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FAIRNESS IN HUMAN RESOURCE DEVELOPMENT: LEGAL-ECONOMIC PERSPECTIVE

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ABSTRACT

It is common in Indonesia that corporations tend to see layoff as the first resort, meaning that it is the first option corporations are ready to take in handling economic pressure or in cutting cost. It contradicts to established awareness that employee loyalty and human resources are precious assets. On other hand, many layoffs are plagued with ignorance of law. The present study intends to explore mediating role of social legitimacy in the relationship between last resort practice and intact reputation. It also intends to explore mediating role of social legitimacy in the relationship between perceived law conformity and intact reputation. Intact reputation, law conformity and last resort practice are new variables. It conducts content validity to make sure the adequacy of these respective variables. The population is big corporations in Surabaya, East Java. It applies convenient sampling technique for questionnaire distribution, and Smart PLS for data analysis. The results should be that social legitimacy serves as a partial mediator in the relationship between last resort practice and intact reputation, while it serves as a full mediator in the relationship between perceived law conformity and intact reputation.

KEY WORDS

Last resort practice, perceived law conformity, intact reputation, public service.

History has featured some big corporations with successful attempts in securing jobs even in the face of economic pressure. By means of employment assurance, they have proved that this could lead to cost reduction instead. The good examples include Volkswagen for German's case (Kothen, et al 1999), IBM, Kodak, AT&T and Digital Equipment (Brockner 1992). They all implemented policy of full employment and thought that employment security as an integral part of their corporate culture

If job elimination was unavoidable, they still attempted to maintain their human resources. IBM, for example, attempted to train and reemploy employees. Before doing so, IBM introduced attrition, early retirement and other voluntary resignation incentives (Brockner 1992). The advantages ranged from cost efficiency by avoiding severance pay, not to mention cost involved in recruiting new employees and nurturing their corporate loyalty, to maintaining image, reputation, and resulting loyalty.

Nonetheless, layoff to other organizations has been the norm to keep survives amidst stricter competition, changing consumers' demands, and economics pressures such recession, high inflation, debt, and crisis. Layoff of employees in large number usually called downsizing has been common practice in economic sector justified further by globalization and deregulation. The idea of "globalization" (Spich 1995) has made downsizing logically acceptable, that is as way to achieve heightened performance by means of continuous cost reduction and productivity increases (Jahn 1995). However, there has been lack of evidence that layoff actually does increase productivity, reduce costs, and increase profits (Cappelli, *et al* 1997; McKinley, Mone, and Barker 1998).

In US, for example, layoffs have been carried out pervasively. According to New York Times, many US big corporations announced workforce reduction for 1991, including Sears, General Dynamics, General Motors, Citicorp's, Pan Am, Digital Equipment, Hills Department Stores and Aetna & Casualty (Brockner, 1992). According to The Bureau of Labor Statistics report, there were more than 15.000 layoff events in 1998 alone (Kleiman and Denton 2000).

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Lay-off indeed lessen organization' burden but only in short-term, while not doing any help in the long-term. The Wall Street Journal reported that companies which previously implemented mass layoff showed growth only six months after the layoff, and then fell down, with their stock dropped around twenty-four percent within three years (Lemmer 2018). Lay-off depletes morale and productivity. It makes sales slump, customer service lost in priority, and quality halt. Not to mention dented reputation, image, and public trust that in turn affects the sales.

In Indonesia, Indonesian labor department report reveals that there has-been 1. 648 lay off cases with 12.777 people laid off in 2016. It increases significantly from 245 cases or 572.65 per cent in 2015 with 48. 843 people layoff. Those lay-off decisions were plagued with disputes and protest with accusation of violating the law (Kalimantan.Bisnis.com 2017). In 2017, according to labor department report the cases pertaining to questioning justification of the action amount to 179, followed by interest dispute as many as 72, and right disputes with 64 (Kalimantan.Bisnis.com 2017).

Labor department identifies ill procedures of law No. 13 of 2003 on manpower as the main cause of many disputes in lay-off cases. If all lay-off procedures set in the law have been carefully followed including the appropriate compensation, employees are thought to not be lay-off-resistant as long as the action is perceived to be logical, especially in economic difficulty terms. One of the often ignored rulings of the law is that employees with more than 5 years and less than 6 years of working are entitled for severance payment the amount of which should be six times of monthly salary.

