

Dissolution of Islamic Community Organizations (Ormas) in the Context of a State of Law and a Democratic State

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Abstract

Community organizations (Ormas) in a country are evidence of the existence of democracy in a country. Indonesia is a constitutional state as well as a democratic state according to Article 1 Paragraphs 2 and 3 of the 1945 Constitution. The existence of mass organizations is recognized and protected in Indonesia as part of the state's recognition of the rights of every citizen to freedom of association and assembly. The dissolution of CSOs carried out without court procedures, according to the author, is a violation of the concept of the rule of law adopted by Indonesia as well as the castration of the rights of association, assembly, and expression of opinion in a democratic country. This study uses a socio-legal approach, with analytical descriptive research methods. Sources of data used are primary data in the form of interviews. The primary legal materials used in this research are the Law on Ormas; and SKB concerning the Prohibition of Activities Using Symbols and Attributes and Termination of FPI Activities. The results of the study stated that the disbandment of mass organizations was politically and ideologically motivated, namely differences in political attitudes and aspirations between Islamic organizations and the government. The dissolution of mass organizations is the impact of the applied procedural democracy. Democracy is not practiced substantially, in a democratic climate, differences in aspirations are a necessity. The disbandment of mass organizations



has an impact on disharmony relations between religion and the state, between religious adherents and the government, and has the potential to cause polarization in society. The direct impact of the disbandment of Islamic organizations is the difficulty of building a synergistic relationship between religion and the state, between religious adherents and the government.

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Organisasi kemasyarakatan (Ormas) di suatu negara adalah bukti hidupnya demokrasi di sebuah negara. Indonesia adalah negara hukum sekaligus negara demokrasi sesuai Pasal 1 Ayat 2 dan 3 UUD 1945. Keberadaan Ormas diakui dan dilindungi di Indonesia sebagai bagian bentuk pengakuan negara atas hak setiap warga negara atas kebebasan berserikat dan berkumpul. Pembubaran Ormas yang dilakukan tanpa prosedur pengadilan menurut penulis adalah menyalahi konsep negara hukum yang dianut oleh Indonesia sekaligus pengkebirian hak-hak berserikat, berkumpul, dan menyatakan pendapat di negara demokrasi. Penelitian ini menggunakan pendekatan socio-legal, dengan metode penelitian deskriptif analitis. Sumber data yang digunakan adalah data primer yang berupa hasil wawancara. Bahan hukum primer yang digunakan dalam penelitian ini adalah UU tentang Ormas; dan SKB tentang Larangan Kegiatan Penggunaan Simbol dan Atribut Serta Penghentian Kegiatan FPI. Hasil penelitian menyatakan, pembubaran ormas dilatarbelakangi politis dan ideologis, yakni perbedaan pandangan sikap politik dan aspirasi antara ormas Islam dengan pemerintah. Pembubaran ormas merupakan imbas dari demokrasi prosedural yang diterapkan. Demokrasi tidak dipraktikkan secara substansial, dalam iklim demokrasi perbedaan aspirasi adalah keniscayaan. Pembubaran ormas berdampak pada hubungan yang disharmoni antara agama dengan negara, antara pemeluk agama dengan pemerintah, dan berpotensi menimbulkan polarisasi di tengah masyarakat. Dampak langsung dari pembubaran ormas Islam adalah kesulitan membangun relasi sinergi antara agama dengan negara, antara pemeluk agama dengan pemerintah.

Keywords: disbandment of mass organizations; state law; Pancasila country



Introduction

The existence of community organizations (Ormas) in a country is one of the proofs of democracy in a country. Indonesia is a state of law as well as a democracy. This is enshrined in the constitution, Article 1 Paragraphs (2) and (3) of the 1945 Constitution of the Republic of Indonesia. Ormas are recognized and protected in Indonesia, as a form of state recognition of the rights of every citizen to freedom of association and assembly (Buyung, 1997: 20) as regulated in Article 28 of the 1945 Constitution. Law Number 17 of 2013 concerning Community Organizations states that community organizations, hereinafter referred to as mass organizations, are organizations established and formed by the community voluntarily based on common aspirations, desires, needs, interests, activities, and goals to participate in development in order to achieve the goals of the Unitary State of the Republic of Indonesia based on Pancasila.

