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## Implementation of Article 28e (3) of The Constitution of The Republic of Indonesia Year 1945 on The Restriction of The Right of Assembly in Law No. 17 of 2013 about Community Organizations

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**Abstract:** The Republic of Indonesia's 1945 Constitution's Article 28E, paragraph (3), guarantees the right to freedom of organization and assembly. The purpose of this study is to investigate and evaluate the juridical aspects of these rights in the context of the establishment and implementation of Community Organization activities in Indonesia. The research uses normative method with legislation, historical, and comparative approach. The results of the analysis showed that although the right to association is constitutionally recognized, practices on the ground still face various obstacles, such as unilateral dissolution, restrictions by the state, as well as regulations that have the potential to curb organizational freedom. On the other hand, the state also has the obligation to uphold the integrity of state ideology and public order. Thus, it is necessary to strike a balance between the state's power and the defense of citizens' rights in organizing public organizations. Recommendations, the need for fair law enforcement, improved regulation, and increased legal awareness in the community so that freedom of association can be realized effectively and responsibly.

**Keywords:** Constitutional Rights, Freedom of Association, Social Organization.

### INTRODUCTION

The principle contained in hukum the basic law affirms that power source the highest source of power in the Indonesian state is the law established by the people through their representatives. In praktik constitutional practice although the exercise of government requires the use of power but the power is limited and directed by law. Thus, the concept of the rule of law is the antithesis of the state of power. The idea that underlies it focuses on the protection of the individual freedom of citizens, not on the freedom of the state to act arbitrarily. Purpose The main purpose of the principle of the rule of law is to guarantee public order, in which the state serves as server a public servant given mandated to maintain such order. (Nasution, 2014, p. 74).

According to Article 1 Paragraph 3 Undang-Undang of the Constitution of the Republic of Indonesia in 1945, the state of Indonesia is a state of law. He clarified that the Republic of

Indonesia is founded on the rule of law (Rechtsstaat) rather than only power (Machtsstaat). Other constitutions that have been in effect in Indonesia, like the Republic of Indonesia Serikat (RIS) Constitution and the Provisional Constitution (UUDS) 1950, also uphold this idea, specifically declaring that Indonesia is a state of law.

As the supreme law of a nation, constitutional rights are those that are guaranteed and safeguarded by the Constitution. Regarding Indonesia, Article 1 Paragraph 3 of the Constitution of the Republic of Indonesia of 1945 expressly declares that Indonesia is a state of law. As a rule of law, Indonesia is obliged to ensure that the Constitution and laws and regulations ensure the protection of human rights and ensure the existence of an independent judiciary. Therefore, the state has a responsibility to respect, protect and fulfil the constitutional rights of citizens, including through the recognition of human rights. It should be noted that human rights have universal nature and apply to every individual regardless of citizenship status, while the rights wargaof citizens are limited only to those who have citizenship status in a country.

*Constitutional rights* according to Prof. Jimly Asshiddiqie, S.H. These are the rights guaranteed by the The Republic of Indonesia's 1945 Constitution. Following the Republic of Indonesia's 1945 Constitutional Amendments, which made human rights concepts the focus of the discussion. These principles form the basis of the constitutional rights of citizens that give birth to the obligation for the state to fulfill them. One of the absolute elements that must exist in negara a legal state is to fulfil basic human rights. The guarantee of human rights protection in the Constitution as the highest law means that the state is prohibited from committing human rights violations manusia (Mumtaz, 2005, p. 48).

Human rights listed in the Constitution of the Republic of Indonesia 1945 can be categorized as constitutional rights of Indonesian citizens. This shows that human rights are inherently in every individual solely because he is a human being, and therefore it must be fully protected by the state. This characteristic is the difference between human rights *human rights* and citizen's rights, where citizen's rights are limited to individuals who have citizenship status, while rights are universal and do not depend on citizenship status.

A social organization is a type of voluntary organization created by Republic of Indonesian residents based on shared interests, occupations, roles, and religions. Within the context of the Unitary State of the Republic of Indonesia based on Pancasila values, this organization seeks to actively participate in the national development process in order to accomplish the state's goals (Laksana, 2017, p. 80).

The Organization Kemof Community Campsite has become one of the important elements in the life of the nation and state. In the context of democracy, organisasi community organizations serve as channels for public participation, whether in the social, political, or economic spheres. This organization provides space for citizens to collaborate, voice their interests, and fight for their rights. In a democratic society, the existence of a free and independent organization of society is essential to maintain the balance of power between the state, society and the corporate world. (Print, 2012, p. 112-114).

