

CHAPTER I

INTRODUCTION

Human rights and national security are often perceived as conflicting priorities within the context of governmental operations. The primary responsibility of the state is to protect its citizens from threats that may endanger social, political, and economic stability (Nguyen et al., 2023). States are often required to undertake actions during this process that may restrict individual freedoms that should be safeguarded by international law, including the right to assemble, the freedom of expression, and the right to protection from inhumane treatment. Circumstances in which threats to national security are perceived as critically urgent, such as in cases of terrorism, separatist movements, or significant political turmoil, intensify these conflicts even more.

In their essential function of upholding public order and ensuring national security, states frequently implement actions that directly limit individual rights and civil liberties as protected by international law. These actions encompass, but are not limited to, the right to peaceful assembly, the freedom of speech and expression, and the entitlement to be free from cruel, inhuman, or degrading treatment. Such limitations are often rationalized by states as necessary responses to emergencies or substantial threats to national security, including terrorism, separatist movements, armed uprisings, or acute political crises (Finden & Dutta, 2024).

Emergency situations often exacerbate the conflict between state security interests and the duty to uphold human rights. A significant issue arises with the proclamation of a state of emergency, which permits governments to deviate from specific commitments outlined in international human rights law. As stipulated in Article 4 of the International Covenant on Civil and Political Rights (ICCPR), any such deviations must be essential, proportionate, non-discriminatory, and must not conflict with other international legal obligations (Isfarin & Apriandhini, 2021).

International oversight organizations, such as the Human Rights Committee and entities like Amnesty International, have consistently cautioned against the exploitation of emergency powers to rationalize widespread violations of rights. They stress that certain rights, including the ban on torture, are non-derogable and must be safeguarded even in periods of national emergency (United Nations Human Rights, 2011).

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Furthermore, research indicates that in reality, certain governments manipulate national security discourses to rationalize authoritarian growth, stifle political opposition, or marginalize minority populations, consequently eroding the foundations of the rule of law and democratic governance (Earl et al., 2022). Therefore, it is essential to strike a balance between the state's legitimate interests in maintaining security and its legal and ethical obligation to consistently uphold fundamental human rights.

Nations with intricate historical, social, and political backgrounds, such as Indonesia and The Gambia, must focus on achieving a balance between these aspects. Indonesia, the largest archipelagic country globally, faces numerous challenges in maintaining its territorial integrity, combating separatist movements in Aceh and Papua, and addressing terrorism, which often arises alongside the rise of extremist groups. The measures implemented to tackle these threats can sometimes lead to human rights violations, especially in light of the persistent conflict in Papua.

The use of military force in Papua, along with other measures implemented in reaction to the separatist threat in Indonesia, has led to severe violations of human rights. The ongoing conflict in Papua has resulted in torture, enforced disappearances, extrajudicial killings, and restrictions on freedom of speech. Nevertheless, despite the transition to a post-authoritarian leadership following Yahya Jammeh's repressive regime, The Gambia continues to encounter considerable challenges in upholding human rights, especially concerning women's rights, children's rights, and freedom of expression. Current reform efforts are still overshadowed by the oppressive policies established by previous administrations, even as attempts are made to secure the nation.

This study seeks to explore in greater depth the ways in which Indonesia and The Gambia navigate the tensions that arise between the pursuit of national security and the safeguarding of human rights, along with the effects of these policies on their citizens. The case studies examined encompass the Papuan conflict in Indonesia and the human rights issues faced in The Gambia, especially concerning freedom of expression, the management of violence, and the rights of women and children.

CHAPTER II

METHOD

The approach employed in this research is known as comparative legal analysis. This technique involves comparing legal systems, rules, regulations, or judicial decisions across different countries to evaluate the similarities and differences in the application of laws to identical issues. The objective of this method is to identify best practices that can be adopted or adapted by other nations, while also striving to gain a more profound and thorough understanding of how a specific country tackles particular legal challenge (Efendi & Rijadi, 2022).

This research investigates the equilibrium between human rights and state security in Indonesia and The Gambia. It employs qualitative methodologies, including the analysis of academic literature, international treaties, legal documents, and governmental policies. The study illustrates the tension between state security initiatives and the safeguarding of human rights through case studies of significant occurrences in both countries, such as the Papuan conflict in Indonesia and the challenges to freedom of expression in The Gambia. This research will address the impact of Indonesia's security strategies on human rights in Papua, particularly in the context of terrorism and separatist movements. Additionally, it will assess the human rights situation in The Gambia following the governmental transition, focusing specifically on women's rights, children's rights, and freedom of expression. By adopting this approach, the study aims to shed light on how these two nations navigate the tensions between the protection of human rights and the maintenance of state security, as well as the influence of social, political, and global factors on these policies.

