights-based approach and failed to consider the indigenous people who have inhabited Rempang Island for over two centuries.[2]

These tendencies that the Indonesian government depicts for the last decade, marked its degenerate journey toward authoritarian capitalism. Theoretically, authoritarian capitalism can be defined as a combination of an authoritarian political regime and a capitalist economic structure. This system demonstrates significant government control and intervention in the capitalist economy.[3] In other words, countries that contribute significantly to the economy yet do so in autocratic or non-democratic environments are considered as authoritarian capitalist.

Authoritarian capitalism is differed from state capitalism. In state capitalism, the government is viewed as the primary player in the economy, but all actions are conducted without disregarding human rights or democratic principles. Authoritarian capitalism, on the other hand, employs strategies that restrict civil freedoms and disregard democratic values. Sallay and Schnyder further explain the main characteristics of authoritarian capitalism, which are:

1. Significant State Intervention. The state plays a central role and carries great influence in the economic sector, especially in supporting certain economic actors who are aligned with the government. Later the state will support it through regulations, subsidies or special protection.
2. Restrictions on Civil Liberties. Civil liberties will often be sacrificed or ignored in order to maintain government stability and power. The manifestation of this restriction can be by limiting freedom of speech, assembly, and expression of opinion.
3. Policy Making without a Democratic System. The government's policy-making process often does not involve public participation or does not go through transparent democratic mechanisms. Important economic decisions will be made by political elites in the government along with business people who have the same interests as the government.
4. Use of Law as a Tool. The law will often be used as a tool to suppress opposition and maintain government power. Laws in the form of regulations are applied unfairly, especially against parties who are considered to threaten the economic or political stability desired by the government. Meanwhile, individual rights and the principle of checks and balances are weakened and ignored.[4]
5. Reduction of Economic Pluralism. That economic activities and opportunities are aligned with the interests of economic sector elites, thereby reducing diversity in the economic sector.

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[2] Komisi Nasional Hak Asasi Manusia, "Belajar Dari Kasus Rempang, Komnas HAM: PSN Harus Bermanfaat Bagi Masyarakat," 2023, https://www.komnasham.go.id/index.php/news/2023/10/9/2425/belajar-dari-kasus-rempang-komnas-ham-psn-harus-bermanfaat-bagi-masyarakat.html pada 16 Mei 2024.

[3] Michael A. Witt and Gordon Redding, "China: Authoritarian Capitalism," *SSRN Electronic Journal*, 2012, https://doi.org/10.2139/ssrn.2171651.

[4] Dorottya Sallai and Gerhard Schnyder, "What Is 'Authoritarian' About Authoritarian Capitalism? The Dual Erosion of the Private–Public Divide in State-Dominated Business Systems," *Business & Society* 60, no. 6 (July 15, 2021): 1312–48, https://doi.org/10.1177/0007650319898475.

6. Dependence of Economic Actors on the State. The state will create high dependence on economic actors, on state policies and support. This support can take the form of providing incentives, strict regulations, to ensure compliance with state policies.[5]

This study will discuss the shift of Indonesian government authoritarian tendencies driven by its ambitious economic goal. This study will also discuss the relation between authoritarian government, the legal system, and its implication towards economic growth, which in some cases flourished strong economic and social stability, challenging mainstream belief that authoritarianism hinders economic growth, while in another case resulting in short-economic success and social instability.

2. Methods

This study is structured as a doctrinal legal study. Terry Hutchinson stated that doctrinal legal study analyzes legal concepts, legal principles, legal cases, and every related statute.[6] Terry Hutchinson further explain that a doctrinal legal study consists of two steps: first, identifying the law, including the statutes, principles, cases, and concepts, and the second, analyzing the legal problems in this study, connect them with the statutes, principles, cases, concepts, and then structured the answer for the problems in a systematic analysis.[7]

3. Results and Discussion

3.1. Authoritarian Government, Legal System, and the Economy

Economic development does not occur in a vacuum; it relies fundamentally on the presence of a capable state that can establish, regulate, and sustain market systems through a strong legal framework. Key institutions of a market economy, such as monetary systems, banking infrastructure, and labor markets, are deeply embedded in legal arrangements maintained by state authority. As Wray (2012) emphasizes, monetary institutions in particular are grounded in legal constructs that derive their legitimacy from sovereign power. The state holds the exclusive right to define the official unit of account and to issue currency in that denomination, ensuring the stability and predictability required for everyday economic transactions. This legal authority extends to determining which forms of currency are acceptable for tax obligations and contractual payments, and it also empowers the state to criminalize the unauthorized issuance of currency as counterfeiting. These legal capacities are not merely technical, they form the bedrock of trust in the monetary system and underpin the broader coherence of market-based economic activity. Without consistent legal enforcement by the state, confidence in the monetary system would erode, undermining both institutional reliability and economic coordination.[8]

As Pistor (2019) argues, legal structures play a central role in defining the rules and enforcement mechanisms that allow markets to function with stability and predictability.

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[5] Daniel Kinderman, "Authoritarian Capitalism and Its Impact on Business," in *Proceedings on Symposium on Authoritarianism and Governance* (International Institute of Islamic Thought, 2021), https://doi.org/10.47816/02.001.23.

[6] Terry Hutchinson and Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research," *Deakin Law Review* 17, no. 1 (October 1, 2012): 83, https://doi.org/10.21153/dlr2012vol17no1art70.

[7] Ibid, 116.

[8] L. R. Wray, Modern Money Theory: A Primer on Macroeconomics for Sovereign Monetary Systems, Third Edition (Macmillan Palgrave, 2024): 37-45.

These frameworks enable economic actors to transact with confidence, knowing that their rights and obligations are protected and upheld by state institutions. State-sanctioned legal systems form the foundation for key market activities, including the issuance and regulation of money, the operation of banking institutions, and the negotiation and enforcement of labour contracts. Each of these functions is essential for facilitating coordinated economic exchanges and for ensuring the efficient allocation of resources. Furthermore, the legal authority of the state is indispensable in managing systemic risks and responding to economic crises, as it provides the tools for regulatory intervention, property rights protection, and the preservation of public order. In this regard, the legal infrastructure upheld by the state is not merely a backdrop but a constitutive element of the market economy. It shapes the behaviour of economic agents and underpins the institutional resilience and organization of economic life.[9]

The position illustrated by two earlier statements challenges theoretical accounts suggesting that law can arise entirely from decentralized market interactions. For instance, Hadfield and Weingast propose that legal norms may spontaneously evolve from social cooperation without direct state intervention.[10] Although informal mechanisms such as trust, reputation, and patronage may facilitate coordination in smaller communities, empirical research increasingly shows that these mechanisms are insufficient to support economic activity at scale. Customary law and community-based norms have historically served as foundational elements of legal order, particularly in localized or less formal contexts. They function effectively where interactions are repeated, information is widely shared, and social ties are strong. However, as societies expand and become more complex, such informal systems face limitations. The capacity of private ordering and reputational enforcement to sustain rule adherence diminishes in larger, more anonymous settings, where interpersonal ties are weaker and monitoring is more difficult.