Freedom of association is part of fundamental Human Rights. This right ini refers to the freedom of assembly (freedom of association), which encompasses aspects of economic, social, and cultural rights in addition to civil and political rights. The two primary facets of freedom of association are the protection of the right of individuals to join others and the protection of the existence and freedom of groups formed. In this context ini, freedom of association includes several important elements: first, the protection of individuals and groups from intervensi yang arbitrary intervention; second, the guarantee of the right to form or join dalam organizations such serikat as trade unions, hold meetings, discuss, and convey issues of common interest; and third, the protection of efforts collective in realizing common goals through various legitimate activities.

Law Number 16 of 2017 governing community groups provides a further definition of a community organization. According to these regulations, a community organization is one that was voluntarily founded and organized by the community and is founded on shared aspirations, wishes, needs, interests, activities, and particular objectives. Based on Pancasila and the 1945 Constitution of the Republic of Indonesia, this organization seeks to support the process of national development in order to achieve the objectives of the Unitary State of the Republic of Indonesia.

Law Number 16 of 2017 about Organisasi community organizations governs community groups in Indonesia. The legislation regulates in detail the existence of organizations to the public in Indonesia. Terms and prohibitions in the establishment of organizations to the public are regulated therein, also regulates the freezing and dissolution of an organization that is suspected of having committed an insult to religion.

The Prohibition of an organization to the public is regulated in Article 59 Regarding Organisasi community groups, Law Number 16 of 2017, yang among which a organisasi community organization is prohibited from carrying out activities that disrupt public security and order umum, accepting or making donations to any party in any way that violates legal requirements, or offering support to foreign organizations that could jeopardize the interests of the country and state.

As part of the principle of democracy, freedom of association is fundamental in the development of organization to society. Everyone's right to freedom of association, assembly, and expression of opinion is expressly guaranteed by Article 28E, paragraph (3) of the Constitution of the Republic of Indonesia of 1945, which was modified in the Second Amendment of the Constitution of the Republic of Indonesia of 1945 in 2000. This confirms that freedom is not only a right for Indonesian citizens, but also for everyone who is in Indonesia, including foreigners. Thus, Article 28E paragraph (3) not only provides protection for individuals to gather and voice their opinions, but also guarantees freedom for individuals or groups to form organisasi community organizations, which are the main means of channeling aspirations and public participation in the life of the nation and state.

The Republic of Indonesia's Constitution's Article 28E, paragraph (3), guarantees freedom of association 1945 is very relevant to the development of community organizations in Indonesia. As a space for socio-political activities, the organization of society has an important role in facilitating citizen involvement in government and supervision of state policy. Therefore, the organization of society serves not only as a social entity, but also as an important in a healthy democratic system of government, where each individual has the right to form, join and develop organizations that are channels for their aspirations. (Fauzan, 2014, p. 85-88).

One of the factors that influence is the attraction of interests between citizens. The implementation of the fulfillment of citizens' human rights is significantly impacted by the state's (government's) interests on the one hand. Even so, human rights have become norms and standards in the Constitution, national legislation and international law, but in practice it has not met the principle of "*Law as it is in the book*" (Soemantri, 1986, halp. 51). For example, cases of dispersal and intimidation of workers' actions carried out by the authorities in commemoration of Hari Buruh of International Workers' Day in several parts of Indonesia reflect how the legally guaranteed freedom of association and assembly is still often faced with repressive measures that impede the real implementation of these rights.

## METHOD

Nevertheless, although this right to freedom of association ini has been guaranteed by the Constitution, in practice there are still various challenges faced in the application of the right, mainly related to the restrictions that the state may impose in the context of Public Order and state interests. Therefore, it is important to conduct a juridical analysis of the application

of The Republic of Indonesia 1945 Constitution's Article 28E, paragraph (3), guarantees the community's right to freedom of association and organization. It is anticipated that this examination will offer a more profound comprehension of how these freedoms can be optimized in strengthening the role of community organizations in Indonesia, and maintaining a balance between individual freedom and public interest (Nurbaya, 2013, p. 201).

Based on the description above, several questions arise that lead to various problems, which will be discussed further and in depth in order to obtain solutions to existing problems.

### **Formulation of The Problem**

Based Introduction that has been described above, then formulate the problem as follows:

1. How is the implementation of Article 28E paragraph (3) of the Constitution of the Republic of Indonesia year 1945 on the restriction of the right to assemble in Law Number 17 year 2013 on Organization Society?
2. What are the obstacles in upholding the right to freedom of association and Assembly for community organizations in Indonesia?