In 2017, there was a legal event in the form of stopping the dissolution of a social organization (ormas) Hizbut Tahrir Indonesia (HTI). The government considers that the activities carried out by the HTI organizations are strongly indicated to have contradicted the objectives, principles and characteristics based on Pancasila and the 1945 Constitution of the Republic of Indonesia. The legal entity status of the HTI Association has been revoked through the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: 30. A.01.08 of 2017. SK dated 19 July 2017 regarding the revocation of the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-00282.60.10.2014 concerning the Ratification of the Establishment of the Legal Entity of the Indonesian Hizbut Tahrir Association.

Furthermore, in 2020, the government through the ministry of Coordinating Political, Legal and Security Affairs dissolved the Islamic Defenders Front (FPI) social organization. The reason that the government built to dissolve the mass organizations was because the two mass organizations were against Pancasila and the 1945 Constitution. The government considered the activities carried out by these mass organizations to be strongly indicated to have contradicted the objectives, principles and characteristics based on Pancasila and the 1945 Constitution of the Republic of Indonesia, so that the



Government considers this to be contrary to Law Number 17 of 2013 concerning Ormas. Based on the Joint Decree of the Joint Decree Number 220/4780 of 2020, Number M. HH/14. HH05.05 of 2020, Number 690 of 2020, Number 264 of 2020, Number KB/3/XII of 2020, and Number 320 of 2020 concerning Prohibition of Activities, Use of Symbols and Attributes and Termination of Activities of the Islamic Defenders Front, FPI activities are subsequently terminated and prohibited by the government.

Meanwhile, on the other hand, a series of acts of terrorism are considered to stem from the doctrines of mass organizations that adhere to the notion of radicalism. In 2021, JMM noted that the tolerance index in Indonesia increased compared to the previous year.

This is based on research data from the Research and Development Center and Research Ministry of Religion of the Republic of Indonesia in 2021, the national average Religious Harmony Index (KUB) this year is at a score of 72.39 or an increase of 4.93 points from the previous year of 67.46. . The KUB index is based on 3 indicators, namely the tolerance index (68.72), the cooperation index (73.41) and the equality index (75.03). On average in the last 5 years, the national index of Religious Harmony (KUB) is in a good or high harmony score with a score of 71.37. Indicators of tolerance index (69.296), cooperation index (72.484) and equality index (72.08). Meanwhile, the index of radicalism leading to acts of terrorism continued to decline significantly. Based on the research results of the BNPT (National Agency for Countering Terrorism), the radicalism index this year was 14% from 2017 at 55.2% and 2019 at 38.4%. Based on the Global Terrorism Index report this year, Indonesia has ranked 37 or the medium affected by terrorists. In Southeast Asia, Indonesia is still safer from the threat of terrorism than the Philippines, Thailand and Myanmar (Ariyanti, 2021).

According to the author, the dissolution of mass organizations by the government is controversial. On the one hand, the dissolution of mass organizations without a court procedure is a violation of the rule of law adopted by Indonesia. In addition, it is a castration of the rights of association, assembly, and expression of opinion in a democratic country. On the other hand, the terrorism experienced by Indonesia in the name of religion is a concern in itself, so preventive measures



are needed to prevent it, by disbanding mass organizations that have the potential for the doctrine of radicalism.

Methods

This research uses a socio-legal approach, with descriptive analytical research methods. The data sources used are primary data in the form of interview results and primary legal materials, secondary and tertiary legal materials. The primary legal material used in this research is Law No. of the Republic of Indonesia No. 17 of 2013 concerning Community Organizations in conjunction with Law no. 16 of 2017 concerning 5 of 2018 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2017 concerning Changes in the 2013 Ormas Law into Law; and Joint Decree Number 220/4780 of 2020, Number M.HH/14.HH05.05 of 2020, Number 690 of 2020, Number 264 of 2020, Number KB/3/XII of 2020, and Number 320 of 2020 concerning Prohibition Activities of Using Symbols and Attributes and Termination of FPI Activities. Secondary legal materials in the form of books, journals and the results of previous research. Tertiary legal material in the form of a legal dictionary. Data collection techniques using interviews and documentation. Interviews were conducted with relevant stakeholders, namely the leaders of HTI and FPI organizations, the community and related officials from the Ministry of Law and Human Rights and the Ministry of Home Affairs. Documentation technique is done by documenting primary, secondary and tertiary legal materials. The data were then analyzed using qualitative descriptive.

