

Freedom of Speech Backlash: Securitization Analysis of Indonesia Hate Speech Group

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Abstract: This academic writing explains the possibility of new securitization in Indonesia. Securitization is one of the ways to turn nonpolitical issue politicized. The study case in this writing is the hate speech phenomenon that recently has become the main issues in Indonesia media masses. Responding the statement of hate speech can be threat for nation's resilience and sovereignty, National Police with the support of National Agency of Combating Terrorism will have to do a follow up regarding the notion. Saracen as one of the hate speech actors who exploit social media is one of the examples how strong the Internet influence in the globalization era. Freedom of speech happened in Indonesia 19 years ago now facing new challenge in this new phenomenon of this hate speech as threat spectacle. Establishing penalty is being considered. Securitization process by Barry Buzan will be applied to analyze the study. The main aim in this writing is to see the degree of securitization process in hate speech issue in Indonesia among others securitized issues that been happened before like illegal fishing or terrorism.

1 INTRODUCTION

Since the colonial era, Indonesia national heroes use the powerful speech to inspire the society to work in independence. Basic of spirit that Indonesian citizen get when gain the independence is surely come from strong voices that national heroes echoing throughout Indonesia. Every political speech not only become the spirit burner for the citizen but also made the colonials actively aware of Indonesian independence aimed by society. Propaganda, the word describes more than simple act of inspiring society to work on independence. But now we face different era after independence. Propaganda now can be held by anyone in charge of power. Propaganda now simply is hate speech inside the freedom of speech that brought by democracy and liberalism values. Sovereignty and nation resilience in the stake of this hate speech phenomenon. Indonesia with its diverse race, religion, and ethnic is rich but in the same time is fragile of small fraction that lead to act of destruction.

Mass media and social media become the arena declaring argument and aspiration from society. For example, Facebook and Instagram that already become the part of Indonesian life. Indonesia consist

of 45 million active Instagram users. Facebook users in Indonesia reach 87,75 million increasing significantly from 2008. This number expected to be 100 million by 2018. This number is not included the other social media streams like WhatsApp Messenger, LINE, Telegram, and Blackberry Messenger. Some of mass media portal also give a big window opportunity to deliver news that contain both positive and negative information.

Writer try to demonstrate that in developing state or developed state the response of hate of speech is quite different. In the United States of America or in European States, hate speech sometimes seen as discussion material of the state basic regulation. Singapore or African States have its own regulation to overcome the danger of hate speech. In Indonesia itself, the case of Saracen or Jonru Ginting getting more intense when its reached the hate speech for the present President Joko Widodo.

More in the analysis, writer would like to describe the hate speech in the views of securitization and constructivist. Indonesian National Police will take into action when the hate speech reaches the major destruction in the effect way speaking. The stabilization of state become at the stake if we know that Indonesia just become open into freedom of speech regulation in 19 years

ago. To have a boundary on freedom of speech lead to make a border into human rights to the people. Especially in democracy state like Indonesia.

2 METHODS

Securitization analysis method by Barry Buzan will be use in this writing. It is to see how urgent the hate speech to be made as policy to overcome it. We can see that illegal fishing become one of securitized issue lately. Hate speech as next securitized issue is important to be discussed more because as understood from securitization process, hate speech is far from military or force act that lead into traditional security threat. Securitization process will be showed by the actor whom doing the speech act with public as a witness. Legalized actor in this case is government and authorities now leading into more serious stage and working into independent law of hate speech or more into it special agency to handle it.

Constructivism and securitization are complementary to one another. Security in its general sense is a social construction. There are identities and norms governing what is meant as an act of displeasure. The Critical constructivist sees a connection between political leaders and domestic audiences in many ways, specifically in the language tricks, to define something as an important matter and to issue its security policy (Williams, 2013).

Up until today Indonesia has been successfully implementing securitization in the field of maritime and terrorism. The source of threat in maritime cases is visibly appears from piracy and the threat of sovereignty emerges due to other undesirable interventions. Terrorism is also a securitization issue with the sovereignty threat source comes from radical groups. The threat level of these two issues is very critical because since the emergence of the issue, there are laws formulated in the form of Presidential Regulation No.16 of 2017 on Indonesian Marine Policy. BNPT under the coordination of Coordinating Minister for Political, Legal and Security Affairs was established in 2010.