## **RESULT AND DISCUSSION**

### **1. Implementation of Article 28E paragraph (3) of the Constitution of the Republic of Indonesia year 1945 on restrictions on the right to assemble in Law Number 17 year 2013 on Organisasi social organizations.**

Everyone's right to freedom of association, assembly, and expression of opinion is expressly guaranteed by Article 28E, paragraph (3) of the Republic of Indonesia's 1945 Constitution, which was modified in the Second Amendment of the Philippine Constitution of 1945 in 2000. This affirms that freedom is not only a right for Indonesian citizens, but also for everyone who is in Indonesia, including foreigners. Thus, Article 28E paragraph (3) not only provides protection for individuals to gather and voice opinions, but also guarantees freedom for individuals or groups to form community organizations, which are the main means of channeling aspirations and public participation in the life of the nation and state.

The Republic of Indonesia's Constitution's Article 28E, paragraph (3), guarantees freedom of association 1945 is very relevant to the development of community organizations in Indonesia. As a space for socio-political activities, community organizations have an important role in facilitating citizen involvement in government and supervision of state policy. Therefore, community organizations not only function as social entities, but also as important pillars in a healthy democratic system of government, where every individual has the right to form, join and develop organizations that are channels for their aspirations (Fauzan, 2014, p. 85-88).

Freedom of association and assembly is one of the key rights in human life, because with this freedom man can enjoy other rights and freedoms established by law (*key right*). However, this freedom is not an absolute right absolut, which means that it is subject to a number of restrictions that must also be established in law. This is not only a reflection, but a prerequisite in a democratic society. Such restrictions are necessary if there are interests to protect national security or public safety (public order (public order), protection of health and public morality (public health or morals), national security (public safety), and defense of others' rights and liberties (Latipulhayat, Atip, 2017, p.1).

Freedom of association is not only the freedom to establish an organization or serikat trade union, but more than that is the guarantee of the implementation and purpose of the implementation of freedom of association in accordance with the Constitution (Constitution of the Republic of Indonesia 1945). However, the implementation of protection, promotion, and fulfillment of human rights in Indonesia is still experiencing

ups and downs. One of the factors that influence is the attraction of interests between citizens on the one hand, with the interests of the state (government) on the other hand greatly affecting the implementation of the fulfillment of human rights for citizens. Although human rights have become norms and standards in the Constitution, national legislation and international law, in practice it has not met the principle of “*Law as it is in the book*” (Soemantri, 1986, hlm. 51). For example, cases of dispersal and intimidation of workers' actions yang carried out by the authorities in commemoration of International Workers' Day in several parts of Indonesia reflect how the legally guaranteed freedom of association and assembly hukum is still often faced with repressive measures that impede the real implementation of these rights.

However, although this right to freedom of association ini is guaranteed by the Constitution, in practice there are still various challenges faced in the application of the right, especially with regard to the restrictions that the state in the context of Public Order and the interests of the state. Therefore, it is important to conduct a juridical analysis of the implementation of the Republic of Indonesia 1945 Constitution's Article 28E, paragraph (3), which guarantees the right to freedom of association in community organizations. It is anticipated that this examination will yield a deeper comprehension of how these freedoms can be optimized in strengthening the role of community organizations in Indonesia, and maintaining a balance between individual freedom and public interest (Nurbaya, 2013, p. 201).

Community organizations have an important role in the life of the nation and state in Indonesia. As part of civil society, Ormas serves as a channel for people's aspirations, education extension workers, and mitra government partners in various social and political development programs. In the framework of Indonesian positive law, In place of Law No. 2 of 2017 regarding revisions to Law No. 17 of 2013 concerning social organizations into law, Ormas is governed by Law Number 16 of 2017 addressing the determination of the government.

According to Law No. 16 of 2017 on community organizations, community organizations are groups that are freely founded and organized by the community and are founded on shared needs, wants, interests, activities, and objectives. This organization ini aims to make a positive contribution to society, state, and nation, both in, political, economic, and cultural aspects and can contribute to the national development process in order to realize the As stated in Pancasila and the Republic of Indonesia's 1945 Constitution, the Unitary State of the Republic of Indonesia aims to.

One of the most significant laws in the framework of Indonesian national and state life's Law No. 16 of 2017 on the government's resolution in lieu of Law No. 2 of 2017 on revisions to Law No. 17 year 2013 on social organizations. It was passed to provide a legal basis for community organizations in Indonesia, be it social, political, economic, and cultural.