Discussion

Dissolution of Ormas

When witnessing the government's policy on the Joint Decree of the Joint Decree Number 220/4780 of 2020, Number M. HH/14.



HH05.05 of 2020, Number 690 of 2020, Number 264 of 2020, Number KB/3/XII of 2020, and Number 320 of 2020 concerning Prohibition of Activities, Use of Symbols and Attributes and Termination of Activities of the Islamic Defenders Front, have raised their own concerns. in some Muslim groups. The dissolution of Ormas according to Law No. 17 of 2013 concerning Community Organizations must be carried out first through a due process of law and ends with a court decision that has been *incraht* (permanent legal force).

After the dissolution, only the revocation of the Legal Entity or Registered Certificate (SKT). After Law No. 17 of 2017 concerning new Community Organizations, in accordance with Article 80A, revoked first and then declared disbanded based on the principle of *TUN contrarius actus*. The revocation does not go through the due process of law to the Court, but only by the Minister who deals with Law and Human Rights. The procedure follows Article 62 of the Ormas Law No. 16 of 2017.

The reasons behind the disbandment of FPI according to Joint Decree Number 220/4780 of 2020, Number M.HH/14.HH05.05 of 2020, Number 690 of 2020, Number 264 of 2020, Number KB/3/XII of 2020, and Number 320 of 2020 concerning the Prohibition of Activities, Use of Symbols and Attributes and Termination of Activities of the Islamic Defenders Front are: (a) To maintain the existence of ideology and the basic consensus of the state, namely Pancasila, the 1945 Constitution of the Republic of Indonesia, the integrity of the Unitary State of the Republic of Indonesia. Indonesia and *Bhinneka Tunggal Ika*; (b) The contents of FPI's Articles of Association contradict Article 2 of Law Number 17 of 2013 (Pancasila and the 1945 Constitution); (c) Management and/or members of FPI as well as those who have joined FPI based on data of 35 (thirty five) people involved in criminal acts of terrorism and other TP; (d) If according to their own judgment or suspicion there is a violation of legal provisions, the management and/or members of FPI often carry out various sweeping actions in the midst of the community, which is



actually the duty and authority of the Law Enforcement Apparatus; (e) Decree of the Minister of Home Affairs Number 01-0000/010/D.III.4/VI/2014 dated 20 June 2014 regarding the Registered Certificate (SKT) of the Islamic Defenders Front (FPI) as a Social Organization valid until 20 June 2019, and until now FPI has not met the requirements to extend the SKT, therefore de jure as of June 21, 2019 FPI is considered disbanded; (f) Activities of Community Organizations may not conflict with the spirit of unity and integrity.

However, the various reasons that became the basis for the dissolution of this mass organization were strongly opposed by the organizations concerned. As stated by Ismail Yusanto, that the dissolution of Islamic organizations is always closely related to differences in attitudes and political views with the regime in power. If Masjumi was previously considered to be against Sukarno with his Nasakom politics, now HTI and FPI are considered opposite and against the President's political policies. The phenomenon of the disbandment of Islamic da'wah groups or mass organizations that is currently taking place is a form of discriminatory attitude and full of political intrigue. And from the explanation of the initial discussion, it can also be concluded that there is an increasingly open and systematic politicization of the law for the government in silencing its political opponents. Why is that? Because if you look at the actions of the two mass organizations that have been disbanded, both are mass organizations that have their own political power, especially Hizb ut-Tahrir Indonesia, which is very strong in its Islamic politics. So on that basis the government in this democratic system uses the state to prohibit and suppress Islamic opposition, and further strengthens the notion that the current regime seems to be an anti-Islamic regime. Isn't that very contradictory to the noble goal of making this nation a religious nation, as desired by the founders of the previous nation (Ismail Yusanto Interview, 2021).