CHAPTER III

RESULT AND DISCUSSION

1. RESULT

- a. Indonesia and The Gambia handle the tensions between efforts to maintain national security and human rights protection,
 - 1) Indonesia's Legal Framework in Security

The Anti-Terrorism Law (2003), Military Operations Areas (2004), and various Presidential Regulations represent a selection of the legal frameworks that Indonesia has established to enhance national security. These statutes provide the government and security agencies with significant powers to address issues of separatism and terrorism, often at the expense of civil liberties. Such laws are commonly associated with allegations of arbitrary detentions, torture, and censorship, and are primarily enforced by the Indonesian National Army (TNI) and the Indonesian National Police (Polri) (Republic of Indonesia, 2003).

A notably illustrative example is the persistent conflict in West Papua, where the Indonesian government has mobilized military forces under the guise of counterinsurgency, yet in reality frequently suppresses indigenous voices and nonviolent opposition. In the year 2024 alone, there were 53 recorded instances of torture and 17 extrajudicial killings. Civil liberties are additionally undermined when peaceful demonstrations even those that have been officially registered are violently dispersed.

2) The Gambia's Legal Framework in Security

During the Jammeh era, the National Intelligence Agency (NIA) and the Gambian Armed Forces perpetrated human rights violations, as they have traditionally overseen the nation's security framework. The present government, under the leadership of Adama Barrow, has endeavored to enhance protections for human rights, despite the continued deployment of security forces to ensure stability. The Gambia's 2017 National Security Policy underscores the importance of maintaining peace and order, while also incorporating provisions that ensure the respect for human rights during security operations (Dwyer, 2023).

Indonesia and The Gambia exemplify two unique yet similarly intricate strategies in addressing the ongoing conflict

between national security initiatives and the safeguarding of human rights. In Indonesia, the government has implemented a range of stringent legal measures, including the Anti-Terrorism Law (2003), the Military Operations Areas Law (2004), and several Presidential Regulations, aimed at countering threats like separatism and terrorism. These legal frameworks grant significant powers to the Indonesian National Army (TNI) and the Indonesian National Police (Polri), frequently leading to allegations of arbitrary detentions, torture, and censorship (Butt, 2012). The implementation of these laws has sparked concerns among civil society and international observers regarding the erosion of civil liberties in the name of state security.

In contrast, The Gambia especially during the regime of Yahya Jammeh experienced extensive human rights abuses carried out by the National Intelligence Agency (NIA) and the Gambian Armed Forces, both of which were predominant in the nation's security framework. After the transition to President Adama Barrow's government, The Gambia implemented the 2017 National Security Policy, which seeks not only to uphold national stability but also to explicitly integrate respect for human rights into its security operations. Although The Gambia continues to grapple with the remnants of its authoritarian past, this policy shift represents a significant effort to institutionalize accountability and transparency within its security sector.

Therefore, while Indonesia's security framework often emphasizes state control and territorial integrity, sometimes at the cost of individual liberties, The Gambia illustrates an increasing recognition of the necessity to align security practices with international human rights standards. This comparative analysis highlights how varying historical and political contexts influence a nation's ability and readiness to reconcile these frequently conflicting priorities.

The connection between data security and human rights has gained prominence in debates surrounding national security policy. In the contemporary digital era, data transcends being a mere technical resource it represents political capital. Governments frequently rationalize the gathering and regulation of data in the name of national security; however, this approach often leads to tensions with essential human rights, including privacy, freedom of expression, and the right to due process (United Nations Human Rights, 2019). In the comparison of Indonesia and The Gambia, we identify two contrasting yet enlightening frameworks for structuring data security regimes one leaning towards authoritarian governance, while the other shifts towards a rights-oriented adjustment.