In essence, Law No. 16 of 2017 on government determination replaces Law No. 2 of 2017 on revisions to Law No. 17 of 2013 on community organizations emphasizes the importance of community organizations as elements of society that have vital role in the development of society. Mass organizations have the right to voice the aspirations of the people, assist the government in social development, and develop the potential of the community. However, these also contain strict rules regarding the limitation and control of mass organizations that have the potential to harm the interests of Nation, such as mass organizations that have orientasi a radical orientation or are contrary to Pancasila and Nation's ideology (Utami & Sugitanata, 2024).

The Social Organization Act gives a number of rights to registered and legally qualified mass organizations. First, community organizations are entitled to obtain legal



status as a legal entity after registering with the government. This gives community organizations the legal capacity to conduct activities, manage funds, and cooperate with other parties, both nationally and internationally. Mass organizations also have the right to voice their opinions, conduct social activities, and participate in the preparation of public policies related to the field involved by the community organization. In this context, the right to organize and assemble is guaranteed by the Indonesian constitution, which bases itself on freedom of opinion and association (Trinanda, 2020).

Organizations also have the right to manage and use resources, both human and material resources, to carry out activities in accordance with their objectives and articles of association. In addition, community organizations have the right to develop networks of cooperation with other organizations, both domestically and abroad, that can support the achievement of their goals. The role of community organization in democratic societies is very important because they can serve as Guardians of social balance and play a role in the control of government policy.

The right of citizens to organize themselves and participate in public life is also very important to maintain the Democratic balance in Indonesia. Organizations play a role in fighting for the interests of the community and provide an alternative voice that is not always represented by political parties. Thus, Ormas serves as a means of filtering and accompanying public policies that can help create more targeted and fair policies.

On the other hand, community organizations also have the right to legal protection. If community organizations receive threats or interference in the implementation of their activities, they are entitled to obtain legal assistance in accordance with applicable regulations. The government is also obliged to provide protection to community organizations that legally operate in Indonesia, by avoiding all forms of unauthorized intervention in the activities carried out by community organization, as long as the community organization does not conflict with Pancasila and the 1945 Constitution (Priyono & Nilamsari, 2021).

Di Behind the rights granted, community organization also has obligations that must be fulfilled in order to maintain the integrity of the nation and state. One of the main obligations stipulated in the community organization law is the obligation to register and obtain ratification as a legal entity in order to legally obtain its rights. Unregistered mass organizations are that not recognized by the organization and may face legal sanctions if they continue their activities. registration ini aims to provide transparency and accountability in every activity carried out by community organization.

In addition, community organization is required not to conflict with the ideology of the Nation, namely Pancasila, and the 1945 Constitution. This means that community organizations must ensure that all activities and goals they carry out do not harm the country or contradict the principles of nationality guaranteed in the Indonesian constitution. Mass organizations that are found to be involved in activities that are contrary to Pancasila or damage the integrity of the state, such as terrorism, separatism, or acts of violence, can be dissolved by the government in accordance with the provisions ada in the of mass organizations (Ghufranillah & Wahyuni, 2022).

Organizations are also obliged to maintain good relations with the government and the community. They must not hold activities that threaten public order, and must always put forward the values of unity and unity of the nation. Organizations must ensure that their activities do not create polarization or division in society. In this case, the government reserves the right to issue a warning, even to dissolve the community organization, if they engage in activities that harm the state or violate applicable laws.

Law No. 2 year 2017 on the legal adjustments to Law No. 17 of 2013 on community groups was replaced by Law No. 16 of 2017 on government determination that also

regulates the obligations of community organizations in terms of transparency and accountability. Organizations are required to make financial statements periodically and submit reports to the government. It aims to ensure that community organizations do not abuse the resources at their disposal and continue to operate in accordance with legitimate and transparent principles.

One of the prominent obligations is the obligation not to carry out actions that violate the 1945 Constitution and Pancasila. This is very important, because the existence of community organizations that are not in accordance with the basic values of the country can endanger national stability. Therefore, the control of community organizations that have the potential to damage the country is one aspect that needs to be monitored by the government.

The rights and obligations of community organization in Indonesian positive law are strongly influenced by aspects of strict regulation and supervision. In terms of rights, provide a foundation for community organization to develop and participate in public life. However, along with this right, community organization is also burdened with the obligation to safeguard the interests of the state and society. Therefore, the existence of community organization must be in harmony with the purpose of Nation, namely to maintain the unity of the nation (Shofiyah et al., 2024).

