

RELATIONS BETWEEN THE STATE AND CONSERVATIVE ISLAMIC GROUPS; STUDY OF CONTROVERSY, TENSION, AND POLEMICS.pdf

by

Submission date: 30-Aug-2023 06:05AM (UTC-0500)

Submission ID: 2154115737

File name: RELATIONS BETWEEN THE STATE AND CONSERVATIVE ISLAMIC GROUPS; STUDY OF
CONTROVERSY, TENSION, AND POLEMICS.pdf (289.88K)

Word count: 7342

Character count: 39733

RELATIONS BETWEEN THE STATE AND CONSERVATIVE ISLAMIC GROUPS; STUDY OF CONTROVERSY, TENSION, AND POLEMICS ON THE RATIFICATION OF THE FREEDOM OF ORGANIZATION LAW IN INDONESIA FROM THE PERSPECTIVE OF PANCASILA

NAJAMUDIN

Doctoral Study Program Faculty of Law, Universitas Mataram, Indonesia.
Email: najamudin82@uinmataram.ac.id

GATOT DWI HENDRO WIBOWO

Faculty of Law, Universitas Mataram, Indonesia. Email: epwnusra@yahoo.com

L. PARMAN

Faculty of Law, Universitas Mataram, Indonesia. Email: lalupasman@unram.ac.id

ANI SURYANI HAMZAH

Faculty of Law, Universitas Mataram, Indonesia. Email: anisuryani@yahoo.com

Abstract

This article describes the freedom to organize in Law No. 16 of 2017, specifically related to the implementation of freedom of association for mass organizations and the government. Then, through this reality, the essence of space to organize from the Pancasila perspective is formulated. The abolition of HTI and FPI mass organizations left the issue of injustice regarding freedom of association, especially when the dissolution of mass organizations did not go through a judge's decision in court. The decision disband was urgent because apart from being considered a threat to unity, the mass organization also carried the ideology of the Khilafah in Indonesia. Based on the perspective of CSOs, the doctrine of the Khilafah that is fighting for does not conflict with Pancasila. In contrast, proving CSOs against Pancasila through trials does not apply after the enactment of Law No. 16 of 2017. This study argues that CBOs and the government in the dissolution case did not refer to the values Pancasila, which was agreed upon by the founding fathers of the State, but the Pancasila version of the interpretation of Ormas. Through this study it is hoped that mass organizations and the government will return to referring to Pancasila, which has been agreed upon by all Indonesian people and the founding fathers of the State. This research is normative legal research that uses statutory, comparative study, legal history, and conceptual approaches. The results of this study indicate that mass organizations and the government understand Pancasila according to their respective interests and ideology as an indicator of freedom.

Keywords: Freedom, Human Rights, Organization, Pancasila, Islam conservative

INTRODUCTION

In the context of regulating freedom of association, the State of Indonesia has ratified Law no. 16 of 2017 concerning Community Social Organizations (Ormas) as a substitute for Law No. 17 of 2013 (UU No. 17 of 2013). The commitment of the Indonesian people to guarantee the rights and freedom to organize is not only proven through Law No. 16 of 2017, but it can also see through the 1945 Constitution of the Republic of Indonesia Article 28E paragraph (3),

which states that everyone has the right to freedom of association, assembly and expression of opinion (Rakyat, 2020). This is in line with the commitment of countries that are members of the United Nations (UN) to guarantee freedom of association as part of every human right through a joint decision called the 1948 UN (Juwana, 2021). In several cases, the implementation of the 1945 Constitution Article 28E paragraph (3) and Law No. 16 of 2017 human freedom often face serious challenges and obstacles related to freedom of opinion, assembly, association, and organization. This study focuses on the issue of freedom to organize. Therefore this article seeks to explore further the issue of independence to manage concerning the stipulation of Law No. 16 of 2017, which has become a polemic in Indonesia recently. In the last decade, Law No. 16 of 2017, enacted by the government, has become very controversial because the law is considered contrary to the right to freedom of association for several conservative Islamic groups in Indonesia.