Both of these issues succeeded in attracting the attention of the domestic and international community hence it is ratified by the government hence there can be capable institutions and laws to regulate it. Ratifying these two issues means the necessity to publicize the mentioned regulations. International cooperation is also done by establishing diplomatic relations with countries that

have the same issues and those who are very critical of this issue.

Eko Sulisty, as Deputy of Political Communications and Information Dissemination Office Staff of the President, mentions that Adolf Hitler is a god of hatred. *Mein Kampf* book is an expression of hatred followed by bloody programs and terror portrayed on every page. Joseph Goebbels as his loyal followers also stated that the hate speech conveyed by Hitler is contained by bunch of lies, however because of the continuous and systematic campaign, will later appear as the truth. Systematic and widespread organized hate speech to create a hate-based crime is what creates a humanitarian tragedy (Sulistyo, 2017).

A democratic sovereign state is the final result of the world system of government. Achieving Indonesian democracy is not without an effort. The system of government has begun since imperialist, communist, until finally resulted in democracy. One of the privileges or weaknesses of democracy lies beyond the freedom of speech. Democracy as a form of Liberal government must defend its sovereignty by considering all the interests of its people. The interests of individuals above the interests of the state as one form of Kantianism become one of the requirements of the sovereignty of the state that embraces the system of democratic government.

The United States as a Liberalist also has a court history regarding the hate speech. The freedom to express opinions as the First Amendment of the United States is limited in cases involving language games to offend or degrade groups based on race, color, religion, national origin, sexual orientation, disability, etc. (Head, 2017). This hate speech case has been started since World War II to date. The most visible example is the case of the Brandenburg (Representative of the Ku Klux Klan) in 1969 who gave a speech to overthrow the government. In the aftermath of the 9/11 case there was also the case of the Synder family demanding the Phelps church to spread the wrath of homosexuals.

The cases do not end with the laws governing the hate speech. It is also connected to the fact of the absence of legislation regarding the prohibition of expressing false opinions. The case of Brandenburg ends with an imminent lawless action or an action without a legal basis. Freedom of expression is the basis of the hate speech-dispersion team in winning the case. Phelps church authorities were also released because freedom of speech was one of their amendments.

One of the closest countries to Indonesia that has been sovereign is Singapore. Singapore as a

multicultural country has several rules preventing speech that has the potential to cause disharmony between its community and government. The rules of detention to perpetrators are set out in The Maintenance of Religious Harmony Act (MRHA). Behavior that is considered political, subversive, or an actions in which expressing dislike to the president or government under the guise of religious propaganda will get sanctioned.

South Africa as one example of a developing country declares hate speech as one of the propaganda rules set forth in the constitution. This hate speech regulation is governed by The Promotion of Equality and Prevention of the Unfair Discrimination Act. As a developing country, South Africa cares deeply about this by emphasizing *injuria crimen* as a serious and intentional act of harassing the dignity of others although not governed by law. It is including painful physical acts, or act that will cause violence, and propagate hatred.

Indonesian police managed to uncover Saracen's hate speech spreader syndicate. Starting from the arrest of Sri Rahayu Ningsih on August 5, 2017 for being a defendant of insult to President Jokowi. Once captured, the Facebook account used by Sri was still active. This account has been taken over by the investigator but restored by Jaspriadi Saracen. Jaspriadi was later arrested by cyber investigators for illegal access. The arrest of Saracen Jaspriadi, who was a suspect in the case of illegal access to Facebook account, turned out to lead to another arrest related to three other people who hold background as the perpetrators of hate speech cases.

They are a group of people in the Saracens alliance who allegedly have been spreading hate speech and hoax that suggest the element of SARA. The Saracens operate professionally. They prepared a proposal in which each proposal worth up to ten of millions of rupiah. Market buying and selling content hate speech and SARA is still undisclosed, but the police have possessed communication evidence of those four perpetrators.

Once a project proposal is agreed upon, the offender will share the task. There are some who in the affirmative party and oppositional team. Hate speech in the name of religion for instance, there will be thousands of accounts to be made in charge of vilifying Islam and thousands of other accounts that vilify Christianity. Memes and narrations uploaded to social media are provocative and propagated in the fictional group they create themselves.

3 FREEDOM OF SPEECH IN DEMOCRACY STATES

The writer will show the democratic example of scholars from a liberal democratic country, that is the United States. Max Ascoli expressed the importance of the Amendment of the Constitution and the *Declaration of Independence* as a community revolution. Society has the freedom to express opinions as a mean to oppose tyranny of oppression by political actors or despotic rulers. Backed by amendments and legislation, political actors or despotic rulers will gain knowledge and shame that what they do makes the people miserable or displeased by their actions. Knowledge and discomfort or shame to the fact that they are not capable enough, is expected to be a feedback in their running of government.