This is where the role of the state becomes indispensable. Unlike customary systems, the state possesses the institutional capacity and coercive authority to enforce legal norms consistently across a wide population. Through its monopoly on the legitimate use of force and the institutionalization of judicial mechanisms, the state ensures the enforcement of property rights and contractual obligations, curtails extra-legal forms of retaliation, and upholds social order. As such, the state plays a constitutive—not merely supportive—role in the formation and endurance of legal systems. Modern law derives its normative authority and legitimacy not only from social consensus or moral values, but also from the state's ability to enforce rules and resolve disputes impartially. In this respect, while informal norms may give rise to legal principles, the transition to a fully functional legal system capable of regulating complex economic interactions requires the institutional backing of the state.[11]

As markets expand and complexity increases, the effectiveness of personal trust networks diminishes, necessitating the introduction of formal legal systems that are accessible,

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[9] Katharina Pistor, "A Legal Theory of Finance," *SSRN Electronic Journal* 41(2) (2013): 315–30, https://doi.org/10.2139/ssrn.2262936.

[10] G. K. Hadfield and B. R. Weingast, "What Is Law? A Coordination Model of the Characteristics of Legal Order," *Journal of Legal Analysis* 4, no. 2 (December 1, 2012): 471–514, https://doi.org/10.1093/jla/las008.

[11] Simon Deakin et al., "Legal Institutionalism: Capitalism and the Constitutive Role of Law," *Journal of Comparative Economics* 43, no. 1 (February 2017): 1–19, https://doi.org/10.1016/j.jce.2016.04.005.

neutral, and impersonal.[12] In developing countries, excessive reliance on informal norms further restricts firms' access to external financing, particularly from foreign investors lacking the reputational knowledge required to operate within relationally governed systems.[13] The theoretical framework proposed by Chen and Deakin synthesizes evolutionary game theory and systems theory to conceptualize law and markets as co-evolving institutions, mutually shaped through repeated social interaction.[14] Legal rules function as condensed representations of stabilized social strategies, guiding boundedly rational actors within complex transactional environments.[15] The legal system, in this account, is not a purely top-down instrument of control but a responsive domain capable of adaptation through internal mechanisms such as litigation, jurisprudence, and regulatory reform.

The Chinese experience provides a concrete illustration. During the early years of reform following 1978, the formal legal system was largely absent. Economic coordination relied on guanxi networks grounded in kinship and regional affiliations, particularly between Hong Kong investors and enterprises in Guangdong.[16] Over time, however, this model became increasingly costly and exacerbated structural imbalances.[17] As demand grew for credible, rule-based governance, the Chinese state adopted a series of commercial law reforms, many of which drew on foreign models while remaining sensitive to local institutional realities. Nonetheless, the gap between law on the books and law in practice remains substantial. In the absence of judicial independence, selective enforcement persists. The legitimacy of law hinges not solely on coercive capacity but on its social recognition as a binding normative order. In authoritarian contexts, where political elites often operate above the law, norm internalization is unlikely to occur at scale.[18]

This happens in Indonesia. The economic trajectory of Indonesia during the New Order regime under President Suharto was marked by a strategic orientation towards growth and political consolidation. Through a series of policy reforms—ranging from deregulation in the banking and real sectors to the active promotion of foreign direct investment and export-driven development—the regime succeeded in generating consistent economic expansion over two decades. However, this developmental model, while seemingly effective on the surface, was fundamentally flawed. It relied heavily on short-term foreign capital and was supported by a fragile regulatory framework. These latent structural weaknesses were sharply revealed during the 1997 Asian Financial Crisis, which triggered a rapid devaluation of the

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[12] Randall Peerenboom, "The Political Economy of Rule of Law in Middle-Income Countries: A Comparison of Eastern Europe and China," *SSRN Electronic Journal*, 2010, https://doi.org/10.2139/ssrn.1673581.
[13] R. Cooter and H.-B. Schaefer, "Solomon's Knot: How Law Can End the Poverty of Nations," *Choice Reviews Online* 49, no. 12 (August 1, 2012), https://doi.org/10.5860/CHOICE.49-7138.
[14] M. Aoki, "How Polities Change: A Strategic Perspective on China-Japan Historical Comparison," *Journal of Comparative Economics* 43, no. 4 (2015): 846–67, https://doi.org/DOI10.1515/ldr-2014-0031.
[15] Chen D. and S. Deakin, "On Heaven's Lathe: State, Rule of Law and Economic Development," University of Cambridge, Centre for Business Research, 2014, https://ideas.repec.org/p/cbr/cbrwps/wp464.html.
[16] D. Chen, *Corporate Governance, Enforcement and Financial Development: The Chinese Experience* (Edward Elgar, 2013), https://ideas.repec.org/b/elg/eebook/14903.html.
[17] Chen D. and Deakin, "On Heaven's Lathe: State, Rule of Law and Economic Development."
[18] Chen D. and Deakin.

rupiah, a spike in inflation, and a profound economic downturn. Ultimately, the economic crisis morphed into a political one, culminating in widespread civil unrest and the resignation of Suharto in 1998.[19]

Indonesia's economic development under the New Order marked a major shift in the country's national strategy. From 1966 to 1998, the government maintained tight, centralized control over economic planning, with industrialization and infrastructure placed at the center of its modernization goals. This approach was formalized through key legal instruments. Based on MPRS Decree No. XXIII/MPRS/1966 on the Reform of Economic, Financial, and Development Policy, the government enacted Law No. 1 of 1967 on Foreign Investment and Law No. 6 of 1968 on Domestic Investment, both designed to attract capital while keeping regulatory authority in state hands. These laws were supported by macroeconomic stabilization programs developed by Widjojo Nitisastro's economic team, which laid the groundwork for the first Five-Year Development Plan (Repelita I) launched in 1969. Repelita I focused on agriculture and infrastructure, and was followed by successive development plans shaped by the Development Trilogy: national stability, economic growth, and equitable distribution.[20]

In response to declining oil revenues in the 1980s, the government introduced a series of deregulation packages aimed at liberalizing finance and expanding the private sector. The June 1983 package (Pakjun 1983) lifted credit ceilings and liberalized interest rate policy, while the October 1988 package (Pakto 1988) eased the licensing process for private banks, reducing the minimum capital requirement to Rp 10 billion. Around the same period, the government introduced major tax reforms through a series of new laws, including Law No. 6/1983 on General Tax Provisions and Procedures and Law No. 7/1983 on Income Tax. To manage growing external debt, Indonesia entered negotiations with the Paris Club and London Club and secured concessional loans from the IGGI consortium.[21] This top-down approach did deliver short-term growth and improvements in certain welfare indicators. But at the same time, it reinforced an authoritarian style of governance, where key decisions were concentrated within a small circle of state institutions and largely insulated from public input.