This was also confirmed by the Head of the HRS Center, Abdul Choir Ramadhan, and added that this difference in political aspirations was



the main reason for the disbandment of Islamic organizations. Rulers tend to use power to silence different political aspirations. In the era of President Soekarno, Masyumi was known to be critical of Soekarno's political policies. Masyumi was consistent with the Islamic vision and refused to compromise with communism. Meanwhile, Soekarno, choosing a compromising political policy, tried to marry the three currents of political ideology at that time, namely: Nationalist, Religious and Communist. It was Nasakom's political policy that Masyumi and Sukarno opposed when it was more inclined to the communist group represented by the Indonesian Communist Party (PKI). Abdul Choir Ramadhan from the HRS Center stated that the disbandment of mass organizations that looked barbaric with procedural, administrative defects and seemed discriminatory was a form of criminalization and monsterization of mass organizations that preach Islamic sharia, especially related to the teachings of the Islamic Khilafah, caliphate in society and the Muslims. The bias in the narrative of forbidden groups for mass organizations that have been disbanded is even equated with the PKI (Indonesian Communist Party) movement is an insult to the glory of Islamic da'wah which calls for faith and obedience to Allah SWT (Ramadan Interview, 2021).

According to Article 62 of Law Number 17 of 2013 concerning Community Organizations, the *Standard Operational Procedure* (SOP) for the Imposition of Sanctions is as follows:

1. Written Warning Letter

As regulated in Article 61 paragraph (1) letter a is issued only 1 (one) time within a period of 7 (seven) working days from the date the warning is issued.

2. Letter of Termination of Activities

In the event that the Ormas does not comply with the written warning within the period as referred to in paragraph (1), the Minister and ministers who carry out government affairs in the



fields of law and human rights in accordance with their authority shall impose sanctions on the termination of activities.

3. Letter of Dissolution / Prohibition of Ormas

In the event that the Ormas does not comply with the sanctions for cessation of activities as referred to in paragraph (2), the Minister and ministers who carry out government affairs in the fields of law and human rights in accordance with their authority shall revoke the registered certificate or revoke the status of a legal entity.

When the above steps are not carried out by the government, the decision letter to dissolve/ban the mass organization is legally flawed. The government has never issued a warning letter and a letter of cessation of activities as stipulated in Article 62 of the 2017 Ormas Law, but has unilaterally issued a decree to dissolve the mass organization. In reality, there is a Decree of the Minister of Home Affairs Number 01-0000/010/D.III.4/VI/2014 dated June 20, 2014 regarding the Registered Certificate (SKT) of the Islamic Defenders Front (FPI) as a Social Organization valid until June 20, 2019, and until now FPI has not extended the SKT. This means that FPI is not declared a prohibited organization and has not been disbanded.

Regarding organizations that do not renew or do not have a Certificate of Registration (SKT), there has been a Constitutional Court Decision No. 82/PUU-XI/2013 has stated that Article 16 paragraph (3) and Article 18 of the 2013 Ormas Law, which states that an organization's obligation to have SKT is contrary to the 1945 Constitution. Consequently, organizations that do not have SKT are categorized as "organizations that do not have SKT registered", not declared or considered legally disbanded let alone declared as a prohibited organization.

In principle, there is a pyramidal relationship between the rule of law (*rule of law*), democracy and human rights (HAM). democracy is a prerequisite for the realization of human rights. Without a *rule of law* democracy cannot be realized. On the other hand, there is a



possibility that democracy will collapse because the law is not obeyed, even in a state of law there is a group of rulers (people) who control power according to their will. This is what is called an oligarchy of power in a state of law so that democracy can die and fall into a state of power and finally the law is just a game by a group of people.

The presence of *the Rule of Law* (ROL) or also called *Rechtstaat* has a history that began with a community movement which demanded that the power of the king and the administration of the state should be limited and regulated through a statutory regulation and its implementation in relation to all laws and regulations is what is often termed with the *Rules of Law*. For example, the French revolutionary movement and other movements against absolutism in Europe, both against the power of kings, nobility and theological groups. The rule of law paradigm has been born since ancient Greece where Plato had the idea that the state should be based on the rules made by the people. The idea was born because in Ancient Greece, when Plato saw the state of his country being led by someone who was hungry for wealth, power and madness for honor. In essence, the idea of a legal state which is interpreted by Plato that the state must be based on law and justice for its citizens (Yunas, 1992: 20).

