



Legal Review and Democratic Challenges of Community Organizations in Indonesia

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Abstract. This research discusses the phenomenon of social organizations (ormas) in Indonesia from a legal perspective and the challenges of democracy. The freedom of association guaranteed by Article 28E paragraph (3) of the 1945 Constitution serves as the legal basis for the existence of social organizations, which are further regulated by Law Number 17 of 2013 and Law Number 16 of 2017. Regulatory changes, particularly the government's authority to dissolve mass organizations without judicial process, have sparked a debate between the need to maintain public order and the guarantee of the principle of due process of law. The research method used is normative juridical with a legislative and conceptual approach, supported by a literature study from primary and secondary legal materials. The study results show that although mass organizations have great potential in strengthening democracy, challenges such as identity politics, radicalism, lack of funding transparency, and state power abuse against mass organizations still pose major obstacles. Therefore, balanced legal regulations, transparent oversight, and enhanced democratic literacy are needed to ensure that the role of social organizations remains in line with the principles of the rule of law and Pancasila democracy.

Keywords: Community Organizations, Democracy, Freedom of Association, Indonesia, Legal Review

1. INTRODUCTION

Community organizations are one of the important pillars in the democratic life of Indonesia. Its existence is constitutionally recognized through Article 28E paragraph (3) of the 1945 Constitution, which guarantees the right to associate, assemble, and express opinions. Community organizations function as a means for public participation in overseeing public policies, channeling aspirations, and driving social activities. Since the reform era, the number and types of community organizations have rapidly developed with various goals and orientations. This phenomenon simultaneously brings positive opportunities for development, but also has the potential to create legal and democratic challenges. (Silverman, 2004)

The development of community organizations in Indonesia is inseparable from the political, social, and economic dynamics that influence their direction. On one hand, many community organizations play an active role in community empowerment, education, and advocacy for citizens' rights. On the other hand, there are community organizations suspected of violating the law, threatening public order, or even contradicting the Pancasila ideology. This creates a need for clear and firm legal regulations without sacrificing the freedom of association. (Hadiansyah et al., 2020) Therefore, the state is required to balance the protection of human rights and the maintenance of democratic stability.

The legal framework governing community organizations in Indonesia is primarily outlined in Law Number 17 of 2013 concerning Community Organizations, which was later amended by Law Number 16 of 2017. This regulation governs aspects of the formation,

funding, activities, and dissolution of social organizations. One of the crucial issues is the government's authority to dissolve social organizations without going through judicial mechanisms based on Government Regulation in Lieu of Law (Perppu) Number 2 of 2017 concerning Amendments to Law Number 17 of 2013 on Social Organizations. This policy has sparked debate because it is considered to be in conflict with the principle of due process of law and the protection of the right to associate. (Munir & Ilham, 2020) These differing views reflect the tug-of-war between national security and civil liberties.

The challenge of democracy in the context of community organizations is not only related to regulations but also to practices on the ground. Identity politics, radicalism, and the misuse of civil society organizations for practical political interests have become serious issues. It is not uncommon for social organizations to be involved in acts of violence or pressure against other groups with differing views. (Poplewell, 2018) Furthermore, the lack of transparency in the funding of community organizations creates the potential for the misuse of funds for illegal activities. This situation demands more effective oversight and active community participation to maintain a healthy democratic climate.

The legal approach to community organizations must be placed within the framework of democracy based on Pancasila and the 1945 Constitution. The freedom of association is a fundamental right that must not be arbitrarily restricted. However, legitimate restrictions are still permissible to protect national security, public order, and the rights of others, as stipulated in Article 28J paragraph (2) of the 1945 Constitution and international legal principles. Therefore, the regulation of social organizations must strike a balance between protecting civil liberties and preventing threats to the state. (Silaban et al., 2023) Legal reviews and democratic challenges related to community organizations become important to ensure that the freedom of association continues alongside the rule of law and national stability.