Behind these achievements, however, serious structural weaknesses remained. The regime's heavy reliance on foreign debt to finance its large-scale development projects left Indonesia increasingly exposed to global financial shocks and the volatility of international capital flows. Alongside this, widespread corruption and deepening income inequality slowly eroded the long-term sustainability of the growth model, revealing that the foundation of development was far less stable than it appeared.[22] By the late 1990s, these latent

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[19] R. Rahmawati, "Repelita: Sejarah Pembangunan Nasional Di Era Order Baru," *Jurnal Ilmiah Kebudayaan Dan Kesejahteraan* 10, no. 2 (2022), https://ejournal.unkhair.ac.id/index.php/etnohis/article/view/5654/3602.

[20] Koichi Kawamura, "Indonesia's Development Policy in Historical Perspective," *SSRN Electronic Journal*, 2008, 2, https://doi.org/10.2139/ssrn.1742679.

[21] Masruroh, N. N., & Rinardi, H. (2022). Foreign Consortium Institution and the Economic Dependency of Indonesia during the New Order: From IGGI to CGI. *Jurnal Sejarah Citra Lekha*, *7*(1), 38–47. https://doi.org/10.14710/jscl.v7i1.42071.

[22] E. Ronaldo, D. Wahyunissa, and B. O. P, "Analisis Perkembangan Sistem Moneter Internasional Dan Krisis Moneter Di Indonesia," *Academia Edu*, no. 1 (2014): 1–72,

vulnerabilities culminated in a severe economic crisis that shook the very foundations of the national economy.

Before launching its long-term development plans (Repelita), the New Order regime focused first on stabilizing the macroeconomy and restoring political and social order. These initial steps were aimed at controlling inflation, reducing fiscal deficits, and reviving production and exports, all of which had deteriorated under the Old Order. Once some degree of stability was achieved, the government introduced the Repelita programs in stages, each with specific development goals. This structured, target-driven approach was well received by Western countries, who viewed it as a sign of economic discipline and long-term planning.[23]

Indonesia's contemporary economic history is deeply influenced by its strategic position along major maritime trade routes. Its early involvement in global trade with nations such as India, China, and various Arab and European powers significantly impacted the development of its economic framework, especially during the spice trade era. However, under Dutch colonial rule, Indonesia's economy was monopolized by European trading companies and subjected to high taxation, particularly on indigenous farmers and laborers, creating a legacy of economic inequality and resource extraction.[24]

The transition to the New Order after the events of 1965 signaled a move toward economic pragmatism. Under Suharto, the regime placed strong emphasis on national security and economic recovery, adopting policies that diverged significantly from those of the previous administration. The issuance of the Supersemar decree marked a turning point, paving the way for new development strategies such as the 1967 Foreign Investment Law, which opened the Indonesian economy to both domestic and international investors.[25] This shift was underpinned by strong ties with Western powers, notably the United States, which supported Indonesia's efforts to stabilize and rebuild its economy.

At the heart of the New Order's development strategy was the Trilogy of Development: equitable distribution, economic growth, and national stability. These core principles shaped the government's macroeconomic policies, which included efforts to rehabilitate domestic production and consolidate fiscal health. The Repelita plans, known for their clear goals and strategic focus, played a crucial role in restoring investor confidence and attracting foreign aid.[26] However, despite these successes, the regime's rigid top-down governance limited democratic participation and exacerbated structural disparities.

The New Order's focus on both economic and political stability contributed to notable improvements in poverty reduction and sustained economic growth. By 1996, poverty rates had fallen considerably, and the economy grew at an average rate of about 5% annually across multiple Repelita phases. However, these achievements came with important limitations.

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https://www.academia.edu/32751896/Analisis_Perkembangan_Sistem_Moneter_Internasional_dan_Krisis_Moneter_di_Indonesia.

[23] Ronaldo, Wahyunissa, and P.

[24] R. Z. Leirissa, G. A. Ohorella, and Y. B. Tangkilisan, "Sejarah Perekonomian Indonesia," *Jakarta: Departemen Pendidikan Dan Kebudayaan RI Jakarta*, 1996.

[25] Nanda Setia, "Keterlibatan Amerika Serikat Dalam Upaya Pembangunan Ekonomi Indonesia Era Soeharto 1966-1980," *Journal of Indonesian History* 11, no. 1 (July 7, 2023): 44–54, https://doi.org/10.15294/jih.v11i1.59178.

[26] See Ronaldo, Id.

Political control and the regime's reliance on technical, rather than genuine, democracy suppressed meaningful public debate. Meanwhile, social programs often fell short of tackling underlying inequalities. As a result, even though economic indicators showed progress, the benefits of growth were unevenly shared, leaving the country vulnerable to instability when external shocks hit.

However, the New Order's almost utopian yet ultimately dystopian government faced a harsh reckoning during the Asian monetary crisis. This crisis, hitting Indonesia in the late 1990s, was one of the most severe consequences of the regime's earlier economic policies. Over just two years, inflation skyrocketed to unprecedented levels, sparking a wave of social and economic problems, including rising social pathologies and widespread public distress. The government's slow or inadequate responses only made matters worse, as unresolved issues piled up alongside new crises, putting enormous pressure on the state's capacity to manage. For the first time under the New Order, the public was gripped by panic—seen in consumer hoarding and frantic buying of essential goods to secure daily needs.

In Indonesia's history, the social and political chaos of this period rivals only a few other turbulent moments: the end of Japanese occupation and the early years of the national revolution (1944–1946), and the transition from the Old Order to the New Order (1964–1966). Like those times, this crisis was marked by deep uncertainty, rampant speculation, soaring inflation, and long lines for basic staples like rice and fuel.[27]

Indonesia's recovery from the economic collapse was uneven as the country struggled through the difficult years after 1998. The government's goal was to put the economy back on a path toward sustainable and inclusive growth, with renewed attention on reducing poverty, creating jobs, and building a stronger, more resilient macroeconomic foundation.[28] The monetary crisis of 1997–1998 was partly caused by the government's delayed request for help from the International Monetary Fund (IMF). Financial assistance was only sought after the rupiah had already suffered a steep depreciation, by which time the crisis had spiraled into a prolonged period of monetary instability. Inflation jumped dramatically, from 11.10% early in 1998 to 77.60% by the end of the year—almost seven times higher. This sharp rise in inflation went hand in hand with a steep economic downturn. The combination of monetary chaos and negative growth severely worsened Indonesia's economic situation, forcing the government to introduce urgent and extraordinary policy measures.[29]

The 1997 monetary crisis had wide-reaching consequences for Indonesia, not only in the economic sector but also in its social and political fabric. The rapid depreciation of the rupiah pushed up the cost of imported goods, fueling severe inflation. Banks faced liquidity shortages, many businesses collapsed, and unemployment rose sharply. For ordinary households, these pressures translated into serious difficulties in meeting basic needs, leading

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[27] A. Suwirta, *Krisis Moneter, Gejolak Politik, Dan Perlunya Reformasi Pendidikan Di Indonesia*, ed. Abdul Razaq Ahmad & Andi Suwirta, vol. 4 (Sejarah Dan Pendidikan Sejarah: Perspektif Malaysia Dan Indonesia. Bandung Dan Bangi: Historia Utama Press Dan Penerbit UKM., 2007).