Overall, the rights and obligations of community organization in Indonesian positive law provide a space for community organization to participate in the life of the nation and state, while ensuring that community organization operates within a clear and transparent legal framework. However, it is important for the government to implement this regulation fairly and wisely, so that the rights of mass organizations are not abused, and their obligations can be carried out responsibly. Thus, mass organizations can function optimally as part of civil society that supports the achievement of Indonesia's national goals (Wardi, 2019).

One of the problems that arise from the community organization is the potential abuse of government authority in dissolving community organization. Some critics have suggested that the rules could be used to restrict freedom of expression and assembly for groups with different political views. This potentially threatens the democratic principles guaranteed by the Indonesian constitution. However, on the other hand, these community organizations provide a clear legal basis for the government to overcome community organizations that have the potential to damage public order and oppose ideologistate ideology (Prayudi et al., 2022).

Law of community organizations also emphasized that community organizations should not be involved in activities that have the potential to damage the unity of the nation, such as terrorism or separatism. In this case, community organizations provide obligations to community organizations to maintain social stability, politics, and national security. One of the other important obligations is that mass organizations must register to the government in order to obtain legal entity status, which provides stronger legal protection in carrying out activities.

Overall, the socialisation of community organization seeks to strike a balance between giving communities the freedom to develop and participate in socio-political life, by ensuring that communities do not engage in activities that harm them and their communities. Supervision of the community organizations is one of the aspects regulated in the Law with the aim of ensuring that the activities of the community organizations remain on track in accordance with the values of Pancasila and national law.

However, the success of the implementation of Law of tomasthe community is highly dependent on fair and transparent implementation. If the government policy is applied correctly and not abused, then these changes can provide great benefits for the

people of Indonesia. On the other hand, if the implementation is not careful, the expansion of these community organizations can lead to restrictions on human rights and freedom of expression, which ultimately harms democracy and pluralism which are the basis of national life in Indonesia.

Some provisions in this law authorize the government to dissolve community organizations which are considered against the 1945 Constitution and Pancasila. Law No. 16 of 2017's Article 59 on community organizations authorizes the government to issue warnings against organizations that are considered to violate laws and regulations, and gives the right to the government to dissolve organizations if it is considered to have carried out activities that are contrary to state objectives. However, the decision to dissolve the organization can be made through the court mechanism, which provides protection for Human Rights in the process.

According to Article 21 of Law No. 16 of 2017 concerning the government's determination in lieu of Law No. 2 of 2017 concerning amendments to Law No. 17 of 2013 concerning social organizations into law, one of the reasons for the dissolution of the social organization is if it fails to fulfill its obligations:

1. Carry out activities in accordance with the objectives of the organization;
2. To preserve the Republic of Indonesia's integrity as a unitary state and the nation's unity;
3. Maintaining religious, cultural, moral, ethical, and norma moral values and providing benefits to the community;
4. Maintaining public order and the creation of peace in society;
5. Conduct financial management in a transparent and accountable manner; and
6. Participate in the achievement of state goals.

The second reason for the dissolution of the community organization is if the community organization breaches Law No. 16 of 2017's Article 59, which deals with the government's decision-making in lieu of Law No. 2 of 2017's modifications to Law No. 17 of 2013 about community groups.

Dissolution Organisasi of community organizations based on the provisions before the changes in Law of No. 17 of 2013 on community organizations have procedures for dissolution of organizations that are different from the changes in Law No. 16 of 2017 on community organizations. Procedures for dissolution community organizations based on Article 70 of Law No. 17 of 2013 on community organizations are as follows:

- 1) The application for the dissolution of a civil society organization with a legal entity, as mentioned in Pasal 68 paragraph 1, is submitted to the District Court by the prosecutor 's office only upon a written request from the minister in charge of government affairs in the field of law and Human Rights.
- 2) The application for dissolution of the community organizations as meant in Paragraph (1) shall be submitted to the chairman of the District Court in accordance with the place of legal domicile of the community organizations and the Registrar shall record the registration of the application for dissolution in accordance with the date of submission.
- 3) Proof that the government or local government has imposed administrative punishment must be included with the application mentioned in paragraph (2).
- 4) The request for the dissolution of community organizations of the Incorporated Mass Organization cannot be approved if the application mentioned in paragraph (3) is not supported by documentation of the government or local authority imposing administrative consequences.



- 5) The State court shall determine the day of the hearing within a maximum period of 5 (five) working days from the date of registration of the application for the dissolution of the organization.
- 6) The summons for the first hearing must be duly received by the parties at least 3 (three) days before the hearing.
- 7) In the examination session as referred to in paragraph (6), community organizations as the respondent party are given the right to defend themselves by providing information and evidence at the trial.