The other issue is that at the time of economic difficulty, companies commonly see manpower as the first object to "unload" from their financial burden. The obvious unfairness is that in growth time, manpower is viewed as valuable asset companies rely on to support their operations, while in bad time that manpower turns to be viewed as liability. The other resolution options should be available such as merger, restructuration, or operational efficiency. If staff reduction in unavoidable, it should be taken careful, lawful and gradual manners, and more importantly as the last resort. Thus, the present study develops last resort practice construct referring to belief that organization has done anything to avoid unnecessary layoff, so that layoff that is finally taken is really unavoidable and necessary to revive the organization.

The belief that organization avoids layoff might make staff accept layoff decision without resistance. They could even support the decision to maintain organization survival, in the hope that organization might recruit them again when economy has recovered or just wishes good things to organization as they have identity relation to it. The present study applies social legitimacy construct to grasp acceptance and support of organizational layoff decision.

The study intends to find out the significance of social legitimacy and reputation. More specifically, it puts forwards a research model featuring mediating role of social legitimacy in the relationship between last resort practice and intact reputation, and in the relationship between perceived law conformity and intact reputation. By this way, it can be found out the role of social legitimacy for organizations that perform lay-off as the last resort and in conformity as efforts to maintain reputation intact. The results would be useful to manager as to whether and which between last resort practice that can be relied upon to maintain reputation after lay-off practice.

LITERATURE REVIEW

Last Resort Practice and Intact Reputation. The study makes new "the last resort" variable to refer organization's decision to put layoff as the last option to take when everything else has been performed with unsatisfactory results. Strong leaders who care about the employees tend to put layoffs as the last option.

Other options before layoff include cost reduction in the form of salary cut, with the largest cuts going to senior management. Other initiatives include reduced working hours or days, leave program with unpaid system, voluntary work with small amount of money,

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temporary working stop, reduction of executive benefit, early retirement offer, underperforming manager replacement, shared ownership in exchange for salary reductions, and reemployment for others in leave or temporary working stop program in a better time, and others (Clemmer 2018).

Some organizations put lay-off as the first resort and others as the last resort. It all depends on which perspective an organization management takes regarding the role of human resources, whether as a valuable asset or a burden both in good and bad time. There are organizations that consider human resources as an important asset only in good time. There are those that consider them as burden or assets in both times. However many corporate businesses look at lay-offs as a first resort rather than a last resort to boost performance. Many managers jump into layoffs and downsizing as a first, rather than last step, when facing the need to cut costs, instead of recognized values of human resources.

Mass layoff is last step for organizations with leaders who care about their people. They manage things and lead people, and working together when facing financial problem to reduce costs. They treat employees as respected partners, and employees would do the same by putting organizational interests as main priorities. Loyalty, sense of organizational citizenship behavior, attachment, identification, trust and intimacy will result from employees to their organizations. The appreciation would encourage performance that uplift prospects of organizational success in the future.

Reputation refers to perception of a company's extent of attractiveness formed from past actions and future prospects compared to counterparts (Fombrun 1996). Roberts and Dowling 2002, described reputation as the extent to which the firm is seen as "good" and not "bad."As such, a firm's corporate reputation is regarded as one of its intangible assets or resources (Miles and Covin 2000).

Layoffs have negative impacts on perceptions of the firm's future prospects and hence lead to a reduction in its reputation. Layoffs engender negative impression among people of the organization (Bastien, Hostager, and Miles 1996). Layoffs can send a negative signal about underlying quality (Roberts & Dowling,2002), and people will change their perception of the quality of the firm when it takes actions, such as layoffs, that have generally been associated to be more negative than positive signs to organization's future.

Intact reputation in this study refers to reputation unplugged by layoff measure taken to deal with financial hardship as it is performed as last choice when organization has run out options to resort to.In terms of law conformity, the study sees it as the recovery of reputation previously dented by lay-off measures thanks to perceived law conformity resulted from organization's effort to follow prevailing laws in performing lay-off measures. Thus, this study views that lay-off performance as the last resort or in accordance to prevailing laws might serve as means to regain previously dented reputation in an intact condition called intact reputation. As regards legitimacy, the study assumes that social legitimacy is a prerequisite condition for any organization to regain its decrease in reputation following lay-off measures that taken as a last resort or in pursuant to prevailing laws.