Indonesia exemplifies a scenario where national security legislation grants extensive powers for surveillance, data interception, and the criminalization of digital dissent. The Anti-Terrorism Law (2003), Military Operations Areas (2004), and subsequent Presidential Regulations constitute the foundation of a legal framework that endorses the augmentation of data collection practices by the Indonesian National Army (TNI) and the Indonesian National Police (Polri). This legal structure allows the government to conduct mass surveillance and censorship with minimal oversight, especially in areas like West Papua, where the state aims to quash separatist movements. Reports indicate that digital surveillance, phone tapping, and algorithmic profiling of activists are employed not to safeguard individuals, but rather to monitor and eliminate political threats (Amnesty International, 2024). In this context, data serves as a mechanism of discipline, reflecting Foucault's concept of biopolitics, wherein the regulation of populations is progressively executed through "invisible" methods like information governance and surveillance systems.

In contrast, The Gambia despite its historical context of authoritarian abuses under Yahya Jammeh exhibits a political transition towards rights-oriented security governance under Adama Barrow's leadership. The National Security Policy of 2017 recognizes the importance of human rights, which encompasses the right to privacy and legal safeguards in surveillance practices. While there are still obstacles to effective institutional implementation, the emphasis on transparency, accountability, and judicial oversight marks a significant shift from the previously opaque and oppressive intelligence frameworks. This indicates that data security, when integrated within democratic principles and governed by legal limitations, can serve as a tool for both state safeguarding and individual empowerment (Truth, Reconciliation and Reparations Commission, 2022).

These two instances exemplify a wider theoretical conflict: data security is not fundamentally opposed to human rights; rather, its role is influenced by political motives and institutional frameworks. In authoritarian regimes, the securitization of data often emphasizes state dominance, thereby reinforcing what Deleuze (1992) referred to as "societies of control" where authority is exerted through the ongoing modulation of access, movement, and visibility. In contrast, democratic or reform-minded nations are more inclined to perceive data governance as an area necessitating checks and balances, which has the potential to enhance trust between the state and its citizens. The differing models of Indonesia and The Gambia demonstrate that the legitimacy of any data security framework is not determined by its ability to shield the state from threats, but rather by its adherence to the rule of law, proportionality, and respect for human dignity (Deleuze, 1992).

3) The Impact of the policies

a)Indonesia: Papuan Conflict

The ongoing armed conflict in West Papua continued to be a significant cause of human rights violations in 2024, with documented instances of torture, extrajudicial killings, and disappearances, especially in the highland regions. The Indonesian government maintained its suppression of freedom of expression, particularly evident in the violent dispersal of peaceful protests. The military's role in facilitating resource extraction in the area under President Prabowo Subianto intensified the pressures faced by indigenous Papuans regarding their land and cultural heritage. The indigenous population saw minimal benefits from the government's focus on infrastructure and resource extraction, particularly in healthcare and education, which were further compromised by violence and the relocation of labor. By December 2024, armed conflicts and military operations had compelled nearly 85,000 Papuans to abandon their homes, resulting in a lack of access to vital services (Human Rights Monitor, 2025).

The Indonesian Supreme Court upheld the acquittal of human rights advocates Haris Azhar and Fatia Maulidiyanti in their lawsuit against Luhut Pandjaitan, the Minister for Maritime and Investment Affairs, on September 24, 2024. This decision represents a significant victory for civil liberties (Human Rights Monitor, 2024).

In 2024, police intervened in 27 protests, a significantly higher number than in 2023, yet still fewer than during the peak years of 2019 and 2020, which were marked by political turmoil that spurred greater civil society engagement. Statistics reveal a slight decrease in the number of peaceful demonstrations that were forcibly dispersed.

Table 1. Data On civil and political right in West Papua

Data on civil and political rights in West Papua	2019	2020	2021	2022	2023	2024
Nr. of reported torture/ill-treatment cases*	22	34	N/A	46	39	53
Nr. of reported torture/ill-treatment victims*	126	89	69	223	160+	166+
Nr. of reported cases of extra-judicial killings	16	16	N/A	14	17	17
Nr. of reported victims of extra-judicial killings	33	25	17	18	42	21
Nr. of reported cases of enforced disappearances	2	2	N/A	3	2	3
Nr. of reported victims of enforced disappearances	6	4	4	6	3	3
Nr. of sanctions against perpetrators of police and military	2	2	N/A	13	7	0
Nr. of political arbitrary detentions	619	384	585	492	311	396
Nr. of peaceful demonstrations/assemblies on West Papua issues forcefully intervened by security forces*	38	37	N/A	29	13	27
Nr. of persons sentenced for treason & criminal conspiracy (Article 106 and/or 110 KUHP)	86	18	N/A	15	10	4

The report primarily focuses on two key areas: Conflict and Displacement, as well as Civil and Political Rights. The Conflict and Displacement section addresses the ongoing displacement of indigenous communities and their insufficient access to essential services, whereas the Civil and Political Rights section deals with issues such as impunity, extrajudicial killings, torture, and restrictions on freedom of expression.