Application of administrative sanctions dissolution of community organizations based on Law No. 17 of 2013 on community organizations can be seen that the application of administrative sanctions is carried out through a court decision that has been obtained, after which the government can impose sanctions for revocation of legal entity status.

The dissolution of Community without going through a judicial process is regulated in Article 60 paragraph (2) of Law Number 16 of 2017 concerning social organizations which reads, “organizations that violate the provisions as referred to in Article 52 and Article 59 paragraphs (3) and ayat(4) are subject to administrative and or criminal sanctions”. Which is then clarified in Article 61 of Law Number 16 of 2017 concerning Organisasi social organizations.

Dissolution of social organizations should refer to the principles of *Duo Process of Law* as a pillar of the rule of law where the court plays a key role in the process the court must be held openly and accountable (the government and the party who carried out the dissolution) must be heard impartially, and the decision can be tested at a higher court level. The action of dissolution through the court can also only be taken after all other efforts are made, ranging from warnings, termination of activities, administrative sanctions, to temporary freezes. Strictly speaking, the act of dissolution should be placed as a last resort if other efforts have been made (Master Of Law Graduate Program of HKBP University, 2024, hlmP. 123).

The dissolution without going through the judicial process is one of the crucial legal issues krusial within the framework of Indonesia's execution of the freedom of assembly and association. The Republic of Indonesia's 1945 Constitution's Article 28E, paragraph (3), strictly regulates this freedom by stating that everyone has the right to association, assembly, and issue opinions. As a fundamental human right, this freedom ini should be guaranteed and protected by the state without unauthorized restrictions (Setiawan & Riwanto, 2020, hlmP. 284).

## **2. Constraints in enforcing the right to freedom of association and Assembly for organisasi community organizations in Indonesia.**

The right to freedom of association and assembly integral is an integral part of human rights guaranteed in various national and international legal instruments. However, in practice, there are various obstacles that hinder the optimal implementation of these rights by community organizations in Indonesia. How many obstacles encountered, among others:

### **a. Intervensi Political intervention against freedom of Association in Indonesia**

An essential component of human rights and a vital component of a democratic government is freedom of organization. This freedom is protected in Indonesia by Article 28E, paragraph (3) of the Republic of Indonesia's 1945 Constitution, which declares “everyone has the right to freedom of association, assembly, and opinion.” However, this freedom is not always ideally realized in practice, because seringit is often faced with

various forms of political intervention from the state. The intervention can appear in the form of repressive regulations, pressure on certain organizations, restrictions on the space of expression, to the dissolution of organizations that dinilai are considered inconsistent with the political direction of the authorities. This phenomenon shows the tension between the democratic aspirations of the people and the tendency of the state to maintain control over public space and civil society (Istiwati, 2012, p. 58).

Historically, political intervention against freedom of organization has been going on since the Old Order. In unstable political situations, stable and full of ideological competition, governments often use state power to suppress organizations that are considered a danger to national stability. This practice continued and even strengthened in the New Order, when the state adopted a more systematic and repressive approach to civil society. The government at that time not only supervised the activities of community organizations, but also required all organizations to submit to the asas single principle of Pancasila. Organizations deemed unsuitable or opposed ideologies state ideology are immediately prohibited from operating, even without court proceedings. Intervention is carried out through state agencies such as the Ministry of Home Affairs and the State Intelligence Coordinating Agency, which have otoritas broad authority to monitor and intervene in the activities of organizations (Priyono & Nilamsari, 2021, hlmP. 258).

Entering the post-1998 reform era, the Civil Liberties space in Indonesia experienced a significant opening. The euphoria of reform led the people to freely establish various governmental organizations, trade unions, advocacy groups, to Special Interest Based Organizations. However, although the reforms brought a breath of fresh air to freedom of organization, the threat of political intervention did not completely disappear. Instead, the form of intervention undergoes a transformation from direct and coercive to more subtle through policies, regulations, and legal mechanisms that are biased in interpretation. One clear example of this is the publication of a government regulation regarding social organizations in place of Law Number 2 of 2017, which was subsequently approved as Law Number 16 of 2017. This law allows the government to disband large groups without following the proper legal procedures, if the organization is considered contrary to ideologystate ideology or endangers national integrity. The dissolution of Hizbut-Tahrir Indonesia (HTI) is an example of how the executive power can take unilateral action under the pretext of preserving the ideology and security of the country, without providing fair defense spaceadil for the organization (Marfiando, 2020, hlmP. 92).