[28] Layna Kamilah Fachrunnisa, M.Pd, Laely Armiyati, and Iyus Jayusman, "Strategi Pemerintah Indonesia Mengatasi Masalah Ekonomi Pada Masa Reformasi (1999 – 2004)," *Estoria: Journal of Social Science and Humanities* 4, no. 1 (October 1, 2023): 494–513, https://doi.org/10.30998/je.v4i1.2126.

[29] D. S. Haryati, "Analisis Inflasi Pra Dan Pasca Krisis Moneter Dalam Perekonomian Indonesia" 3, no. 2 (2014): 393–401, https://doi.org/https://doi.org/10.15294/edaj.v3i2.3848.

to a significant increase in poverty. What began as an economic crisis quickly turned political, eventually forcing President Suharto to resign in 1998 after more than three decades in power.

Yet, the roots of the crisis had already been laid by the development strategy of the New Order itself. The regime's centralized control, its overdependence on foreign capital, and the state's dominance over key sectors created a fragile economic structure from the start. Although policies like deregulation, foreign investment incentives, and export promotion produced strong short-term growth, they also concealed deeper structural problems. Weak financial oversight, minimal institutional checks, and a heavy reliance on short-term external debt made Indonesia especially vulnerable to external shocks. The push for rapid expansion came at the cost of long-term stability.

At the same time, the authoritarian nature of the regime restricted the state's ability to respond effectively when problems started to surface. With political power highly centralized and dissent suppressed, there was little room for public debate or policy correction. Early signs of economic imbalance—like rising inflation and a growing financial bubble—were overlooked or downplayed. Important institutions, especially in the monetary and legal sectors, lacked independence and were often more responsive to political interests than to sound economic reasoning. As a result, the government delayed seeking international help, which only deepened the crisis once it hit.

In the end, the monetary crisis exposed the core weaknesses of the New Order's development model. The collapse of the rupiah, soaring inflation, and a wave of bankruptcies within the financial sector triggered not only economic collapse but also a legitimacy crisis for the regime. Inflation surged from 11.10% to 77.60% in 1998, and unemployment spiked, shaking public confidence in state institutions. The widespread unrest that followed led to Suharto's resignation, marking the end of an era. More importantly, it underscored a key lesson: without accountable institutions and good governance grounded in the rule of law, economic growth alone is not enough to guarantee long-term stability.

A more serious problem with legal governance is reflected in Indonesia's investment regime's lack of oversight in promoting accountability. According to Tedjokusumo and Siswanto (2024), legal protections ought to encompass substantive safeguards based on the second Pancasila principle, "Just and Civilized Humanity" in addition to regulatory certainty. Therefore, the law must guarantee that all investors are treated equally based on their legal dignity rather than their capital contribution, in addition to facilitating investment. If this isn't done, structural injustices reminiscent of the New Order era could continue.[30]

3.2. The Success Economy under Authoritarian Capitalism Regime

The first discussion of this paper highlighted the state pivotal role in sustaining economy growth. The social acceptance of existing legal frameworks is a must—hence the authoritarian government is unacceptable—the case that can be studied through Indonesia's experience during the New Order's regime. However, in this part, learned from China and Singapore, the previous premise that emphasized authoritarian states as economic development antithesis challenged. The rise of authoritarian capitalism in the 21st century challenges the long-held

[30] Dave David Tedjokusumo and Carissa Amanda Siswanto, "Legal Protection for Foreign Investments Aligned with the Second Principle of Pancasila: A Scholarly Exploration," *Jhbbc*, February 4, 2024, 32–45, https://doi.org/10.30996/jhbbc.v7i1.9872.

liberal-democratic belief that political liberalization naturally follows economic liberalization. After the Cold War, many viewed liberal democracy and free-market capitalism as the inevitable endpoints of political and economic development—a perspective famously expressed by Fukuyama.[31] However, political developments in recent years—including the democratic recession, Brexit, and the rise of illiberal populism—have destabilized this narrative and exposed deep vulnerabilities within liberal democracies.[32]

China and Singapore were selected as comparative reference cases in this study because they represent two archetypal but distinct models of authoritarian capitalism that have demonstrated sustained economic performance while operating outside the bounds of liberal democratic governance. Their inclusion serves a dual analytical purpose: First, to empirically challenge the dominant theoretical assumption that political liberalization is a necessary precondition for capitalist development; and second, to contrast these successful models with Indonesia's own fragile implementation of authoritarian capitalism, where legal and institutional weaknesses undermine economic sustainability.

China exemplifies a model often referred to as "party-state capitalism," a system characterized by centralized political authority, close integration between the ruling party and economic actors, and selective market liberalization under state supervision.[33] While it maintains strict limits on political freedoms, the Chinese state has shown remarkable institutional adaptability, particularly in its capacity to experiment with policy reforms, invest in infrastructure, and drive long-term innovation. As Witt and Redding (2012) argue, this model reflects a deliberate decoupling of political liberalization from economic modernization, wherein authoritarian control is not a barrier but a strategic tool for development coordination.[34] China's significant rise in global rankings such as its leap from 96th to 31st place in the World Bank's Doing Business Index between 2014 and 2020 demonstrates that authoritarian governance, when coupled with strong institutional coherence, can effectively foster investor confidence and regulatory improvements.[35]

This comparative foundation reveals that while both China and Singapore restrict political rights, they maintain strong state capacity, legal coherence, and long-term development planning. In doing so, they challenge the conventional liberal-democratic thesis that links economic growth to democratic governance, offering a compelling alternative to the liberal-democratic model. Authoritarian capitalism combines a capitalist economy with political institutions that restrict civil and political freedoms. Although this model varies across cases, it often includes features such as strong state intervention, media control, the