Key Findings:

- i. Impunity: The lack of accountability for human rights violations remains a significant issue. Investigative efforts are often either absent or protracted, allowing security personnel who breach the law to frequently evade consequences. The spread of misinformation influences public perception, complicating the efforts of human rights defenders to ensure that perpetrators are held responsible. In a notable incident in March 2024, three Papuans were subjected to torture by soldiers; however, despite widespread public outcry, the investigation progressed at a

sluggish pace, and justice remained out of reach (Human Rights Monitor, 2024).

- ii. **Homicides and Torture:** There has been a rise in cases of extrajudicial executions and torture, with native Papuans being disproportionately impacted. In 2024, the recorded instances of torture reached 53, alongside 17 reported extrajudicial killings, demonstrating a lack of decline over the past decade. The systemic impunity that facilitates these violations is exacerbated by racial discrimination directed at Papuans (Human Rights Monitor, 2024).
- iii. **Freedom of Expression:** Although officially recognized, the police often interrupted peaceful demonstrations by Papuan activists in 2024. Human rights defenders, journalists, and activists faced intimidation and physical violence. Instances of arbitrary detentions have occurred, and authorities are progressively pursuing political dissidents with criminal charges that are not connected to treason (Human Rights Monitor, 2024).
- iv. **Land Grabbing and Resource Extraction:** Initiatives from both the government and the business sector exert significant pressure on the indigenous Papuan population. In 2024, there was an increase in land grabs as private investors bypassed the legal framework to exploit the region's natural resources, particularly in the Merauke Regency. Initiatives such as the national food security project jeopardize the land and livelihoods of thousands of indigenous individuals, placing them in danger of displacement (Human Rights Monitor, 2024).
- v. **Healthcare Crisis:** Indigenous Papuans encounter considerable disparities in healthcare, especially in rural areas. Numerous health centers are inadequately equipped, and there is a scarcity of medical resources. This situation raises concerns and further deters Papuans from seeking medical care, as military forces often occupy healthcare

facilities. The ongoing violence exacerbates the situation by denying displaced individuals access to quality healthcare (Reuters, 2018).

- vi. Education Crisis: The education system in West Papua is facing an underlying disaster. Numerous teachers are fleeing conflict zones, leading to significant interruptions in educational services. Given the troubled history that Papuan tribes have with the military, their concerns have intensified due to the presence of military personnel assigned to teach in these regions. Illiteracy rates remain alarmingly high, particularly in areas such as Papua Pegunungan, where many young individuals are deprived of educational opportunities (Badan Pusat Statistik, 2024).
- vii. Conflict and Displacement: Over 85,000 Papuans have been forced to leave their homes due to the escalation of armed conflict into new regions. Military operations have destroyed homes and livelihoods, worsening the humanitarian crisis. Those who have been displaced are required to reside in overcrowded shelters or temporary camps, facing challenges in obtaining essential resources (CNN Indonesia, 2024).

Table 2. Armed violence in West Papua

Armed violence in West Papua	2018	2019	2020	2021	2022	2023	2024
Number of armed attacks	44	33	64	85	72	110	135
Number of casualties among security forces	8	18	11	18	19	57	33
Number of injured security forces	15	12	10	34	29	41	26
Number of casualties among TPNPB fighters	12	14	14	24	8	18	21
Number of injured TPNPB fighters	4	0	1	8	1	7	6
Total number of fatalities among civilians during armed clashes or raids	42	20	27	28	43	63	44
Number of civilians killed by security force members ³	17	13	20	12	5	23	21
Number of civilians killed by TPNPB fighters	25	7	7	14	38	40	23
Total number of injured civilians	15	9	27	20	21	57	37
Number of civilians injured by security force members	7	9	10	7	2	23	21
Number of civilians injured by TPNPB fighters	8	0	16	13	19	34	16

Source: HRM Documentation and Database, the data was compiled from media sources, TPNPB press releases, and information submitted by a network of human rights defenders in West Papua

The number of armed attacks rose dramatically from 64 in 2020 to a record high of 135 in 2024, as reported by HRM data. Police statistics indicate that armed criminal groups were responsible for 203 security incidents in 2024. In a similar vein, the reduction in fatalities among security forces, which decreased from 57 to 33, coincided with a drop in civilian injuries from 63 in 2023 to 44 in 2024. The deployment of advanced weaponry by the TNI, including battle drones and surveillance aircraft, may have contributed to this decline. Nevertheless, the increase in injuries among combatants and fatalities within the TPNPB implies that the conflict is likely to persist in 2024, showing no signs of resolution (CNN Indonesia, 2024).