Francis Biddle in his journal *Freedom of Speech and Propaganda* describes the importance of speech as a tool for equating opinions (Biddle, 1940). Freedom of speech is departing from the long history of Liberty United States. This Liberty can be a weapon that can be approved or won or defeated. Freedom of opinion and publicity through the media is an option without pressure from any party.

Biddle states that freedom of expression and dissemination through the media in democracy is not a result of history. During the reign of Henry VII, the printing company was used as a tool of royal publication. The function of this printing turned into a tool to make peace in the community during a war. Justice Roberts in Biddle states that the function of printing to spread peace in favor of individual freedom should also be limited so that freedom is only done to maintain security.

Indonesia as a democracy country is also not less interesting. The history of Indonesia during the New Order period shows the dangers that occur to any party expressing an opinion. Heryanto and Adi (2001) show the mass media revolution as a medium to deliver news and opinions that previously had been closed by the government but eventually rose. The dominance of Indonesian politics was very influential during the New Order period. Under the current government, despite the democratic system of government, mass media are required to filter their content. The content of the news that expresses a sense of dislike to the government will get justification as an aberration and will get penalty in the form of the shutting of some mass media. Democracy with this restriction met its new light in post-New Order. After the end of Suharto's reign and because of the development of the internet, mass

media through the media portal increasingly free to preach events in the community

4 CRITICAL CONSTRUCTIVISM OF HATE SPEECH

Post structuralist thought as a broad basic thought of critical constructivism. The understanding of the urgency of hate speech translated into political language. By that interpretation of public and become better represented. The threat and danger definition should be made to upgrade consciousness and awareness. Deciding the meaning of an action best using the discourse analysis that define as: “systems of meaningful practices that form the identities of subjects and objects” (Howarth and

Stavrakakis, 2000). Discourse commonly refers to words, but can also include other data such as visual images, material objects and social institutions. (People, Vaughan-Williams, 2015, p.6)

Definition of discourse analysis of Peoples and Vaughan-Williams means that discourse in critical constructivism as an objective value. Knowledge is a practice to give a meaning into issues and action.

Action of giving an argument in democratic states declared as a normal act. Mass media that we all know now like newspaper, television, online news, social media stream, and all kind of communication through smartphones can be medium of delivering argument. If it is pictured, information that flows in every stream will be processed like this:

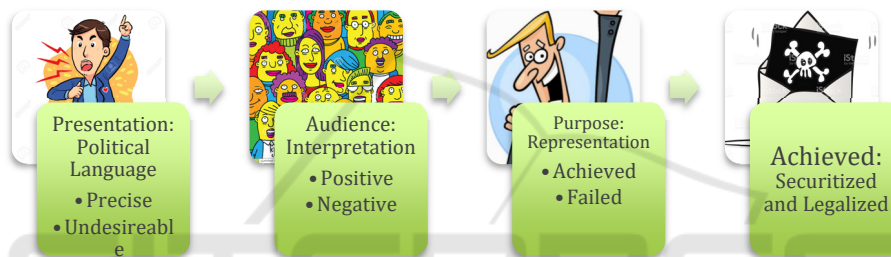


Figure 1: Critical Constructivist Discourse Analysis (See Reference for Image Sources).

Using language or political strategy with measured aim will positively affected and society will affirm the meaning with political understanding that threatening and supposed to be taken care of. Political way that not wanted will not be delivered smoothly into public and will be misunderstood and misleading the threat actual meaning.

The act that given meaning must be contained political meaning to be securitized. Without political meaning the act will not be acknowledge as a political system but knowing as hoax. Political actor that declared that issue is a threat with support from society, will escalated quickly so the issue will be considered. Issue that politized will give a space in the public policy that need decision from the authorities and policy allocation.

5 LEGAL REVIEW ON HATE SPEECH

Every country in the World has laws governing the hate speech. In Indonesia, the articles governing hate speech acts are contained in the Chief of Police No: SE/06/X/2015. The articles governing the hate speech are contained in the Criminal Code, the ITE Law (Information and Electronic Transactions), and the Law on the Elimination of Racial and Ethnic Discrimination. In accordance with the Criminal Code, the form of hate speech is defamation, humiliation, disrespect, provocation, instigation, and spreading false news (Soesilo, 1991, p. 225).