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[31] F. Fukuyama, *The End of History and the Last Man* (New York: NY: Simon & Schuster, 2006).
[32] Larry Diamond, "Facing Up to the Democratic Recession," *Journal of Democracy* 26, no. 1 (January 2015): 141–55, https://doi.org/10.1353/jod.2015.0009.
[33] M. Pearson, M. Rithmire, and K. Tsai, "Party-State Capitalism in China," MA: Harvard Business School (Boston, 2020), https://www.hbs.edu/ris/Publication%20Files/CURH120827_01_Pearson_4ea34a0b-21d5-45af-a51a-c938eeeb6380.pdf.
[34] Witt, M. A., & Redding, G. (2012). *China: Authoritarian Capitalism*. SSRN Electronic Journal. https://doi.org/10.2139/ssrn.2171651
[35] World Bank, *Doing Business 2020: Comparing Business Regulation in 190 Economies* (Washington, DC: World Bank, 2020), https://doi.org/10.1596/978-1-4648-1440-2.

subordination of the judiciary, and the politicization of economic governance.[36] Some authoritarian capitalist systems—most notably China—are marked by centralized control and repression, while others, like Singapore, emphasize technocratic efficiency and strong regulatory frameworks. This diversity within authoritarian capitalism calls for a fresh conceptual look at the assumed link between economic openness and democratic governance.[37]

Singapore, in particular, represents a technocratic form of authoritarian capitalism that has attained remarkable economic competitiveness and governance effectiveness. Under the long-standing leadership of the People's Action Party, the country has become a global benchmark for efficient public administration, infrastructure, and anti-corruption efforts. Scholars often attribute Singapore's success to pragmatic policymaking and strong institutional integrity, despite the lack of substantive democratic processes.[38] Singapore's sustained economic performance under restricted political conditions challenges the instrumental justification for liberal democracy as a prerequisite for development.

By contrast, China embodies a harder form of authoritarian capitalism. The Chinese state exercises tight political control while selectively liberalizing the economy to promote growth. This model, often called party-state capitalism, features close integration between state and private economic actors, pervasive party oversight, and a wide-reaching system of political repression.[39] Despite longstanding critiques suggesting that centralized governance structures hinder innovation and adaptability, empirical evidence indicates that the Chinese state has exhibited considerable institutional flexibility, especially in experimenting with and scaling up economic reforms.[40] China's trajectory complicates the assumption that political liberalization is essential for sustained economic and technological advancement.

Eastern European countries like Hungary and Poland demonstrate how authoritarian capitalist practices can spread within formally democratic systems. Both have faced democratic backsliding under right-wing populist governments, marked by restrictions on media freedom, judicial independence, and civil society. Hungary under Orbán, especially, has been described as a "post-communist mafia state," where economic and political power are closely intertwined.[41] Despite setbacks in democratic quality, Hungary and Poland have maintained relatively stable macroeconomic performance and pursued policies favorable to business interests, challenging the notion that democracy is inherently superior in promoting economic development. Quantitative data further complicates the assumed link between political liberalism and economic outcomes. According to Freedom House, China remains

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[36] Daniel Kinderman, "Authoritarian Capitalism and Its Impact on Business," in *Proceedings on Symposium on Authoritarianism and Governance* (International Institute of Islamic Thought, 2021), https://doi.org/10.47816/02.001.23.

[37] D. Sallai and G. Schnyder, "What Is 'Authoritarian' about Authoritarian Capitalism?" 58, no. 6 (2019): 1217–49.

[38] R. Vasil, *Governing Singapore* (New York: NY: Routledge, 2020).

[39] D. Shambaugh, *China's Future* (Hoboken: NJ: Wiley, 2016).

[40] M. Pearson, M. Rithmire, and K. Tsai, "Party-State Capitalism in China," MA: Harvard Business School (Boston, 2020), https://www.hbs.edu/ris/Publication%20Files/CURH120827_01_Pearson_4ea34a0b-21d5-45af-a51a-c938eeeb6380.pdf.

[41] P. Lendvai, *Orban: Europe's New Strongman* (New York: NY: Oxford University Press, 2018).

classified as authoritarian, Singapore enjoys partial freedoms, and both Hungary and Poland have experienced democratic backsliding.[42] Transparency International's Corruption Perceptions Index underscores Singapore's outstanding governance standards, whereas the other three cases show much higher levels of perceived corruption. This suggests that, although authoritarian regimes often face challenges in political accountability, these deficits do not necessarily translate into weaker economic governance or reduced investor confidence.[43]

Assessments of the business environment, especially through the World Bank's Doing Business Index, show that authoritarian and populist regimes can match or even outperform liberal democracies in regulatory efficiency. Singapore consistently ranks among the top globally, while China has made notable strides, improving from 96th place in 2014 to 31st in 2020.[44] Poland's initial improvements under the Law and Justice Party eventually plateaued and declined, while Hungary's ranking remained fairly stable. These developments highlight that political authoritarianism does not prevent the implementation of business-friendly reforms and that state capacity plays a crucial role in determining the quality of the business environment.

Innovation capacity, often assumed to be linked with liberal political conditions, has also grown in authoritarian capitalist regimes. China's rise in the Global Innovation Index reflects targeted state investments in research and development, education, and infrastructure. Singapore consistently ranks among the top ten globally, while Poland and Hungary show moderate progress or stability. These patterns challenge the assumption that democratic freedoms are necessary for innovation and suggest that centralized governance can, under certain circumstances, foster technological progress and competitiveness.

Overall, the empirical evidence challenges the deterministic belief that liberal democracy inherently provides the best institutional environment for business. While democracies may better protect civil liberties and political participation, they do not always outperform authoritarian regimes in attracting investment, promoting innovation, or ensuring regulatory quality. Previous expectations that countries like Singapore would be more prosperous under liberal democracy are not supported by observed trends.[45] The sustained engagement of foreign investors and multinational firms in authoritarian capitalist states further suggests that economic actors frequently prioritize profit maximization over normative political concerns.

These findings call for a critical re-examination of both the normative and empirical arguments supporting liberal democracy within the framework of global capitalism. Since authoritarian capitalist regimes show that political liberalization is not always necessary for economic success, advocates of democracy need to emphasize its intrinsic value rather than rely solely on economic outcomes. Scholars like Amartya Sen and Cherian George maintain that democracy is fundamental for safeguarding dignity, pluralism, and accountability,

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[42] Freedom House, *Freedom in the World Report* (Washington, DC: Washington, DC: Freedom House, 2020).

[43] Transparency International, "Corruption Perceptions Index" (Berlin, Germany, 2019).

[44] World Bank. (2020). *Doing Business 2020*. https://doi.org/10.1596/978-1-4648-1440-2

[45] M. Verweij and R. Pelizzo, "Singapore: Does Authoritarianism Pay?," *Journal of Democracy* 20, no. 2 (2009): 31–45, https://www.journalofdemocracy.org/articles/singapore-does-authoritarianism-pay/.