The relationship between data security and human rights in Papua has become more apparent in light of the socio-political changes of 2024. A particularly alarming

human rights abuse is the curtailment of freedom of expression via digital surveillance. Although many peaceful protests organized by the Papuan populace were officially sanctioned, a significant number of these gatherings were violently disrupted by security personnel. Activists and journalists often faced harassment, with their communications being subjected to state surveillance. This situation demonstrates that data security frameworks, which are intended to protect individuals, are being repurposed as instruments of oppression, thereby diminishing the realm of civil liberties.

Moreover, the problem of impunity regarding human rights abuses in Papua is intensified by inadequate documentation systems and insufficient secure management of forensic data. The incident involving three Papuan civilians who suffered torture at the hands of military personnel in March 2024 illustrates how legal actions were hindered by the lack of reliable digital evidence. The insecure management of investigative data not only hinders justice but also sustains a culture of impunity. This highlights that inadequate data security is not just a technical issue but has significant consequences for achieving justice and accountability.

The connection between data security and human rights is clearly observable in matters concerning land rights. In Merauke, there has been a significant rise in the confiscation of Indigenous land. This increase has largely been facilitated by the exploitation of unclear and non-inclusive digital land registration systems. Without control over ownership information, Indigenous communities have forfeited their economic and cultural rights to their ancestral territories. This restrictive digital framework illustrates how a lack of transparency and public engagement can result in systemic violations of human rights (Indrawan et al., 2017).

The circumstances are exacerbated by a humanitarian crisis impacting individuals displaced by armed conflict in Papua. The unequal access to vital services, including healthcare, education, and humanitarian assistance, primarily stems from the absence of a secure and inclusive population data system. In this regard, data security is crucial not only for safeguarding individual privacy but also as a necessary condition for the realization of social and cultural rights (Human Rights Monitor, 2024). Without fair and reliable data systems, vulnerable groups such as Indigenous peoples and refugees will continue to face marginalization and denial of their rights.

In summary, the examination of Papua's situation in 2024 underscores the essential importance of data security in safeguarding and promoting human rights. When data is utilized in oppressive, deceptive, and exclusionary manners, violations of human rights become increasingly widespread. On the other hand, if data systems are administered with transparency, security, and inclusivity, they can establish a vital basis for social justice, the safeguarding of at-risk groups, and the progression of human rights in Indonesia.

b) Gambia:

The Gambia faces significant challenges in balancing the protection of human rights with the need for state security, particularly in the aftermath of Yahya Jammeh's regime. Numerous human rights issues persist, even with some progress made, such as increased accountability for the atrocities committed during the Jammeh dictatorship. Although female genital mutilation (FGM) remained illegal in The Gambia in 2024, the practice continued to be widespread. Additional critical problems include the exploitation of children working on the streets and the trafficking of minors for sexual exploitation.

Despite efforts to address these concerns, substantial limitations on freedom of expression and the right to peaceful assembly remain in place.

Key Issues:

- i. Female Genital Mutilation (FGM): In spite of initiatives aimed at prohibiting the practice, FGM remains prevalent within Gambian culture. A legislative proposal to lift the ban on FGM was presented in parliament in March 2024; however, it was rejected following advocacy from survivors and activists who emphasized the significant health hazards linked to the practice. According to UNICEF, approximately 73% of Gambian women and girls aged 15 to 49 have undergone female genital mutilation. This ongoing issue underscores the tension between traditional customs and the government's efforts to uphold women's rights, with social dynamics complicating the path to change (Amnesty International, 2024).
- ii. Women's Rights and Health: The latest data from 2019–2020 indicates that The Gambia continues to experience elevated maternal mortality rates, recording 289 deaths per 100,000 live births. This statistic highlights the significant inequality in access to adequate healthcare, particularly in rural areas.

Furthermore, the country's advancement towards achieving full gender equality is obstructed by laws that exclude marital rape from criminal charges, a matter that remains contentious among advocates for women's rights (Amnesty International, 2024).