In the circular of the Chief of Police Number SE/06/X/2015 explains the notion of hate speech. Hate speech has a purpose that affects discrimination, violence, disappearance, and social conflict. The media used as hate speech places are also arranged in the circular of the Chief of Police. The media in question are; (1) oration in campaign activities, (2) banners, (3) social media networking, (4) public opinion/demonstration, (5) religious

lecture, (6) mass media print or electronic, and (7) pamphlets.

The scope of hate speech belongs to a crime of honor or humiliation. Honor and reputation become human rights, so only humans are the subject of a circular. Animal who has names is not going to be included as the subject of our paper this time. According to the Chief of Police circular letter, hate speech is included in Article 156 of the Criminal Code, Article 157 paragraph (1) and (2) of the Criminal Code, Article 310 Paragraph (1), (2), and (3) Penal Code, Article 311 KUHP (Criminal code) (1) Law No.11 of 2008 on Information and Electronic Transactions, and Law No.40 of 2008.

As long as there is no special institution that regulates the hate speech, the government with the police intermediaries will follow up the hate speech by using the above articles. Penalties earned by the perpetrators also vary up to the level, for example Article 156 of the Criminal Code (KUHP) which states the imprisonment of a maximum of four years or a fine of at most four thousand five hundred rupiah until the 11th of 2008 ITE Law stating the perpetrators of false and misleading and inciting hatred or hostility towards individuals and/or community groups based on tribe, religion, race, and in between groups (SARA) shall be subjected to a maximum imprisonment of six years or a maximum fine of Rp 1,000,000 (one billion rupiah).

6 HATE SPEECH IN SECURITIZATION

Broto Wardoyo (2015), one of the former faculty of International Relations, presents the concept of securitization derived from Ole Wæver. Securitization comes from discursive construction of security threats. Security itself was originally a mutually agreed social construction. Threats that originated from non-military, then turned into a threat to security. Turning a social action into a security threat requires elements that are mutually agreed upon.

Securitization requires a process until an actor can declare an issue into a threat. This process involves actors from government and society. There are three things related to securitization according to Wardoyo (2015):

1. Security is something that is constructed and not an absolute thing.
2. Security is a political process. The issue that was not a security issue changed urgently into a security issue.
3. Security remains a state affair as a provider.

The object of securitization is a threatened object. Examples of such objects include the state, government, and society. Here is a securitization flow diagram.

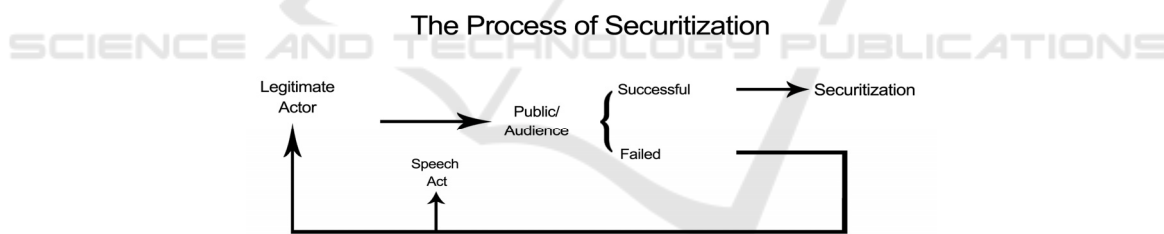


Figure 2 :Diagram of Securitization Process.

The legitimated securitization actor will do the construction as a threatened object. It needs the same perception among actors and audience so as to strengthen the effect of speech act. Functional actors who have an interest in the conduct of speech act are political leaders, bureaucrats, government and lobby groups. Speech Act is a facilitating condition that determines the success of securitization actors to convey to the audience of the appearance of threats. The example given by Broto Wardoyo is the influence of Bush's speech to the United States public that the threat of terrorism is an issue that must be followed up immediately.

The war of interest as a public rationality also happen in agreeing that an issue can be seen as a threat. As Barry Buzan mentioned:

“contradictions between individual security and national security and national security lead not only to specific policy issues of defence and deterrence, but also to broader policy questions such as human rights” (Barry Buzan, 1991)

Securitization is about issues that blocked human rights especially the rights of speech clearly seen as a standing block to rationalized hate speech issue as a security issue. In the other hand policy to ratified hate speech as a threat to sovereignty of the nation will help destruction and disunity to society.