Volume 8 Nomor 2 Agustus 2025: 360-381

independent of its economic benefits.[46] In the absence of such an argument, the convergence of authoritarian governance with market-friendly reforms may continue to erode the foundations of liberal democracy.

Longstanding assumptions that liberal democracy and economic liberalization are inseparable have been challenged by the experiences of China and Singapore. These countries illustrate distinct models of authoritarian capitalism, where strong state control coexists with sustained economic growth. Singapore's one-party dominance has fostered a highly efficient, technocratic government that excels in public administration, infrastructure, and anti-corruption measures. Its political restrictions have not hindered—and may have even supported—long-term economic planning and regulatory stability. Similarly, China has combined selective economic liberalization with strict political centralization under a party-state framework. Contrary to the notion that authoritarianism suppresses innovation, China has shown remarkable institutional adaptability, especially in scaling reforms and investing strategically in research and development.

These examples demand a critical reconsideration of the assumed incompatibility between authoritarian governance and capitalist success. The cases of China and Singapore suggest that, given sufficient state capacity, pragmatic policy-making, and effective institutions, economic progress can be maintained without political liberalization. This challenges the liberal-democratic thesis that economic development naturally follows political freedoms. Furthermore, it indicates that public acceptance of legal and institutional frameworks, rather than democratic form itself, may be more vital for securing investor confidence and regulatory quality. Against this backdrop, Indonesia's New Order experience provides a historical precedent, while the contemporary global rise of authoritarian-capitalist regimes underscores the urgent need to rethink democracy's role beyond solely economic arguments.

3.3. Rising Authoritarianism and the Fragility of Economic in Indonesia: the Problems with Existing Legal Framework

On paper, Indonesia is undoubtedly a democratic country with the supremacy of law as its fundamental basis. However, many scholars argue that since Joko Widodo's (Jokowi) regime began, Indonesia has been moving towards, and maintaining a pace of, authoritarian tendencies. Even the newly elected President, Prabowo Subianto, faces criticism that his administration exists in Jokowi's shadow.[47]

Indonesia's tendencies towards authoritarianism nowadays rooted in the so-called majoritarianism, flourished during Jokowi's regime. Majoritarianism refers to the practice of democratic elections in which the majority decides who will form representative government; majoritarianism is often deployed as a critique of how its executive leaders act.[48] Further,

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[46] C. George, "Neoliberal 'Good Governance' in Lieu of Rights. In Speech and Society in Turbulent Times;," 2017.

[47] Radhiyya Indra, "Jokowi's Influence Casts Shadow on Prabowo Administration," *The Jakarta Post*, 2025, https://www.thejakartapost.com/indonesia/2025/03/13/jokowis-influence-casts-shadow-on-prabowo-administration.html.

[48] Marcus Mietzner, "Flirting with Autocracy in Indonesia: Jokowi's Majoritarianism and Its Democratic Legacy," *Journal of Current Southeast Asian Affairs*, February 21, 2025, 1–19, https://doi.org/10.1177/18681034251318053.

Abrams stated that despotic majoritarianism is a form of democracy in which power holders draw on majoritarian victories to claim political legitimacy, while engaging in administrative despotism that constrains political expression and participation.[49]

Jokowi's interpretation of democracy was shaped by majoritarianism, though not in the usual sense of broad-based representation. He saw democracy more as a way to channel the majority's preferences, often at the expense of minority rights and institutional oversight. He placed strong faith in his ability to read the public mood—whether through direct contact like '*blusukan*' or his heavy reliance on polling data. His repeated electoral victories and steady poll numbers convinced him that he had a mandate to act in the interest of the majority, especially when it came to focusing on economic development rather than on civil liberties or democratic processes. A striking illustration of this authoritarian inclination, particularly concerning the disregard for community rights and democratic participation, is the Rempang Eco-City development project. The swift designation of this project as a National Strategic Project (PSN), coupled with documented human rights violations and maladministration against the indigenous people of Rempang Island, exemplifies how investor interests can be prioritized over the welfare and established rights of local communities, a key characteristic of authoritarian capitalism.

This development-first understanding of democracy made sense to many Indonesians. For Jokowi, economic growth was not just a goal—it was the main justification for how he governed, even if that meant compromising democratic norms. Surveys showed that most Indonesians associated democracy with job creation and stability more than with things like media freedom or civil rights. This gave Jokowi space to downplay formal procedures if it helped him deliver economic results. He used approval ratings as a guide, adjusting policies based on shifts in public sentiment instead of responding to institutional checks. As long as the economy was doing well, many people were willing to accept restrictions on their freedoms.[50]

Yet this development-first approach fundamentally contradicts the constitutional mandate outlined in Article 33 of the 1945 Constitution, which explicitly establishes the principles of economic democracy (*demokrasi ekonomi*) as the foundation of Indonesia's national economic system. Article 33, paragraph (4), provides that the national economy shall be organized based on the principles of economic democracy, which include togetherness, justice-oriented efficiency, sustainability, environmental awareness, autonomy, and balanced national development. This constitutional framework envisions an economic system rooted in the principle of kinship (*asas kekeluargaan*), where economic activities prioritize collective welfare over individual profit maximization. The concept of economic democracy, as enshrined in the constitution, demands meaningful public participation in economic decision-making processes and ensures that natural resources are managed in a way that serves the broad public interest rather than merely advancing elite interests.

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[49] Benjamin Abrams, "The Rise of Despotic Majoritarianism," *Democratic Theory* 9, no. 1 (June 1, 2022): 73–86, https://doi.org/10.3167/dt.2022.090105.
[50] Mietzner, Marcus. "Flirting with Autocracy in Indonesia: Jokowi's Majoritarianism and Its Democratic Legacy." Journal of Current Southeast Asian Affairs, February 21, 2025, 1–19. https://doi.org/10.1177/18681034251318053.

In practice, however, Jokowi's majoritarianism approach effectively reduced economic democracy to technocratic efficiency and growth metrics, bypassing the participatory governance mechanisms that Article 33 mandates. As constitutional expert Bagir Manan argues, it is time to implement Article 33 "correctly and appropriately under its principles," emphasizing that cooperatives should function as a people's economic movement rather than mere corporate entities.[51] This represents a significant departure from Indonesia's constitutional economic ideology, where the state is obligated not merely to facilitate investment but to ensure that economic development serves the broader principles of social justice and popular sovereignty. The gap between constitutional idealism and policy practice under authoritarian capitalism reveals how legal frameworks can be instrumentalized to legitimize elite-driven development while undermining the very democratic economic principles they purport to uphold.