- iii. Children's Rights and Child Trafficking: The Gambia continues to combat child trafficking, particularly concerning the exploitation of children trafficked for sexual purposes and labor on the streets. Numerous children still lack education and are vulnerable to abuse, despite the government's announcement of Phase 2 of the Child Protection Project. Non-governmental organizations such as Samaritana Gambia have raised alarms regarding the increase in child trafficking, highlighting the insufficiency of effective child protection measures (Amnesty International, 2024).

Freedom of Expression and Freedom of Assembly

- i. Press Freedom and Freedom of Speech: Despite efforts to enhance the freedom of information, stringent media regulations persist. In the 2024 World Press Freedom Index, Gambia's ranking fell notably from fifth to tenth in Africa, reflecting increased restrictions on the media and freedom of expression. The environment for journalists and activists is further deteriorated by the sedition law and the forthcoming Cybercrime Bill 2023, which are viewed as tools for suppressing dissenting opinions (Foroyaa, 2024).
- ii. Activist Arrests: In April 2024, eight activists were apprehended for orchestrating a sit-in protest regarding purported corruption and disruptions in ferry services. This situation exemplifies the government's reaction to peaceful demonstrations through the application of excessive force, a strategy often employed to maintain state security while compromising fundamental freedoms (Amnesty International, 2025).

Economic, Social, and Cultural Rights

- i. **Food Security:** In 2023, 29% of the population is facing food hardship, indicating that food insecurity remains a critical issue in the Gambia. This marks a 3% rise compared to the previous year. Additionally, the livelihoods of local fishermen have been adversely affected by the illegal, unreported, and unregulated fishing practices of foreign trawlers, which have also led to a reduction in the fish supply available for local consumption. Despite the government's attempts to address this problem in collaboration with the UN Food and Agriculture Organization, it continues to affect the economic stability of the nation (Amnesty International, 2025).
- ii. **Housing and Social Access:** Individuals in vulnerable situations are significantly affected by a critical shortage of affordable housing, which intensifies social and economic disparities. In response, the government has unveiled plans to build 200,000 affordable homes within the next decade, with a target of 10,000 by 2025. Nevertheless, locating appropriate housing remains a substantial challenge for numerous families in need (Amnesty International, 2025).

Accountability and Justice for Past Crimes

The Gambia's initiatives to ensure accountability for the crimes perpetrated during Yahya Jammeh's regime stand out as commendable actions. In April 2024, the National Assembly ratified the Truth, Reconciliation, and Reparation Commission (TRRC) Bill along with the Special Prosecutor's Office Bill, laying the foundation for prosecuting severe human rights violations documented in the TRRC Report. Additionally, in December 2024, the ECOWAS Authority of Heads of State and Government endorsed the legislation that established the "Special Tribunal for The Gambia," a hybrid court designed to adjudicate cases related to crimes against humanity and other

significant offenses committed during the Jammeh administration. This development represents a vital advancement in delivering justice to victims and reforming a legal system that had previously been plagued by human rights abuses.

This case study of Gambia underscores the challenges involved in achieving a balance between the imperative to uphold human rights and the necessity of maintaining state security, especially during a transition from an authoritarian regime to a democratic system. Despite progress in areas such as accountability for past offenses and enhanced governance transparency, significant issues persist concerning women's rights, children's rights, and freedom of expression. In light of this, Gambia must continue its efforts to reconcile its human rights obligations with state security measures, ensuring that reform initiatives yield tangible benefits for its citizens. Given the array of social, political, and economic challenges confronting the nation, a more inclusive approach rooted in human rights principles is essential. Moving forward, Gambia must ensure accountability for the implemented policies and actively involve civil society in the reform process.

Ultimately, the situation in The Gambia illustrates the intricate tension between the protection of national security and the preservation of fundamental human rights, especially in transitional societies that are emerging from authoritarian governance. The establishment of transitional justice mechanisms, including the TRRC and the Special Tribunal, indicates a dedication to accountability; however, ongoing issues such as censorship, suppression of dissent, and child exploitation expose persistent structural deficiencies. Importantly, these human rights issues are closely linked to the status and management of data security. The introduction of oppressive digital legislation, exemplified by the proposed Cybercrime Bill 2023, along with the deployment of surveillance

tools to track activists and journalists, highlights how state-controlled data systems can be weaponized to curtail civil liberties under the pretext of security. At the same time, the lack of secure, inclusive, and transparent data infrastructures undermines the provision of social and economic rights such as food security, access to healthcare, and child protection by marginalizing vulnerable groups through information exclusion or manipulation. This situation reveals a crucial intersection: data security transcends a mere technological concern and emerges as a human rights necessity. If executed with transparency, participation, and accountability, data governance can serve as a significant catalyst for justice, equality, and democratic reform.