So far, the regulation of Ormas in Indonesia has undergone three changes, namely Law no. 8 of 1985, Law No. 17 of 2013, Law No. 16 of 2017 (Law Number (State Gazette of the Republic of Indonesia of 2017, 2017) . These changes show that the regulation of mass organizations needs to be better (Koalisi Kebebasan Berserikat, 2013a). Because Therefore, the ratification of Law No. 16 of 2017, in addition to giving birth to new provisions regarding rights and freedom to organize (HAM, 2017), also has the potential to trigger social problems and even horizontal conflicts, as in the case of the dissolution and banning of the Indonesian Hizbuttahrir Organization (HTI), the Islamic Defenders Front Organizations (FPI) (Fauzi, Mellayanah, Rizki Rivaldi, & Abhipraya, 2021) and the arrest of Khilafatul Muslimun leaders (Juliansyah, Yusuf, & Mundayat, 2019). Expressly, this prohibition is stated in a Joint Decree (SKB 2020) (HAM, 2021). Cases of disbanding or banning several mass organizations *de facto* and *de jure* allegedly contrary to the freedom of citizens who adhere to the principles of democracy. Therefore this research seeks to explore further the implications of the ratification of Law No. 16 of 2017 on the people's right to freedom to organize in Indonesia.

The conversion of the ratification of Law No. 16 of 2017 started with the government's decision to dissolve several Islamic organizations suspected of having an ideology that conflicted with the Republic of Indonesia. According to the government, the ideology championed by several mass organizations is considered a threat to unity, namely upholding the doctrine of *the Caliphate* as a substitute for Pancasila. While on the other hand, according to the disbanded Ormas, the dissolution policy was considered an act of *injustice* and contradicted Human Rights to organize because the ideology of *the Khilafah* promote by the group (Mentri, 2020) does not conflict with Pancasila because the doctrine of the *Khilafah* the group's perspective is believe to be the fundamental teachings of Islam which is one of the official religions and recognize by the Indonesian state (Arif, 2016).

Based on the legal perspective in force in Indonesia, can explain the polemic between the government and Islamic organizations through the following legal narratives. *First*, Pancasila which upholds social justice for all Indonesian people, the 1945 Constitution Article 27 Paragraph 1 (Rakyat, 2020) guarantees freedom of association and assembly, while Law no. 16 of 2017, Article 61 paragraph (3) letter b (HAM, 2017) states that an Ormas that adheres to an

ideology contrary to Pancasila can disband without going through a trial process. The legal hierarchy in Indonesia (Atmadja, I Dewa Gede, 2018) emphasizes that lower laws may not conflict with Pancasila as *the ground norm* and the 1945 Constitution of the Republic of Indonesia as a source of direction. *Second*, CSOs that exercise their rights and freedom of association are not subject to applicable legal provisions regarding the prohibition of adhering to an ideology contrary to Pancasila (Rochim & Andri, 2018). *Fourth*, the government's decision to dissolve Ormas, which is contrary to the Pancasila ideology because it is for maintaining unity, is considered inappropriate if it only uses the third principle of the Pancasila concerning Indonesian agreement and ignores the other Pancasila Precepts. When Pancasila is used as a source of values and the basis of the State, it must be understood holistically and hierarchically because Pancasila among the Sila is related to one another so if understood separately, it will give birth to an understanding that is different from the original purpose, as Pancasila according to its formulators (Kaelan, 1996). Despite this, the dissolution of HTI, FPI, and the arrest of the leader of Khilafatul Muslimun by the government, according to the Islamic Organizations, is still considered a decision that violates Human Rights, Pancasila, and the NRI Constitution Year 1945. While according to the government, the Organizations that dissolve are considered disobedient to the provisions of the law occurs in the exercise of rights, and freedom of organization. Therefore, this study is important to do as an effort to find the essence of the right to freedom of association in Law No. 16 of 2017 perspective of Pancasila as the foundation and foothold in a pluralistic society like Indonesia.