Jokowi's majoritarianism had political effects. It left out the country's small liberal democratic minority, who became politically irrelevant except during elections. When campaigning—especially against opponents like Prabowo—Jokowi would reach out to them with anti-authoritarian messages. But once in office, their concerns were mostly ignored. Still, his majoritarianism was not simply about privileging the Muslim majority. He included religious minorities in a broader pluralist coalition aimed at pushing back against Islamist politics. This helped him defeat Islamic populists while also maintaining support from conservative pluralists who shared his development goals and often held conservative social views, including opposition to progressive agendas.[52]

This version of majoritarianism also enabled executive concentration of power, though not in a way that fully dismantled democracy. Jokowi expanded his control over institutions like the KPK, the judiciary, and state oversight bodies, often based on a mix of political interest and polling data that showed most Indonesians did not object. Changes like weakening anti-corruption efforts or advancing his family's political careers generated little pushback. In some cases—like banning hardline Islamic groups or removing oversight agencies—he acted with the knowledge that most people either supported the moves or did not care. This approach, relying on either majority support or indifference, allowed Jokowi to stretch the boundaries of Indonesia's democratic system without breaking it outright.[53]

With majoritarianism and the idea for economic growth, during his regime, several investment policies to support economic growth were enacted. The most controversial, yet somehow succeed is the issuance of the omnibus law back in 2020. The Indonesian Constitutional Court (*Mahkamah Konstitusi* or MK) has handed down several critical decisions concerning the Omnibus Law on Job Creation (Law No. 11 of 2020), highlighting serious legal and procedural issues in both its formulation and substance. In Decision No. 91/PUU-XVIII/2020, the Court ruled that the law was formally flawed for several key reasons. First, the use of the omnibus method had no clear legal foundation, which contributed to legal

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[51] "Bagir Manan: Saatnya Laksanakan Pasal 33 UUD 1945 Secara Benar - ANTARA News," accessed July 23, 2025, https://www.antaranews.com/berita/1018480/bagir-manan-saatnya-laksanakan-pasal-33-uud-1945-secara-benar.
[52] Mietzner.
[53] Mietzner.

uncertainty. Second, the legislative process lacked transparency, as the draft bill and its academic text were not made available to the public, limiting opportunities for meaningful participation. Moreover, the Court found that substantial revisions were made after the bill had already been approved by the DPR (House of Representatives) and the President—an action that went against proper legislative procedures.

Because of these issues, the Court declared the law "conditionally unconstitutional" and gave the government two years to make the necessary corrections in line with the Constitution. During this period, the government was not allowed to issue new implementing regulations or make strategic policy decisions based on the law. However, the decision created legal ambiguity. Some interpreted it as meaning the law could still be enforced, while others believed it should be put on hold until the required revisions were made.

The Court later expanded its critique in Decision No. 168/PUU-XXI/2023, where it ruled that 21 provisions in the labor section of the law were unconstitutional—specifically those related to foreign workers, fixed-term employment contracts (PKWT), outsourcing, minimum wage, and termination of employment (PHK). These provisions were seen as eroding workers' protections and disproportionately benefiting employers. The Court ordered that a new, separate employment law be drafted within two years to resolve these issues.

Tensions escalated further when, in December 2022, the government issued Government Regulation in Lieu of Law (Perppu) No. 2/2022 on Job Creation—bypassing the normal legislative process. This move drew strong criticism from civil society organizations like the Indonesian Legal Aid Foundation (YLBHI) and Commission for Missing Persons and Victim of Violences (KontraS) who saw it as ignoring the Constitutional Court's ruling and reinforcing authoritarian tendencies within the government.[54] Despite this, in 2023, the government and the legislative body enacted Law of The Republic of Indonesia Number 6 of 2023 concerning The Enactment of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (hereinafter referred as omnibus law).

Despite the law's goal to improve Indonesia's business climate, the World Bank's Ease of Doing Business index, in which Indonesia ranked 73rd in 2020, was discontinued soon after, leaving a lack of official comparative data to track improvements.[55] In terms of foreign investment, Indonesia's FDI inflows rose from USD 28.2 billion in 2019 to USD 33.5 billion in 2023, though analysts argue this modest increase cannot be directly attributed to the Omnibus Law due to ongoing global and regional economic changes. Similarly, the national unemployment rate only slightly changed, from 5.3% in 2019 to 5.4% in 2023,[56] failing to reflect the job creation promises made by proponents of the law. The poverty rate also slightly

[54] The Jakarta Post. "Analysis: Perppu Creates Problems Not Jobs," 2023. https://www.thejakartapost.com/opinion/2023/01/09/analysis-perppu-creates-problems-not-jobs.html.
[55] World Bank. Doing Business 2020: Comparing Business Regulation in 190 Economies. Washington, DC: World Bank, 2020. https://doi.org/10.1596/978-1-4648-1440-2.
[56] ARC Group, "Investment Outlook Indonesia 2024," 2024, https://arc-group.com/report/investment-outlook-indonesia-2024/.

worsened, moving from 9.2% in 2019 to 9.4% in 2023,[57] indicating that anticipated economic benefits did not trickle down to the lower-income population.[58] Furthermore, critics argue that even without the omnibus law, investment is always going to increase—hence the enactment of omnibus law could be seen as pointless. Flourished authoritarian tendencies, resulting into social instability, and the lack of transparency that the Indonesian government illustrated in the enactment of the omnibus law marked that Indonesia's investment policy only attract short-term investors, not the sustainable one.[59]

While China and Singapore demonstrate how authoritarian capitalism can thrive under strong state capacity and institutional coherence, Indonesia's experience reveals the opposite, a system where legal frameworks remain captive to elite interests, perpetuating economic fragility rather than stability. This divergence underscores that authoritarianism's success hinges not on repression alone, but on the state's ability to enforce rules impersonally a critical failure in Indonesia's case.

This institutional tendency is also evident in the country's extractive and resource-based sectors. As Armansyah and Fadjar (2024) explain, the implementation of Corporate Social Responsibility (CSR) particularly through Environmental Development Programs has become a strategic component in balancing business sustainability with its environmental and social impacts. These responsibilities are mandated by legal frameworks such as Law No. 40/2007 and Government Regulation No. 47/2012, especially for companies in the natural resources sector. Although these initiatives are intended to empower communities and promote sustainability, they often lack proper integration into core business strategies and suffer from limited community involvement. Armansyah notes that CSR efforts are frequently treated as peripheral to main business operations, relying heavily on cross-sector collaboration and sustained engagement. Therefore, the transformative potential of CSR in realizing long-term environmental justice remains hindered by structural and institutional constraints.[60]

These dynamics are echoed in Indonesia's digital economy. Pratama (2021) analyzes the implementation of Government Regulation No. 40/2021, which promotes the development of digital economic zones inspired by Silicon Valley. While the policy is officially framed as a step toward investment facilitation and administrative efficiency, it also reflects a top-down planning model where state-led priorities risk marginalizing local participation. The concentration of digital hubs in Java and select urban regions reinforces regional disparities, and without robust institutional safeguards, the potential for regulatory capture persists. Although the regulation seeks to streamline licensing and improve Indonesia's Ease of Doing

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[57] Badan Pusat Statistik (BPS), "August 2019: Open Unemployment Rate of 5.28 Percent," 2019, https://www.bps.go.id/en/pressrelease/2019/11/05/1565/august-2019-open-unemployment-rate--tpt--of-5-28-percent.html.