Conversely, if executed without suitable protections, it poses a threat of solidifying impunity and eroding trust. Thus, the situation in The Gambia, similar to that of Papua, highlights the essential link between data security and human rights, stressing that their congruence is crucial for fostering a fair, inclusive, and rights-respecting community.

2. DISCUSSION

State Security and National Sovereignty vs. Civil Liberties

The Gambia and Indonesia both utilize state security as a justification for limiting civil liberties; however, their methods and the contexts in which they operate are markedly distinct. The Indonesian government interprets the Papua conflict through the lenses of territorial integrity and national unity. The ongoing strife between the government and Papuan separatist groups is perceived by the Indonesian state as a significant threat to its sovereignty. In prioritizing national security over the rights of indigenous Papuans to maintain territorial integrity, the state engages in widespread human rights abuses, including extrajudicial killings, torture, and forced displacements. This approach emphasizes national sovereignty while simultaneously eroding civil

liberties, particularly the rights of indigenous populations, as evidenced by the military's repressive actions in Papua.

These dynamic parallels the concept of state security as articulated by Held & McGrew (2007), who argue that while national security is a crucial aspect of governance, it should be constrained by legal frameworks to safeguard civil liberties. This balance has not been struck in Indonesia's handling of the Papua war, where systemic breaches of civilian rights are justified by national security reasons.

Yahya Jammeh's repressive regime in The Gambia, conversely, rationalized its authoritarian measures as essential for maintaining political stability and safeguarding national security. Consequently, the Jammeh dictatorship curtailed essential civil liberties, such as arbitrary detentions, torture, and the suppression of political dissent, due to its dependence on violence and brutality to suppress opposition. Although Jammeh's removal led to a transition towards a more democratic governance, the new leadership has continued to invoke national security as a justification for imposing restrictions on free speech and peaceful assembly. This situation reflects a persistent authoritarian mindset, where the protection of individual rights is deemed secondary to the state's purported security needs.

Both countries exemplify how governmental security measures often infringe upon fundamental human rights to suppress dissent and silence criticism. This situation illustrates the ongoing conflict between civil liberties and national security, which becomes more pronounced during periods of political turmoil or violence.

The Role of Military and Security Forces

Despite the differing contexts of its involvement, the military constitutes a crucial element of governmental security strategies in both Indonesia and the Gambia. A clear example of the state's prioritization of security over human rights is the Indonesian military's persistent and active participation in the Papua conflict. Through the use of violence against civilians and the suppression of peaceful protests, the Indonesian military has significantly contributed to the quelling of the

separatist movement in Papua. This engagement entails widespread human rights abuses, including torture and extrajudicial killings. The state's security initiatives aimed at preserving territorial integrity and protecting national interests rationalize the military's presence in resource-abundant areas of Papua, exacerbating environmental degradation and the displacement of indigenous populations. These actions resonate with the notion that civil liberties may need to be compromised for the sake of national security, a perspective that Higgins (2018) examined in his study of authoritarian regimes that prioritize security over individual rights.

Since the conclusion of Jammeh's autocratic regime, the military's function in The Gambia has become increasingly ambiguous. However, during Jammeh's tenure, the military was instrumental in sustaining political authority by suppressing dissent through violent means. Even after Jammeh's departure from power, the military has remained a significant player in ensuring state security and wields substantial influence over both political and security issues. This historical context complicates the new government's ability to effectively uphold civil liberties. Despite a reduction in direct control over political affairs, the military's ongoing influence continues to hinder progress in the safeguarding of human rights. While it remains a tool for ensuring national security, the military often compromises civil liberties and the protection of fundamental rights in the process.

The military's institutional authority and its participation in human rights violations pose significant issues for both countries. In the Gambia, the military's persistent influence over governance obstructs efforts to ensure freedom and justice for the citizens, whereas its direct involvement in Papua, Indonesia, represents a stark impediment to the safeguarding of human rights.