METHOD

This research is empirical-normative legal research supported by socio-legal research. Normative legal analysis uses statutory approaches, comparative studies, legal history (*historical method*), and conceptual approaches.

RESULTS

Humans, as social beings, cannot live alone, especially in meeting their needs. Therefore, humans need the presence of other humans. To facilitate the process of fulfilling these necessities of life, humans form groups with other humans based on a shared vision, mission and goals. The grouping of human beings based on these similarities is the historical background for forming community organizations (Coalition for Freedom of Association, 2013b). Community Social Organizations or later called Ormas according to Law No. 16 of 2017, are organizations formed by the community voluntarily based on shared aspirations, desires, needs, interests, activities, and goals as a forum for exercising the rights and freedoms of association and assembly to participate in realizing dreams of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution (UU No. 17 of 2013, 2013). Freedom to organize in the reality of people's lives in Indonesia is still coloured by actions that conflict with the principles of justice, humanity, and unity, as found in previous studies, such as Amer's research, Nabih's *analysis of the Dissolution of Social Organizations in the Perspective of the Rule of Law*. This research considers that the dissolution of Ormas after the ratification of Law No. 16 of 2017 was fully given to the government. This of course, does not

reflect the basic principles of a rule of law state, which requires protection of human rights and division of powers. The dissolution of an Ormas should involve a judicial institution with the authority to determine every violation of an Ormas to avoid subjective government decisions.

The results of the study revealed that the case of dissolving an Ormas cause by the provisions of the old regulations that were No longer sufficient to regulate freedom of association, so the things that needed to be improved were the arrangement of dispute resolution in court which used the principles of fast, simple and low-cost justice so that the dissolution dispute resolution process Ormas can be carried out effectively and efficiently, not the other way around by eliminating the trial process which is considered ineffective in preventing mass organizations from behaving anti-Pancasila. The trial in a dispute over the dissolution of an Ormas is a forum for Ormas to fight for justice in the implementation of freedom of association as guaranteed by Pancasila and the 1945 Constitution of the Republic of Indonesia (Amer, 2020) . This study aims to answer how to regulate the dissolution of CBOs from Indonesia? And what is the ideal mechanism for dissolving CSOs in the perspective of the rule of law? To answer some of these research questions, the researcher uses normative legal research focusing on studies on statutory literature and court decisions.

In line with Nabih Amer's research, research conducted by Pratama Nur Aji on the *Analysis of the Dissolution of Ormas without a Judicial Process After the Stipulation of Law no. 16 of 2017 concerning Ormas* says that inadequate old regulations caused the background to the emergence of Law 16 of 2017, so changes to the arrangements for the dissolution of Ormas without a court proceeding (*due process of law*) which replaced with the *principle of contarius actus* is a decision that needs to be reviewed constitutionally in the state power (*machtstaat*). The researcher's conclusion said that the background to the ratification of Law No. 16 of 2017 was caused by "inadequate old regulations", which respond to by adding several pieces regarding new provisions in organizing and deleting several articles considered irrelevant. This new provision then changed the policy of disbanding Ormas without a judicial process which was supposed to violate the constitution, which has a vision of justice for all Indonesian people (Pratama, 2021) . This normative legal research seeks to answer research questions about the background to the emergence of Law No. 16 of 2017? and the constitutionality of the authority to disband Ormas without a judicial process? by using the *statute approach, conceptual approach* and *case approach*.