Intervensi Political intervention against freedom of organization is also reinforced by weak legal protections and gaps in regulation that allow repressive measures to be formally justified. Ambiguity in legal definitions such as "contrary to Pancasila "or" threatening national security" creates vast space for interpretation, which is often used to silence organizations that voice criticism or have agendas different from the state. This shows that the existence of the law is not a guarantee of the protection of human rights if it is not accompanied by a strong commitment to democracy and transparency in its enforcement (Ertanti, 2021, hlmP. 296).

**b. Lack of Public Understanding regarding freedom of Association and Assembly.**

A deep understanding of the right to freedom of association and assembly is essential to encourage active participation of the public in the democratic process. When people have sufficient knowledge, they are more likely to engage in community organizations, voice their opinions, and fight for their interests. Conversely, a lack of understanding can result in apathy, helplessness, and inability to demand their rights.

Some of the factors that cause lack of public understanding related to freedom of association and Assembly include:

1. Lack of Education and socialization.
  2. Social Stigma and fear.
  3. Limited Access To Information.
  4. Media Influence.
  5. Limited Sumber Resources Of Civil Society Organizations.
  - 6.
- c. Dissolution Organisasi Of Community Organizations Without Judicial Process

One of the most important legal challenges in the context of Indonesia's implementation of the right to freedom of association and assembly is the dissolution of community groups without following the proper legal procedures. Everyone has the right to organization and assembly, according to Article 28E paragraph (3) of the Republic of Indonesia's 1945 Constitution, which strongly regulates this freedom, and issues opinions. As a fundamental human right, this freedom ini should be guaranteed and protected by the state without unauthorized restrictions (Setiawan & Riwanto, 2020, hlmP. 284).

However, in practice, there are legal provisions that authorize the government to dissolve community organizations unilaterally, without going through a transparent and independent judicial process. This legal provision creates a significant tension between the implementation of the right to freedom of association guaranteed by the Constitution and efforts to maintain social stability and maintain state security. This tension ini has led to debate regarding whether such freedom can be restricted, and if so, the extent to which such restrictions are in accordance with the principles of the rule of law in force in Indonesia (Setiawan & Riwanto, 2020, hlmP. 276).

Article 60 paragraph (2) of Law Number 16 of 2017 respecting community organizations regulates the dissolution of community groups without following the legal process. It states, "community organizations that violate the provisions as referred to in Article 52 and Article 59 paragraph (3) and Paragraph (4) are subject to administrative sanctions and /or criminal sanctions". Which is then clarified in the original 61 of Law Number 16 of 2017 concerning social organizations, which is based on:

Article 61

- (1) Administrative sanctions as meant in Article 60 paragraph (1) consist of:
  - a. written warning;
  - b. termination of activities; and /or
  - c. revocation of a registered certificate or revocation of the status of a legal entity.
- (2) Against community organizations established by foreign citizens as In addition to the administrative sanctions mentioned in paragraph (1), letters A and letter B are also subject to immigration sanctions in line with the statutes and regulations mentioned in Article 43, paragraph (2).
- (3) Administrative sanctions as meant in Article 60 paragraph (2) are:
  - a. revocation of registered certificate by the minister; or
  - b. revocation of the status of a legal entity by the minister in charge of government affairs in the field of law and Human Rights.
- (4) In carrying out the revocation as meant in paragraph (3), ministers and ministers conducting government affairs in the field of law and human rights may request consideration from the relevant agencies.

Giving authority to the government, especially the Minister of Home Affairs, to dissolve community organizations which is considered contrary to Pancasila, Law of the 1945 Constitution, and other state ideologies. Article 59 paragraph (1) of the community organizations law ini provides that the dissolution of community organizations can be carried out without the need for a court decision, on the basis of considerations deemed sufficient by the government. This allows the government to dissolve community

organizations that are considered to threaten state security or that have the potential to cause social upheaval, without giving the organizations the opportunity to defend themselves or undergo an independent legal process (Mubarak & Arsyad, 2021, hlmP. 789.)

This kind of dissolution is often done for security reasons or because organizations are considered contrary to the ideologistate ideology contained in Pancasila and the 1945 Constitution. However, in the absence of an open and transparent court process, the dissolution of this organization raises various major problems related to the prinsip basic principle of the rule of law, where every administrative decision taken by the government should be based on prosedur legal procedures that are legitimate, transparent, and provide the right for the parties concerned to defend themselves. (Setiawan & Riwanto, 2020, hlmP. 276). Many Cases, community organizations that are dissolved without a judicial process tend to be viewed as groups that do not have a voice in determining their fate, thus exacerbating perceptions of injustice in the implementation of law in Indonesia (Kurniawan, 2018, P. 463).