The present study views last resort treatment might serve as absorbent to any shock caused by lay-off practices. Lay-off could affect negatively organization's reputation, but when is treated as the last resort, when all measures have been tried with little success, and thus perceived by employees as unavoidable, the resulting shock could only decrease reputation in a short-term, understanding among former and existing employees would fix situation and intact reputation would accordingly result. Besides, recognition, respect, trust that follow from previous non-lay-off measures should strengthen the reputation.

The measures taken before lay-off should include all important aspects such as maintenance of employees with pay cut, cost sharing between employees and management with the latter shouldering the bigger part as the economic difficulty to a certain extent is due to its decisions, and others. Only by this way, employees could accept lay-off decision, and the effect only leaves a small scar that would heal in a short time with intact reputation in the end. Thus, the study makes the following hypothesis:

H1. Last resort has a significant effect on intact reputation.

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Last Resort Practice and Legitimacy. The definition of legitimacy according to (Suchman 1995) is ‘‘a generalized perception or assumption that the actions of an entity are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs and definitions’’. The point is that legitimacy is perception that an organization is fair and worthy of support as long as it is socially accepted. It refers to what extent a firm is perceived to conform consistently to rules, public expectation and normative values (Eugenio et. al 2013). Its development entails costly investment that may undermine efficiency (Scott, 2008).

The present study attempts to highlight social legitimacy. It refers to the social judgment regarding the acceptance, appropriateness, and desirability of organization’s actions among social communities (Suchman 1995). According to (Shu et al 2016), social legitimacy is public external community judgment as to whether an organizational activity is acceptable or not. Companies with high social legitimacy tend to have a strong image and trust (Sheng et al 2011).

The theory of legitimacy has a deep root in political context. More recently there some attempts to apply this concept in context of organizations (Zelditch 2001). In term of organization, it is said that organization has legitimacy to the extent that its purposes and ways to achieve them conform to social values and expectations (Ashforth and Gibbs 1990).

Existing literature brings up four types of legitimacy as follows: (1) Pragmatic legitimacy. (2) Normative legitimacy. (3) Cognitive legitimacy. (4) Regulative legitimacy. These types carry different meanings.

The first legitimacy refers to type of legitimacy conferred to organization by its stakeholder in mutual relationship. An organization is considered to have this legitimacy when its behaviors cater to the interests of a specific group (Suchman 1995). It is signified by direct exchange between the two parties. The stakeholders will support an organizational decision if it provides real benefit to them. In other case, the relationship is signified by organization’s willingness to accommodate its stakeholder’s interest in organization decision-making process. Still in other cases, ‘kindness’, ‘wisdom’, “fairness”, or “thoughtfulness” types of organization are more favored by stakeholders to others.

The second legitimacy emphasizes properness according to value system in a society. It is more objective than the first type of legitimacy. It rests on consideration of organization decision as the right things (Suchman 1995; Scott 2001). Other scholars call it as morality legitimacy. The moral concerns are related to the benefit of a society as a whole. Thus, consideration is oriented to social benefit, while consideration in practical legitimacy is oriented to public’ self interest.

The third legitimacy refers to type of legitimacy where decision taken by an organization is considered as the norm, alternatives are though impossible. It makes the decision as the sole truth, unchallenged by other alternatives. However, not much organization can manage to have this legitimacy, as the world is full with debatable issues, signified overtime by pros and cons.

The present study views last resort treatment might increase social legitimacy. Public, communities, or external institutions which whom organization regularly interacts might give approval to the organization’s practices that put lay-off as last resort. For government, it might prevent the wider events from happening, such as dispute or conflict between employees and management, and social costs caused by lay-off, economic costs that organization should burden to provide severance pay or chaotic condition that might trigger distrust and economic distress. For banks, it may prevent bad loans considering that many former employees get some loans from them. For, society as a whole, it enables for economic progress that warrants continued welfare.