2. RESEARCH METHODOLOGY

This research uses a normative juridical method with a statutory approach and a conceptual approach. (Sonata, 2015) The data used includes primary legal materials such as the 1945 Constitution, Law Number 17 of 2013, Law Number 16 of 2017, and other implementing regulations governing social organizations. In addition, this research utilizes secondary legal materials such as literature, scientific journals, articles, and previous research findings relevant to the topic. The data collection technique was carried out through library research by reviewing legal sources and academic literature. Data analysis is conducted qualitatively to identify legal principles, issues, and their implications for democracy in

Indonesia. The results of the analysis are then systematically organized to provide a comprehensive overview of the legal review and the democratic challenges related to the phenomenon of social organizations.

3. RESULT AND DISCUSSION

Legal Framework of Community Organizations in Indonesia

Community organizations in Indonesia have a strong legal basis in the constitution. Article 28E paragraph (3) of the 1945 Constitution guarantees every person the right to associate, assemble, and express opinions. This right is part of human rights guaranteed by the state, but it can be limited according to Article 28J paragraph (2) for the public interest. This principle is then translated into more specific regulations. (Riswanto & Riswadi, 2022) Thus, the legal framework for community organizations in Indonesia stands on a constitutional foundation that recognizes both freedom and social responsibility.

The main regulation governing community organizations is Law Number 17 of 2013 concerning Social Organizations. This law regulates in detail the establishment, registration, development, and dissolution of community organizations. There is a classification of community organizations based on national or regional scope, as well as legal or non-legal entities. The registration mechanism is regulated to ensure that the identity, purpose, and structure of the organization are clear and in accordance with the law. (Liu et al., 2014) These rules are intended to maintain order and prevent the misuse of the names of community organizations.

Significant changes occurred through Government Regulation in Lieu of Law (Perppu) Number 2 of 2017, which was later enacted as Law Number 16 of 2017. This regulation grants the government the authority to revoke the legal status and dissolve community organizations deemed contrary to Pancasila without going through judicial proceedings. (Karyono, 2020) This policy emerged as a response to the threats of radicalism and national disintegration. However, the granting of such authority has sparked criticism from various parties, particularly because it is considered to undermine the principle of due process of law. This debate highlights the tension between security aspects and the protection of human rights.

In addition to the Community Organization Law, there are various sectoral regulations that also govern organizations in specific fields. For example, the regulations from the Ministry of Home Affairs regarding the procedures for the registration and reporting of community organizations, as well as the rules from the Ministry of Law and Human Rights concerning community organizations with legal entity status as associations or foundations. Each sectoral

regulation aims to ensure that community organizations operate within the legal framework according to their respective fields. (Longhofer, 2018) Coordination between agencies becomes important to avoid overlapping authorities. With the harmonization of regulations, law enforcement against community organizations can be carried out more effectively.

In the context of international law, the freedom of association is regulated by Article 22 of the International Covenant on Civil and Political Rights (ICCPR), which has been ratified by Indonesia thru Law Number 12 of 2005. ICCPR allows restrictions on the freedom of association only for reasons of national security, public order, or the protection of the rights and freedoms of others. This principle is in line with the 1945 Constitution, which places freedom of association as a fundamental right with clear limitations. (Vallier, 2021) Therefore, the legal framework for mass organizations in Indonesia is based not only on national law but also on international commitments. The implementation of this principle serves as a benchmark for democracy and respect for human rights in Indonesia.

Overall, the legal framework for community organizations in Indonesia is designed to maintain a balance between the freedom to associate and the interests of the state. The law provides space for the community to organize legally and productively. However, regulations also establish strict mechanisms to take action against community organizations that violate the law or threaten the state's ideology. The main challenge lies in consistent and non-discriminatory enforcement. Therefore, periodic evaluation of regulations and law enforcement practices is important to ensure that the role of civil community organizations remains constructive in national life.