The dissolution of community organizations without going through the judicial process is also contrary to the principle of *due process of law*, which merupakan an integral part of human rights and the principle of the rule of law guaranteed in the 1945 Constitution. The principle of *due process of law* requires any individual or entity to obtain equal and equitable legal protection, including the right to defend themselves before an independent court. This concept ini provides that any decision taken by the state that has an impact on the rights of an individual or group must go through valid legal procedure, which provides an opportunity for the party in question to defend its rights before an authorized institution. Therefore, the dissolution of community organizations without court proceedings is considered to violate the principles of justice and the right to legal protection that should be guaranteed by the Indonesian constitution. In hal this case, the legitimate legal process includes the right for community organizations disbanded community organizations to obtain the right to defense and fair decisions in court, not just administrative decisions taken by the government without involving legal mechanism transparan (Winata, 2018, hlmP. 458).

In addition to the significant legal impacts, the dissolution of community organizations without going through court proceedings has significant legal impact and implications for transparency and accountability of government. This unilateral decision made it difficult for the public to understand the reasons di behind the dissolution, giving rise to distrust of the government. This ambiguity can create the impression that the government is not open to criticism or different views, which in turn worsens the relationship between the government and the community, especially for groups community organizations that have different views. In addition, weak monitoring mechanism in the process of dissolving community organizations have the potential to foster social injustice and reduce community participation in the life of the nation and state. Furthermore, the dissolution of community organizations without involving the courts risks worsening the democratic climate in Indonesia. As a democratic country, Indonesia should uphold the right of individuals or groups to organize and voice opinions. These unilateral actions reduce the space for freedom of expression and opinion, which are fundamental elements in a democratic system. Thus, the dissolution of mass organizations without judicial process not only harms community organizations yang the dissolved community organizations, but also threatens the sustainability of healthy democratic lives in Indonesia, where freedom of opinion and Assembly must be guaranteed by the state (Winata, 2018, hlmP. 446).

In conclusion, the dissolution of community organizations without a judicial process is an issue that needs serious attention in the framework of human rights enforcement in Indonesia. Although the government has the authority to dissolve organizations that are considered contrary to state ideology or endanger state security, this authority must be carried out with clear and transparent legal procedures. The dissolution of community organizations carried out without court proceedings risks violating the basic principles of the rule of law, threatening the freedom of organization, as well as worsening relations between the state and society. There fore it is very important to reform the regulation on the dissolution of community organizations so that the process is more fair, transparent, and in accordance with the principles of democracy guaranteed by the 1945 Constitution, and ensure that every action taken by the government is always within the framework of justice and Human Rights.

## CONCLUSION

1. Because Law No. 17 of 2013 on Organisasi social organizations does not align with the right to association and assembly, the implementation of Article 28e paragraph ( 3) of the Constitution of the Republic of Indonesia year 1945 on restrictions on the right of assembly is not fully implemented., and issue opinions. As a fundamental human right, this freedom should be guaranteed and protected by state without any restrictions.
2. Constraints in upholding the right to freedom of association and Assembly for organisasi community organizations in Indonesia are as follows :
  - a. Intervensi Political Intervention Against Freedom Of Association In Indonesia
  - b. Lack Of Public Understanding Regarding Freedom Of Association And Assembly
  - c. Dissolution Of A Civil Organization Without Judicial Process.

## Advice

1. a. For the organization of Community Camps, in order to fight for the right to Association, gathering, and issuing opinions , it is necessary to make an effort to conduct a judicial review to the Constitutional Court to ensure that Law Number 17 of 2013 on community organizations complies with Article 28E paragraph (3) of the Republic of Indonesia's 1945 Constitution; b. for the government and legislature to amend Republic of Indonesia Number 16 of 2017 regarding the determination of government regulations in place of Law Number 2 of 2017 regarding amendments to Law Number 17 of 2013 concerning social organizations into law; c. for society, there is a need for adanya for the socialization of constitutional rights.
2. For community organizations, it is important to continue to fight for the right to freedom of organization in a constructive and lawful manner. Organizations need to increase internal capacity, expand education to its members about basic rights, and build solidarity between organizations to strengthen positions in the fight for freedom of association. The government is also expected to continue to develop regulations that support freedom of association, ensure fair legal processadil in any organizational restrictions, and improve public education to strengthen people's understanding of basic rights in democratic life.

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