Common agreement on a firm’s significant contribution in preventing social and economical chaos from happening might leads to undeniable appreciation. Stakeholder usually materializes this appreciation in social acceptance that gives the organization social legitimacy for its existence. Thus, the study makes the following hypothesis:

H2. Last resort practice has a significant effect on social legitimacy.

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Social Legitimacy and Intact Reputation. Approvals from stakeholders, society as a whole, people who used to operate organization' activities, and government should fixed reputation that is plagued right after lay-off decision in short-term, and organization should enjoy intact reputation thereafter. Not only social legitimacy would lead to intact reputation, but the present study also argues that persistent approvals from stakeholders as a signal of social legitimacy would strengthen reputation. Put in another words, if organization could prove its persistence in prioritizing employees' interests in the face of economic hardship, strong image and social trust could work to engender even more entrenched organizational reputation.

Social legitimacy represents social acceptance and recognition of an organization's contribution that as commonly appreciated. It means that the organization conduct in running and handling its issues does not only conform prevailing values and laws, but also invites stakeholders' appreciation that strengthens the recognition of its existence. Thus, it puts forward the following hypothesis:

H3. Social legitimacy has a significant effect on intact reputation.

Corporate Identity As Reflected in Corporate Conducts and Its Effect on Reputation And Legitimacy. Identity is what differentiates given corporation from others, legalizes its being, and determine most of stakeholders' decision to make or continue a close relationship. According to (Gray and Balmer 1998) identity should be developed and maintained through management that enables for the establishment of positive image and reputation. According to them, stakeholders development mental picture of an organization based on perceptions from service and information. It is formed more quickly as a response from them. While reputation is the evaluation of corporation's values that takeover time as a result of consistent performance. Both are derived from tangible and intangible that covers information and communication. One element that comprises identity is persistent conduct and orientation that differentiate organization from others. One case pertinent case pertinent to the purpose of the study is law conformity.

Violation against the law, or any conduct that contradicts to public expectation might be categorized as misconducts that plague image and reputation. The dent in image because of misconduct in the perspective of stakeholders could be offset by some measures thought to be able to repair the image. The effects could run in a rather instant way. Since the establishment of reputation take a long time, could be at the length of corporation's age, achievements, contribution to society, and wide-recognition, the recovery to handle even a tiny dent in reputation would take a huge investment in time and endeavor. Therefore, organization should be cautious in performing policies, to prevent a dent reputation that might cause a large cause to burden in the future.

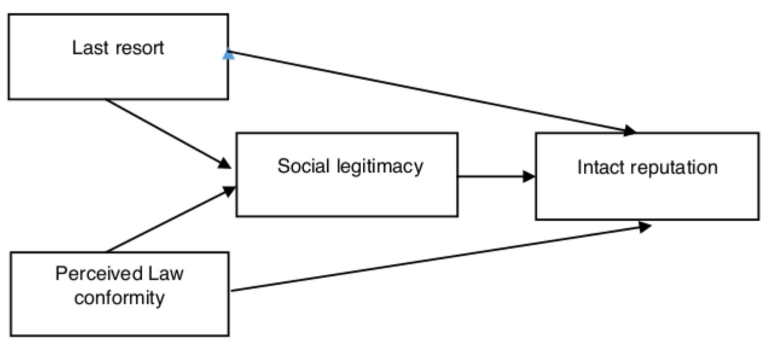

Figure 1 – Conceptual Framework

Law conformity reflects non-self-interest motivation which is uncharacteristic of common corporations which are mostly capitalistic in nature that put profit first before other considerations. It would make the organization stand out among others. It also strengthens the perceived organizational citizenship behavior for corporations that subject to government's rules. However, as drive to conform rules is external, it is conceived not sufficient to make organization maintain its reputation. Stakeholders might see that organization could not stand of government and public pressures to follow rules regarding lay-off practices. Thus, the study proposes the following propositions:

H4. Law conformity has an insignificant effect on intact reputation.

The study also considers that conformity to government rules concerning lay-off might lead to social legitimacy. The rules are designed to make sure of fairness, win-win solutions between employees and management in dealing with organizational economic problems that prevent dispute and lawsuit, and employees' welfare. Law conformity not only leads to employees' positive regard, but also public and government appreciation. Accordingly:

H5. Law conformity has a significant effect on social legitimacy.