Aristotle, formulating the rule of law is a state that stands above the law that guarantees justice to its citizens. Justice is a condition for achieving the happiness of life for citizens and as a form of justice it is necessary to teach morals to every human being so that he becomes a good citizen. According to Aristotle, the actual regulation is a regulation that reflects justice for the association between its citizens (Ridwan, 1006: 143). So according to him, it is not humans who rule the country but "just minds". The ruler is only the holder of law and balance. Although law and justice are often said to be two sides of the same coin, it must be remembered that law is completely different from justice. Enforcing the law does not at the same time bring justice, let alone what is called comprehensive justice.

Indonesia is a state of law. This is stated in the Constitution, Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia,



that "the State of Indonesia is a state of law." This means that all aspects of life in society, nation and state must be based on legal norms. To fulfill the mandate of the constitution, a country must have certain principles and characteristics so that it can be called a state of law. According to AV Dicey, a state of law must have 3 main elements, namely Supremacy of Law, Equality Before the Law, and Human Rights (Dicey, 1952: 202-203). Meanwhile, according to Friedrich Julius Stahl, the characteristics of *rechtsstaat* are the recognition of human rights; there is a separation or division of powers to guarantee human rights; there is a separation of powers (*trias politica*); the existence of a government based on the applicable laws and regulations and the existence of an administrative court (Mahfud, 1999: 2).

The Indonesian state essentially adheres to the principle of "Rule of Law, and not Rule of Man", which is in line with the notion of *nomocratie*, namely power exercised by law or *nomos*. In such a state of law, there must be guarantees that the law itself is built and enforced according to democratic principles. The principle of the rule of law and the rule of law itself is essentially derived from the sovereignty of the people. Therefore, the principle of the rule of law should be built and developed according to these principles. the principle of democracy or people's sovereignty or *democratische rechtsstaat* Laws may not be made, stipulated, interpreted and enforced with an iron fist based on mere power (*machtsstaat*). The state of Indonesia is a legal state with people's sovereignty or democracy (*democratische rechtsstaat*).

There is a clear correlation between the law, which is based on the constitution, and the sovereignty of the people, which is implemented through a democratic system. This correlation can be seen from the emergence of the term constitutional democracy. The democratic system prioritizes people's participation. The rule of law must be supported by a democratic system, democracy without legal regulation will lose its form and direction, while law without democracy will lose its meaning. As stated by Franz Magnis Suseno,



that "a democracy that is not a rule of law is not a democracy in the true sense. Democracy is the safest way to maintain control over the rule of law" (Suseno, 1997: 58).

In essence, a country with a democratic system of government should be a state of law. Without laws (which are good, just, and certain), it is difficult for democratic governments to achieve what are the essence and ideals of democracy. Without law, democracy will be full of freedom without limitations, so that it turns into a "*democracy*", where there is anarchism in it. Sovereignty of the people is very vulnerable to "temptation" and without any limitations the rule of law can turn into a "dictatorship of the people" and even "dictatorship of the majority". On the other hand, without democracy, the law can degenerate into a tool of coercion and oppression of the people, as well as a means of self-justification and a protective umbrella for state power holders. A democratic state places law as an objective norm that regulates the entire state of life and binds all citizens without exception.

The Disbandment of the HTI and FPI Organizations

Hizbut Tahrir Indonesia Hizbut Tahrir Indonesia cannot be separated from the Hizbut in Palestine. This organization started as a movement or small group consisting of several scholars led by Sheikh Taqiyuddin al-Nabhani. The group was founded in 1953 AD or 1372 Hijriyah in Al-Quds (Baitul Maqdis), Palestine (Indasah, 2014: 43). Hizb ut-Tahrir has Islamic thought that underlies the establishment of this organization. This thinking includes the Islamic creed, the thoughts built on it, and the laws that emanate from it. Hizb ut-Tahrir only carries out general (global) Islamic thought, they also adopt a number of ideas needed in the *isti'naf al-hayah al-Islamiyah* (returning an Islamic life), and carry out Islamic da'wah by establishing a caliphate state. Hizb ut-Tahrir explains every thought it adopts in various books and pamphlets it issues, and explains the arguments in detail for every law, opinion, thought, and concept (Bajuri and Wafa, 2012: 32-33).



Hizb ut-Tahrir aims to return Muslims to Islamic life in Dar al-Islam and Islamic society, which means that all life affairs in it are carried out in accordance with shari'a laws and the prevailing view of life is halal and haram. A caliphate state is a country where Muslims appoint a caliph, who is pledged to implement laws based on the Koran and as-Sunnah, and to carry the message of Islam throughout the world with jihad (Indasah, 2014: 43).