The Challenge of Democracy in the Existence of Community Organizations

The existence of community organizations in Indonesia is a tangible manifestation of the freedom of association guaranteed by the constitution. However, in practice, community organizations face various challenges that affect the quality of democracy. Some community organizations play a positive role in advocating for public interests, but there are also those that trigger social tensions. (Mundayat et al., 2017) This phenomenon occurs because the freedom to associate is not always accompanied by an awareness of legal and social responsibilities. As a result, democracy can be disrupted by the activities of community organizations that violate the principles of tolerance and diversity.

One of the biggest challenges is the emergence of identity politics brought by some community organizations. Identity politics is often used to build internal solidarity, but it can also divide society horizontally. When religious, ethnic, or cultural identities are used as political tools, the potential for social conflict increases. Community organizations that

promote exclusive narratives can erode the values of diversity. (Kristensen, 2020) This condition threatens social cohesion, which is an important foundation of Indonesian democracy.

Radicalism also poses a serious challenge to the existence of community organizations. Some mass organizations are known to promote ideologies that contradict Pancasila and the constitution. Their activities are not only ideological but also sometimes involve training or mass mobilization for purposes that could potentially disrupt national security. The government often has to take firm steps, including disbanding, to prevent greater impacts. (Hikam & Riyanta, 2018) However, these actions risk sparking a debate about the boundary between security and freedom of association.

Another challenge is the low transparency in the funding of community organizations. Many community organizations do not openly report the sources and uses of their funds, leading to suspicions of illegal fund flows. The lack of transparency in funding has the potential to be exploited for illegal activities or to support certain political agendas. The absence of strict audit mechanisms weakens oversight. In the context of democracy, financial transparency is one of the indicators of organizational accountability. (Behn et al., 2010)

Community organizations are often used as tools for practical political mobilization. During election periods, some community organizations play a role in garnering support for certain candidates or parties. This practice can blur the line between the role of community organizations as social institutions and short-term political interests. When community organizations become too close to power, their independence is threatened. This can harm the quality of democracy because it reduces the role of civil society organizations as government watchdogs. (Thamrin, 2020)

The lack of democratic literacy among the members and leaders of community organizations poses an additional obstacle. Many members of community organizations do not yet understand the basic principles of democracy, human rights, and the rule of law. As a result, the organization's decisions and actions often do not reflect the democratic spirit. Political education and training in good organizational governance are still minimally conducted. (Jordan, 2020) Without an increase in literacy, community organizations are vulnerable to being trapped in practices that harm society.

Government oversight of social organizations also faces challenges in terms of consistency and independence. There are concerns that regulations are selectively used to dissolve community organizations that do not align with the political interests of those in power. Such practices can undermine public trust in the rule of law. Inconsistent law

enforcement actually encourages political polarization. (Zhou, 2019) Therefore, it is important for the government to ensure that every policy toward community organizations is carried out objectively.

Overall, the presence of community organizations in Indonesia holds great potential to strengthen democracy, but it also carries significant risks. Challenges that include identity politics, radicalism, funding transparency, political mobilization, democratic literacy, and government oversight need to be addressed comprehensively. These efforts require synergy between the state, community organizations, and the general public. Fair regulations, transparent oversight, and political education are key to overcoming these obstacles. Thus, community organizations can become a positive force that sustains democracy in Indonesia.

4. CONCLUSION

Community organizations in Indonesia have a strong legal foundation in the 1945 Constitution and are further regulated by Law Number 17 of 2013 and Law Number 16 of 2017. Its existence is a tangible manifestation of the freedom of association, which is one of the pillars of democracy, but its implementation is not without various challenges. These challenges include identity politics, radicalism, lack of funding transparency, and the potential misuse of community organizations for practical political interests. The regulatory changes that grant the government the authority to dissolve community organizations without judicial process have sparked a debate between national security protection and the principle of due process of law. Therefore, a balanced legal framework, consistent law enforcement, and transparent oversight are needed to ensure that social organizations remain on the constitutional path. The synergy between the government, society, and the community organizations themselves becomes a key factor in ensuring their role remains constructive. With these steps, community organizations can contribute positively to the strengthening of democracy and the preservation of Pancasila values.

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