METHODS OF RESEARCH

Some variables in the research model are new, including last resort practice, perceived law conformity, and impact reputation. To make sure of instruments' validity and reliability, the study would perform content validity, face validity, and construct validity and pilot test. Face validity is conducted by referring to literature and inputs from five respondents with lay-off experiences. Content validity involves expert board to make sure that respective variable is made of proper indicators. For construct validity, the study applies factor based on KMO value, which should be over 0.6 as validity indication (Cronbach 1951). Pilot study is also conducted to make sure respondents understanding and agreement, involving 50 respondents with lay-off experiences.

Respondents for validity and reliability tests of last resort and perceived law conformity are former employees with lay-off experiences from firms in manufacturing sectors. They are usually both capital and labor intensive, and export-oriented. This condition is commonly vulnerable to international changing demand, currency rates, and economic policies. The contact is made by online and direct visits. Interviews are made to make sure of employees' lay-off experience and their former super-ordinates' lay-off policy. For social legitimacy and intact reputation constructs, validity and reliability tests involve consumers of their products. On-line communication is made to speed up the process.

The whole respondents for data analysis are consumers of their products. The identification is made in the store, on-line communication, house visit, and interview to make sure of their knowledge of manufacturers, repetitive purchases of their products, and the possible impacts of lay-off on their trust, image, positive attitude and judgment on the concerned manufacturers.

The study takes East Java as research setting for several reasons. First, East Java is well-known as one of industrializing regions with high minimum wage (Kontan.co.id 2017). Second, it has the largest number of laid-off workers. According data from KSPI (Confederation of Indonesian Worker Union), East Java is the highest in number of lay-off workers in national term (2015).

For data analysis, it applies Smart PLS for several grounds. First, it is useful for analysis of relationship with predictive nature. Second, it can operate data even from small number of respondents. For mediation test, it applies Sobel test procedure (Sobel Test), with significance value of $\alpha = 0.05$ as indication of mediation effect.

RESULTS OF STUDY

In line with the first proposition, the study views that practice which puts lay-off as last resort should have a significant effect on social legitimacy. Once it is carried out, there is an organization-wide awareness that organization has done its best to evade lay-off that it has done everything else to sort out the hardship, and that lay-off finally taken is unavoidable. There is indeed disappointment but only in temporary manner. Employees soon realize that corporation runs out options, and in many cases they support the measure. When reemployment is possible when corporation passes its critical time, they would exhibit a

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much stronger loyalty out of a close relationships such attachment and identification. It supports the second proposition that last resort practice has a significant effect on intact reputation. It is made possible by awareness that lay-off avoidance come organization's genuine good-will, principle and philosophy that separate the organization from others. It also could engender the sense that the type organization for which they work is hard to find, or even the one of a kind. When it is the case, they would attach social legitimacy to organization, and none could change the way they feel about organization, not even lay-off. It supports the third proposition that social legitimacy should have a significant effect on intact reputation.

The supposedly significant relationships between last resort practice, social legitimacy, and intact reputation lead to the inference that social legitimacy only plays partial mediator in the relationship between last resort practice and intact reputation. It means that even without social legitimacy, last resort practice could assure organization of intact reputation. Without approvals of government and society as a whole, former employees previously laid-off could still maintain sense of gratitude, appreciation and recognition to organization. They might feel disappointed, caused by lay-off practice, for a while, but awareness would make them support the organization, that could bring the reputation back intact.

The study also views that perceived law conformity has a significant effect on social legitimacy. The conformity to government' rules concerning appropriate lay-off practice is visible to employees, society at large, social organization and government. The conformity would indicate obedience and good organizational citizenship behavior in economic sector and incite recognition, appreciation and approval. When it holds true, then the supposedly significant relationship is proven. However, the study views that perceived law conformity does not have a significant effect on social legitimacy. Conformity to effective rules is a good thing that worth recognition, but it falls under external drive. Stakeholders apparently associate the conformity to government', public', and employees' pressures to follow the rule rather than to organization's principle or philosophy.

The results make social legitimacy serve as a full mediator in the relationship between perceived law conformity and intact reputation. Some issues might remain even when organization has managed lay-off practice according to the law. The prolonged lobby, delayed severance payment, doubted fairness in selecting employees to lay-off and others inhibit the maintenance of reputation. Thus, organization could not merely rely on law compliance to maintain reputation.