By the Government of Hizb ut-Tahrir Indonesia, it is considered to have violated the laws and regulations, especially after the issuance of Perppu Ormas No. 16 of 2017. As is known, the legal entity status of the HTI Association has been revoked through the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-30. A.01.08 of 2017. SK dated 19 July 2017 regarding the revocation of the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-00282.60.10.2014 concerning the Ratification of the Establishment of the Legal Entity of the Indonesian Hizbut Tahrir Association. The revocation of the HTI legal entity is a consequence of the issuance of Perppu No. 2 of 2017 concerning Ormas (Perppu Ormas). On October 24 2017, the Perppu was ratified by the DPR into Law Number 16 of 2017, and then promulgated on November 22, 2017.

Then there is an organization called the Islamic Defenders Front (FPI). FPI was declared on August 17, 1998 in the courtyard of the Al Um Islamic Boarding School, Kampung Utan, Ciputat in South Jakarta by Habib Rizieq Shihab, Habib Idrus Jamallulail, Kyai Misbach and several other scholars and was witnessed by hundreds of students from Greater Jakarta. FPI was founded with the aim of being a forum for cooperation between ulama and the people in upholding Amar Ma'ruf and Nahi Munkar, namely upholding the truth and forbidding what is wrong. FPI is known for its actions since 1998, especially those carried out by its military called Laskar Pembela Islam. FPI has been involved in closing nightclubs, brothels, arresting certain residents, and conflicts with other Islamic organizations. in humanitarian actions such as sending volunteers to the tsunami



disaster area in Aceh, sending volunteers and logistics during the earthquake disaster in Padang and so on.

FPI was taken into account when thousands of its members occupied DKI Jakarta City Hall to meet Governor Sutiyoso in mid-December 1999. They demanded that all immoral places such as nightclubs, discotheques, massage parlors, and bars be closed during the fasting month. In 2006, FPI also clashed with Gus Dur at an interfaith discussion event in Purwakarta, West Java, until the former president stepped down from the discussion forum. A major controversy involving FPI occurred on the anniversary of Pancasila's Birthday, June 1, 2008. FPI members attacked National Alliance for Freedom of Religion and Belief (AKBB) at Silang Monas. FPI also organized a large demonstration on November 4, 2016 known as the 411 action and the action on December 2, 2016 known as the 212 actions.

On the basis of this work and actions of FPI, FPI received many blasphemies from those who did not like it and they found it disturbing because acts of violence can divide the nation. According to them, despite fighting for Islamic law, the actions taken by FPI did not reflect Islamic teachings. Finally, on December 30, 2020, the Indonesian government issued a Joint Decree of the 6 Highest Officials, namely the Minister of Home Affairs, Menkumham, Minister of Communication and Information, the Attorney General, the National Police Chief, and the Head of BNPT which prohibits all FPI activities and will stop any activities carried out by FPI (RRI, 2021). Until finally, the Joint Decree of the Joint Decree Number 220/4780 of 2020, Number M.HH/14.HH05.05 of 2020, Number 690 of 2020, Number 264 of 2020, Number KB/3/XII of 2020, and Number 320 was issued. Year 2020 concerning the Prohibition of Activities, Use of Symbols and Attributes and Termination of Activities of the Islamic Defenders Front.

The dissolution of mass organizations must be viewed from two perspectives, namely the point of view of Indonesia as a democratic country and Indonesia as a state of law. The state of law and democracy is a unity that is interdependent and cannot be separated,



if the two are combined, it can be called a democratic state of law. As a democratic country, Indonesia implements a system of Pancasila democracy. Pancasila Democracy is a constitutional democracy with a people's sovereignty mechanism in the administration of the state and the administration of government based on the constitution, namely the 1945 Constitution. As a democracy, Pancasila is bound by the 1945 Constitution and its implementation must be in accordance with the 1945 Constitution.

On the other hand, Indonesia is a state of law and applies the principles of the rule of law. Friedrich Julius Stahl (Mahfud, 1999: 12), the characteristics of *rechtsstaat* are as follows: (1) Human rights (HAM); (2). Separation or division of powers to guarantee human rights commonly known as; (3) Trias Politica; (4) Government based on regulations; (5) Administrative justice in disputes. In order for the implementation *rule of law* to work as expected, then: (1) The success of "*the enforcement of the rules of law*" must be based on the nature of the legal community concerned and the personality of each nation; (2) *rule of law* which is a social institution must be based on the culture that grows and develops in the nation; (3) *rule of law* as a legalism that contains social insight, ideas about the relationship between humans, society and the state, must be enforced fairly and in favor of justice.