Accountability for Human Rights Violations

Systemic impunity regarding human rights violations, particularly those perpetrated by security forces, is prevalent in both Indonesia and the Gambia. Efforts to hold security forces accountable for abuses in

Papua have made little progress in Indonesia, despite international demands for accountability. A culture of impunity persists when human rights violations, such as extrajudicial killings and torture, remain unpunished. The challenges of reconciling human rights protection with national security initiatives are exemplified by the lack of criminal charges against those accountable and the failure to deliver justice to the victims of these violations. As Held & McGrew (2007) emphasize, national security measures should not legitimize human rights abuses; however, in Indonesia, the lack of accountability for military actions in Papua has precisely resulted in this outcome (Held & McGrew, 2007, p. 30).

The establishment of the Truth, Reconciliation, and Reparation Commission (TRRC) alongside a special tribunal aimed at prosecuting past crimes signifies Gambia's progress towards achieving accountability for the injustices perpetrated during the Jammeh dictatorship. However, due to insufficient funding and a lack of political will, these efforts have progressed slowly, and the TRRC continues to face numerous challenges. The enduring legacy of military governance, coupled with the persistent presence of former regime officials within the political landscape, complicates the process of holding offenders accountable. As Higgins (2018) articulates in relation to post-authoritarian justice, this ongoing struggle to achieve justice underscores the broader issue of establishing genuine accountability in the face of entrenched political and military power structures (Higgins, 2018).

The quest for justice regarding human rights violations presents significant challenges in both Indonesia and the Gambia. Efforts to bring perpetrators to justice are, however, obstructed in both countries by entrenched power dynamics and the impunity of security forces. To effectively tackle these violations, there is an urgent need for more robust legal frameworks and a commitment to political action, as evidenced by the Gambia's sluggish judicial process and Indonesia's persistent absence of accountability.

Socio-Economic Rights

Both Indonesia and Gambia have associated economic growth with violations of human rights, often prioritizing national security and the necessity for economic stability over the safeguarding of socio-economic rights. Indigenous communities have faced displacement, environmental degradation has occurred, and socio-economic rights have been compromised in Indonesia due to the exploitation of Papua's resources by both state and private entities. These violations have been exacerbated by military actions in Papua, which have hindered indigenous populations from accessing fundamental services such as healthcare and education. The government's justification of resource extraction as vital for national security has led to the marginalization of Papuan communities, highlighting the disconnection between security measures and socio-economic progress.

In the Gambia, the government often places a higher priority on state security than on the urgent need for socioeconomic reforms. Many Gambians continue to face poverty and insufficient access to essential services, despite efforts aimed at addressing housing shortages and food insecurity. Although the government has committed to offering affordable housing, progress has been slow, leaving many vulnerable groups struggling to fulfill their basic needs. A significant portion of the population remains susceptible to financial difficulties because the government's security strategies, designed to maintain state stability, often overlook the root causes of socioeconomic disparity.

The challenge of achieving a balance between the protection of socioeconomic rights and the advancement of economic development is a common issue for both Indonesia and the Gambia. In Indonesia, indigenous communities have been uprooted due to the exploitation of natural resources in Papua, whereas in the Gambia, the neglect of social welfare and economic stability continues to exacerbate poverty and inequality. To guarantee that the quest for national security does not undermine socioeconomic development and human dignity, both countries need to adopt more holistic strategies that integrate human rights protections into their economic and security frameworks.

CHAPTER IV

CONCLUSION

The Gambia and Indonesia present challenging cases in achieving a balance between the protection of human rights and the maintenance of state security. Although the contexts differ, the underlying issues remain consistent: the state's focus on safeguarding security and sovereignty often undermines civil liberties and the protection of human rights. In both countries, the military's prominent involvement in security operations perpetuates human rights violations and obstructs efforts for accountability. Additionally, both nations struggle to integrate socioeconomic rights into their security frameworks, resulting in the marginalization of vulnerable populations.

Systemic impunity and the focus on state security persist in obstructing meaningful reforms, even with progress observed in specific domains, such as Gambia's post-Jammeh efforts to address past human rights violations and Indonesia's occasional judicial victories for human rights advocates. Both countries need to adopt more comprehensive strategies to achieve a balance between human rights and state security, ensuring that socioeconomic equity and fundamental freedoms are not compromised in the name of national security. It is essential for the international community to hold both nations accountable and to support initiatives aimed at fostering a more inclusive and human rights-oriented governance approach.