DISCUSSION OF RESULTS

Social legitimacy only serves as partial mediator in the relationship between last resort practice and intact reputation. The point is that last resort practice is not contained in government's rules concerning lay-off practices. It raises an idea that the idea of putting lay-off as the last resort comes from organization initiative. It is obvious to all stakeholders that the drive comes from internally, that are from organization's principle and belief. It means that the practice reflects organization's genuine identity, as principle and belief are associated with identity. An attractive identity might attract outsiders to build a close relationship in the forms of attachment and identification. When it is the case, organization's reputation would immune from any events, including lay-off. Thus, it can be said that last resort practice might directly lead to increased intact reputation. Put in another words, last resort practice might bring reputation back intact, even though previously plagued by lay-off. The direct relationship makes social legitimacy only play a partial mediator.

It is not the case for relationship between perceived law conformity and intact reputation. The relationship is not direct, since the drive to conform might come externally, which means that it does not reflect the organization's genuine identity. When an organization is perceived to be detached from its appreciated identity, outsider stakeholders might bulk at making a close relationship that can maintain intact relationship. Repetitive disputes and legal case might deteriorate organizational image in long term, and would take huge investment to recover the condition.

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It is not only the premium service that stakeholders take account on for reputation; the identity that comprises organization's being determines acceptability in the environment and market. Stakeholders continuously ask the rationality of its existence. When identity is hurt by its policies as measures to maintain efficiency, detachment would operate. If it is the case, the road to recover the dented reputation is a long way to go, as it also involves trust. It entails a consistent integrity and willingness to include stakeholders as valuable assets in materializing its objectives. It is important to engender sense of togetherness that in turn would bring about sense of belongingness in good and bad times. Close relationship has its own cost, but promises large benefits in the future.

CONCLUSION

The results should be that social legitimacy serves as a partial mediator in the relationship between last resort practice and intact reputation, while it serves as a full mediator in the relationship between perceived law conformity and intact reputation. Partial mediator served by social legitimacy in the relationship between last resort practice and intact reputation is due to fact that the prevailing law does not yet stipulated last resort practice in layoff. Government so far only calls on organizations to avoid layoff, and perform it as last resort only when there is no alternative left. The case is different from the case of relationship between perceived law conformity and intact reputation where social legitimacy serves as a full mediator.

However, the obvious avoidance of layoff or attempt to perform it as last resort combined with perceived law conformity certainly would accelerate the process of reputation recovery. Perceived law conformity would strengthened stakeholders' awareness that the concerned organization has done it can to avoid layoff, that it does not treat employees as first good victims reflecting the absence of intention to finding the easy solution whenever problems besiege.

The study views that last resort practice in layoff has more powerful effect on legitimacy even when it is seen as not wholly follow the law. As long it successfully avoids layoff, some injustice practices could be tolerated. While it merits further research, employees are seemingly heedless to practices such as salary cuts that to them are unfair compared to other staff in higher staff, unfair arrangement of works and payments between employees in strained times and other. However, combination between layoff avoidance or last resort in layoff and perceived law conformity work interplay in recovering reputation.

Future research should explore different types of organization in different sectors to find out if these differences make any difference pertaining to legitimacy as a moderator. For instance, shake-up in human resource in public organization might have bigger impact on legitimacy than that in private organization. Exploration in intellectual or technological organizations is also equally important, not to mention family organization whose comparison to private organization continuously attracts curiosity.

Research in countries where regulation contains last resort stipulation for lay-off practice is also interesting, especially when involving comparison to those with different regulations. Cultural aspect might play role. There are countries which treat jobs as insecure, and countries which treat jobs are steady.

Future research might also consider the mediating role of perceived law conformity in the relationship between last resort and social legitimacy, or even that between last resort and intact reputation. It is especially so as prevailing laws do not contain last resort stipulation, and there are some cases where corporation perform last resort but with some violations against the laws.

As regards perceived law conformity, knowledgeable stakeholders easily find any violations an organization makes against the law, as the rulings are clearly stipulated in the law. People with legal knowledge have a clear-cut road-map as to rights and responsibilities, and resulting boundary what is right and wrong.

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