Securitization invites criticism because there are conflicts with interests and morality. The arguments are; first, the securitization used by state actors will cause irregularities because it utilizes the previously unknown threat to exist in the middle of the society. These new threats put pressure on commune activities and routines. Secondly, securitization as a security issue causes widespread security issues. Widespread security issues re-question the essence of the security issue itself. Thirdly, as Floyd's mentions, it deals with moral issues and environmental issues (Broto, 2015). The securitization of environmental issues is the result of consequentialism by looking at the consequences when a rule is done or not done the impact will be negative or positive.

7 CASE ANALYSIS

The case analyzes that the writer carries out depart from the flow chart offered by the securitization diagram. There are three important things until a non-threat action is declared as threat and legalized. Three things are; (1) legitimate actors as representatives of the rulers, or in this case the country who feel that hate speech acts as a threat to the state's sovereignty, (2) the public as a judging audience will either approve or disapprove of such action as aberrations and threats to the sovereignty of the state, (3) Speech Act as the determining factor for the delivery of speeches and meaning to the public that will be elaborated further.

The Process of Securitization: Hate Speech Threat

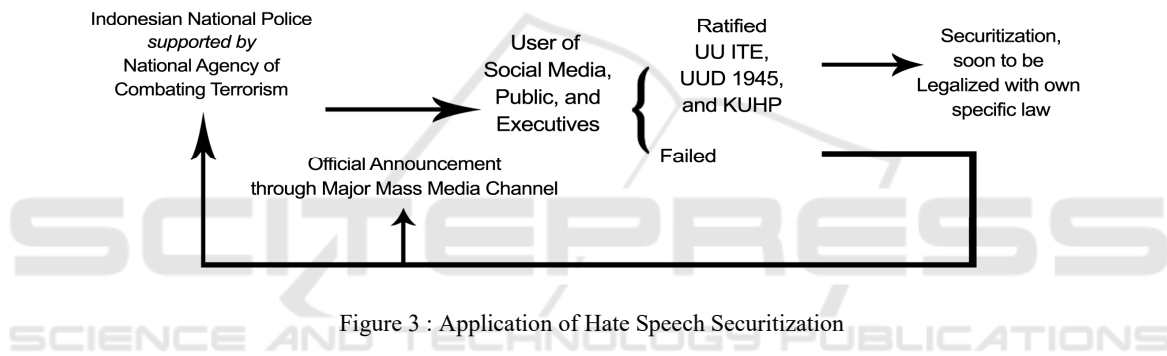


Figure 3 : Application of Hate Speech Securitization

There must be a legitimate actor in a hate speech case that acts as a party representing the government so hate speech can be secured and ratified as an unlawful act. In the case of Indonesia there are government actors armed with the Criminal Code and the 1945 Constitution which justifies the act of hate speech as a violation of the law. In the Criminal Code and the Constitution there is justification for any act that is declared as a violation of the law and there are consequences for perpetrators of irregularities or offenders.

If anyone states that the action is a threat, there must be a party who feels threatened by the action. The public or the audience as the recipient and later must apply his affirmation to the new rules and later must make rational considerations. Such rational thought must necessarily be taken into the account of the rights of the individual as a democratic Indonesian citizen. Approving new laws legalized by new law enforcement means that their right to express opinions is limited. However, the public may declare a rejection of the establishment of institutions and implementers of discourse rules. As a result, there

will be individuals who will spread the hatred of individuals, groups, as well as those submitted by political actors.

Armed with the experience of arresting perpetrators of violations of the Criminal Code and the Constitution both individual and groups, this hate speech will use the media and other means to convey an opinion that if at the table will not violate the law. Rejection by the public or the audience will result in the shock of Indonesian sovereignty. Conflict between groups of people based on race, religion, tribe, and others will become more heated. Given the people of Indonesia with the composition of race, religion, tribe, and social groups are different from Sabang to Merauke.

Speech Act is a facilitator to convey the gravity of a previously non-threaded situation into a thread for sovereignty. As in the case above, the government publishes to the media the existence of hate speech as a threat of sovereignty. Such publications include hate speech acts as a violation of the law, which indicates government regulations to indict perpetrators as perpetrators, and unlawful

consequences. Today's society is very much using electronic media as a source of information. Therefore, the government can simply publish the

news on TV, radio, and internet to show legal consequences for violation of law in the form of hate speech.