[58] Badan Pusat Statistik (BPS), "Tingkat Pengangguran Terbuka & Tingkat Kemiskinan 2019–2023," 2023. https://www.bps.go.id/en/statistics-table/2/NTQzIzI%3D/unemployment-rate--august-2023.html

[59] Sandy Milne (2021), "Indonesia's Omnibus Law: A Red Flag for Investors?," accessed May 19, 2025, https://dialogue.earth/en/business/indonesia-omnibus-law-red-flag-investors/?utm_source=chatgpt.com.

[60] Endang Pratiwi, Theo Negoro, and Hassanain Haykal, "Teori Utilitarianisme Jeremy Bentham: Tujuan Hukum Atau Metode Pengujian Produk Hukum?," *Jurnal Konstitusi* 19, no. 2 (June 2, 2022): 268, https://doi.org/10.31078/jk1922.

Business, its technocratic execution may sideline democratic oversight, thus mirroring the logic of authoritarian capitalism that privileges economic expediency over participatory governance.[61]

The structural character of Indonesia's legal weakness is further reflected in its business law regime. Although Indonesia has enacted comprehensive legal frameworks—including the Limited Liability Companies Law (No. 40/2007), the Investment Law (No. 25/2007), and the Job Creation Law (No. 11/2020)—these laws tend to prioritize capital interests over principles of social justice. As Kurniawan et al. (2025) explain, chronic problems such as fragmented regulation, poor enforcement, and bureaucratic corruption have produced a legal culture dominated by formalism, prioritizing efficiency and economic output at the expense of equity and democratic accountability. The philosophical foundations of Indonesian economic law, which appeal to distributive justice and social harmony, remain largely rhetorical.[62]

This normative-practical mismatch reflects a broader authoritarian logic in Indonesia's legal system. Rather than serving as a mechanism for public accountability, the law functions as an instrument for legitimizing elite-driven development. Its purpose is less about safeguarding the public interest than about facilitating policies aligned with state and corporate priorities. As Tedjokusumo and Siswanto (2024) argue, legal protections should be anchored in the principle of equal dignity as enshrined in the second principle of Pancasila "Just and Civilized Humanity" not merely on capital contribution.[63] However, this ideal is consistently subordinated to a utilitarian application of legal norms, reproducing structural injustice reminiscent of the New Order era.

Indonesia's legal fragility, therefore, cannot be attributed to technical deficiencies alone. It reflects a deeper institutional logic—one in which the law is designed not to fulfill democratic demands, but to regulate markets and secure elite-driven economic growth. Even reformist efforts to attract investment through legal rationalization have failed to resolve underlying tensions between authoritarian governance, legal certainty, and social accountability. As Kurniawan et al. note, systemic problems of legal fragmentation and persistent institutional weakness continue to erode public trust and equitable development. In the end, Indonesia's legal system looks modern and pro-investment, but lacks real commitment to ethics and democracy—showing the true nature of authoritarian capitalism. With that being said, Indonesia, since Jokowi's regime, has aligned with the New Order's pattern of authoritarian capitalism under Soeharto's rule. Another matched pattern can be seen through Indonesia 'reliance on foreign debt both to promote development and investment.

[61] Arya Putra Rizal Pratama, "Analisis Yuridis Terhadap Pertumbuhan Ekonomi Berbasis Digital Kawasan Ekonomi Khusus," *Jurnal Hukum Bisnis Bonum Commune* 4, no. 2 (August 2021), https://doi.org/10.30996/jhbbc.v4i2.

[62] I Gede Agus Kurniawan et al, "The Philosophical Approach to the Existence of Business Law: Comparison of Indonesia, Vietnam, Ghana," *Jurnal Hukum Bisnis Bonum Commune* 8, no. 1 (February 2025): 55–76, https://doi.org/10.30996/jhbbc.v8i1.

[63] Dave David Tedjokusumo and Carissa Amanda Siswanto, "Legal Protection for Foreign Investments Aligned with the Second Principle of Pancasila: A Scholarly Exploration," *Jhbbc*, February 4, 2024, 32–45, https://doi.org/10.30996/jhbbc.v7i1.9872.

Indonesia's current political and legal direction reveals a deeper continuity with the legacy of authoritarian capitalism rooted in the New Order era. Although democratic procedures remain formally intact, the Jokowi administration has shifted the focus of governance toward economic growth—often at the cost of democratic norms, institutional checks, and social equity. Under the banner of majoritarianism, executive power has grown stronger, public dissent has been increasingly constrained, and legal reforms like the Omnibus Law have prioritized investor interests over participatory governance. These trends have not only persisted under the new administration but also highlight how the legal system continues to legitimize elite-driven development rather than serving as a safeguard for the public good. Moreover, Indonesia's continued dependence on foreign debt to fuel investment mirrors past strategies and reinforces an extractive growth model that risks deepening inequality. While this approach may deliver short-term economic results, it threatens to entrench long-term institutional weaknesses and erode the democratic foundations of the Indonesian state.

4. Conclusions

This research demonstrates that Indonesia's shift toward authoritarian capitalism—exemplified by the enactment of the Omnibus Law reflects a broader pattern where legal frameworks are subordinated to elite interests, often at the expense of democratic norms and social justice. The study critically analyzed how legal instruments, under the guise of promoting investment and economic growth, are being utilized to legitimize executive power, marginalize public participation, and weaken institutional accountability. While the experiences of countries like China and Singapore show that authoritarian capitalism can succeed under strong state capacity and regulatory coherence, Indonesia's institutional fragility reveals that without impartial enforcement and public trust in the legal system, such a model fosters short-termism and social instability rather than sustainable development.

The findings highlight the urgent need for legal reform that goes beyond mere technical fixes or investment facilitation. Application of this research points to the importance of reorienting Indonesian legal development toward principles of justice, transparency, and inclusive participation. Future legal and economic policy must prioritize democratic oversight, institutional integrity, and equal protection under the law if Indonesia is to avoid repeating the structural failures of the New Order era. In this context, legal education, civil society engagement, and judicial independence must be strengthened to restore the law's role as a safeguard for public interest, not a tool of economic expediency. Rebuilding public trust in the legal system is critical not only for the legitimacy of governance but also for fostering a resilient and equitable economic future.

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