To make this happen, a progressive legal approach is needed, which favors justice itself, not as a political tool or for other purposes. The basic assumption of progressive law is that "law is for humans", not the other way around. Progressive law contains a strong moral content. The direction and character of the law that is built must be in a synergistic relationship with the wealth of the nation in question or "*back to law and order*", returning to the law and legal compliance of the country concerned (Rahardjo, 2004).

The rule of law must be able to provide guarantees that the law is built and enforced according to democratic principles. Because the principle of the rule of law and the rule of law itself is essentially derived from the sovereignty of the people. Therefore, the principle of



the rule of law should be built and developed according to the principles of democracy or popular sovereignty or *demokratische rechtsstaat*. Laws should not be made, determined, interpreted and enforced with an iron fist based on mere power or *machtsstaat*. Therefore, it is necessary to emphasize also that sovereignty is in the hands of the people which is carried out according to the Constitution or *constitutional democracy* which is balanced with the affirmation that the Indonesian state is a constitutional state with people's sovereignty or democracy (*demokratische rechtsstaat*).

In essence, a country with a democratic system of government should be a state of law. Without laws (which are good, just, and certain), democratic government is difficult to achieve what is the essence and ideals of democracy. Even without laws, democracy as people often say nowadays can turn into "*democracy*" as seen in anarchic demonstrations, because "people's sovereignty" (democracy) tends to be vulnerable to "temptations" to transform into "people's dictatorship" and "dictatorship of the majority". On the other hand, without democracy, the law can degenerate into a tool of coercion and oppression of the people, as well as a means of self-justification and a protective umbrella for state power holders.

In a democratic state government system, the law appears as an objective norm that regulates the entire state of life and binds all citizens without exception. Therefore, the existence of this democracy is important in the government system.

A democratic rule of law will always be connected and integrated from the three basic substances it contains, namely the constitution, democracy, and the law itself. In essence, the rule of law requires the supremacy of the constitution. The supremacy of the constitution in addition to being a consequence of the concept of a rule of law, is also an implementer of democracy, because the constitution is the highest form of social agreement. The notion of a state of law and democracy aims to limit government power and reject all forms of unlimited power. The location of democracy in a state of law is a government system that relies on the people as the holder of the highest



sovereignty to make political decisions, not on a person (dictator) or a group of people (oligarchs, whether aristocrats or technocrats, etc.) who are educated, domiciled, and influential in society. The people are the criteria and norms of power in a democratic government system.

Based on the description above, it can be analyzed that the dissolution of community organizations without going through court procedures and carried out unilaterally by the state is a form of deprivation of democracy and does not carry out the constitutional mandate which is contrary to Pancasila. This is because in the context of a rule of law, the judicial process is the only instrument provided by the state to achieve justice for the community, through a judicial process and evidence that is free and independent from the intervention of any force. In the context of a democratic state, the existence of community organizations must be understood as a form of embodiment of the aspirations of a sovereign community and can be stated as a forum for freedom of association and assembly within the framework of the Unitary State of the Republic of Indonesia based on Pancasila and the Constitution. So, the dissolution of mass organizations without ideological reasons that are contrary to the ideology of the nation, namely Pancasila and the constitution, and without a free and independent judicial process, has violated the foundations of a state of law as well as a democratic state.

Closing

The dissolution of religious organizations will have an impact on disharmony relations between religion and the state, between religious adherents and the government, and have the potential to cause polarization in the community. Religion, which should be an element of power, has turned into a threat to the state. The direct impact that can result from the dissolution of Islamic organizations is the difficulty of building a synergistic relationship between religion and the state, between religious adherents and the government.



Furthermore, the Government will be busy with internal affairs and will not have time to work to realize the goals of the state. On the other hand, there will be a reluctance from Islamic organizations to be involved in the success of a number of government programs. There is a struggle for leadership in the community, between leadership that comes from the authority of power and ownership that arises from charisma and religious authority. [w]

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