Table 1: Cases of Indonesian Securitizations.

Threats	Legitimate Actor	Speech Act	Public / Audience	Securitization
Terror from radical group, bombing, fire arms shootings, etc.	Indonesian National Police, Indonesian National Armed Forces, Minister for Political, Legal, and Security Affairs	Deradicalization, Public speaking by legitimate actors	Domestic Mass, perpretrators-wanna be, international mass	Anti Terrorism Law, Presidential Regulation no.12 /2012 (BNPT)
Illegal fishing, Illegal mining, Human Trafficking, Arms Illegal Trades	Indonesian Navy, Polairud, Minister of Maritime and Fisheries Affairs	Mass Media Publication: Urgency, The Urgent of Sovereignty, proclamation	Domestic Mass, International and Regional Mass,	Presidential Regulation RI No.16/2017 (Indonesian Maritime Axis Policy)
Hate Speech, hatred oration, vilify people/groups	Indonesian National Police, Political Actors, State Sovereignty	Mass Educating, Mass Counseling, Public Speaking by Legitimate Actors	Domestic Mass, Perpretrators	Expectancy: Anti Hate Speech Law, Legalized Institutional

The completion of hate speech to be official Presidential Regulation will give a new obstacle in political world and democracy in Indonesia. Indonesian National Police will do preventive and repressive action in overcome activity that potential of making hate speech more popular. Sanction of the violator of this regulation will be punished as mentioned in ratified document. Government in this case is the authoritative agency whom trusted by government will arrange both the regulation and sanction that need as a response to this issue.

8 CONCLUSION

Hate speech can be affected some more problem like violation of human rights from different degrees. Hitler as an extreme example how delivering argument in public with anger and hatred whether it is containing right or wrong content, thus is dangerous. More on it, Hitler demonstrate how far hatred he create can trigger international world even lead to war. United States as another example, the most powerful liberal and democratic states which give freedom to its citizen to declare every argument as a part of their constitution, give no sanction to the action done by its citizen regarding freedom of speech. As a contrast, in the developing states like

African states or even Singapore with its democratic values, made border for its citizen in delivering freedom of speech.

Freedom of speech that Indonesia have in its democracy that no more than 19 years after reformation era, face a serious stage. Where we know that freedom of speech is facing hate speech definition. The using of social media stream that already mentioned in big number users, clearly not showing a good effect. Hate speech now related to act that potentially bring destruction into society. Not only that, society now facing the limit that made by authorities regarding freedom of speech. For example, is the capture of Saracen or even how Jakarta governor accused by blasphemy triggered based on somebody Facebook status update.

This writing already analysis the securitization process that occurred on the fact that hate speech now become issue that politized by authorities below the misperception of freedom of speech. The securitization itself can be seen in different issues that happen in Indonesia for example at the illegal fishing issue or combat terrorism issue. Both cases end up with several regulation or agency that specialized to overcome the issue that turning into serious threat. Now that nation resilience and sovereignty to be in the stake, Indonesia once again

face a serious stage of threat treatment which is hate speech.

Securitization come from non-security issue that politized and raised the urgency by authorities or significant actors and see it as a threat. Not only that, hate speech now facing new phase when we see how government react into it. As a process of securitization running into more serious stage, hate speech perpetrator now must face several charged made by Indonesian National Police through different laws such as KUHP, UUD 1945, and Law of Information and Electronic Transaction. Since hate speech have no special law or agency that made by government to officially overcome it, now it seems like the law would be made soon with every serious damage that hate speech create. Thus, in securitization stage, hate speech become closer into success than failed. Even the outcome of securitization which is ratified law is have not been made for hate speech but how Indonesian government face the hate speech issue is in serious term. In the conclusion, hate speech now is almost securitized if we see how now Indonesian authorities is take a role in overcome hate speech issue.

One thing we should keep in mind that securitization has a possibility to degrade the democracy process in Indonesia. By making one issue to be securitized, that issue is no longer non-political and no longer become small issue to talk about. Once issue which is not security issue determine to get securitized its means using all means that government has become the option. So, we might rethink about this possibility before making an issue securitized. Nevertheless, the hate speech concern into securitization by using the internet and spread it to the public need to be aware of. As if we see how the public opinion is easily shaped and the government rules about hate speech has reach the final say. And now Indonesia will face the election year in 2018-2019, for sure the challenge that government has is more than eradicate the hate speech but also who behind it to prevent further catastrophe.

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APPENDIX

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