Apart from leaving the issue of injustice in the dissolution of mass organizations, the subject of the loss of freedom to organize as a human right guaranteed by the state is also unavoidable, as shown by the results of Latifah, Marfuatul's research on the protection of *human rights in the mechanism for dissolving legal entity mass organizations based on Law no. 16 of 2017*. This descriptive normative juridical research considers that the issuance of Perppu for Ormas does not fulfill the elements of "forced urgency" and "a state of danger" contained in Articles 22 and 12 of the 1945 Constitution of the Republic of Indonesia. Eliminating the mechanism for dissolving Ormas through a judge's decision in court is an annulment of efforts to protect human rights for CSOs, as well as demonstrating a policy that does not reflect the principles of the rule of law (*due process of law*). Latifah Marfuatul concluded that if made changes to the

provisions for the dissolution of Ormas because the old rules were inadequate, then the Ormas Bill must contain some content material in the amendment to the provisions for dissolving Ormas, namely arrangements for the dissolution of Ormas in general through a trial with a 150-day deadline, whereas in "conditions activities" Ormas can immediately suspend. The government can submit a request to dissolve the Ormas with a deadline of 75 days. The Ormas Bill must regulate the definition of "certain conditions" in the dynamics of organizations so there are no violations in its implementation (Latifah, 2020). The issuance of the Ormas Bill, which later pass into Law No. 16 of 2017, should not eliminate Human Rights in organizing by eliminating the judicial process before the dissolution decision is made and does not meet the criterion of compelling crises as one of the conditions for issuing a Perppu.

The issuance of the Perppu, which has an impact on the loss of human rights in the implementation of freedom to organize as a result of Latifah's research refute by Ali Khaidar through his research, on *Freedom of Association in Indonesian Laws and Regulations (Analytic Study of Law Number 16 of 2017)*. Ali Khaidar considers Presidential Decree No. 2 of 2017 concerning Ormas appropriate and meets the requirements set by MK No. 138/PUU-VII/2009. The President has the right to issue a Perppu if 1. There is an urgent situation, 2. There are legal regulations that apply but are inadequate, and 3, there is a legal vacuum. These three conditions have been met. As for the right to freedom of association in Article 28, paragraph 2 of the Law, which guarantees citizens' freedom of association, it does not mean that it is accesible without limits, but rather that the provisions of the law limit this freedom. Even so, Ali Khaidar also acknowledged that there were still weaknesses in this arrangement, especially regarding the unilateral dissolution of mass organizations without going through a trial process (Ali, 2020). Different opinions between Latifah's and Ali Khaidar's research acknowledge that is arrangement still had weaknesses, especially regarding the fulfillment of the "urgent situation" criterion in the issuance of the Perppu for Ormas, met common ground in efforts to maintain the trial process as a forum for fighting for justice for disbanded Ormas.

Several issues of injustice and human rights violations in cases of disbanding Islamic organizations dominate by the perspective of state law, so it is also essential to look at them using a justice perspective in Islamic law because the object of the disbanded mass organizations is synonymous with the Islamic religion, such as research conducted by Salam regarding the *position of the law. Number 16 of 2017 concerning PERPPU Number 2 of 2017 regarding Ormas Viewed from the Perspective of Al-Mafahim Al-Asasiyah Al-Islamiyah*. Through this *library research*, Salam tries to analyze Law Number 16 of 2017, from the perspective of al-Mafahim al-Asasiyah al-Islamiyah, considering that Article 62 of Law Number 16 of 2017, which gives authority to the government to dissolve CSOs unilaterally in terms of al-Mafahim al-Asasiyah al-Islamiyah is inconsistent/contradictory. This then gave rise to various kinds of harm, such as loss of unity (al-Ukhuwah), loss of equality before the law (al-Musawwa), loss of justice (al-Adalah), loss of freedom (al-Hurriyah), lack of peace (al-Shulh), and compassion (al-Rahman) for fellow individuals and society towards the government. According to Salam, it is necessary to revise Law No. 16 of 2017 concerning the establishment of Perppu No. 2 of 2017 while continuing to give authority to the Judiciary Body in deciding the dissolution of Ormas, so that the Law these can be in line with the basic concepts

of Islam (Salam, 2019) . All the research described above shows that quite a lot of studies have been carried out on Law No. 16 of 2017. It's just that some of these studies reveal that cases of injustice are seen from the attitude of human rights, the view of justice in the distribution of power, the perspective of the concept of constitutional law and the perspective of Islamic law, using various methods and approaches such as normative legal research with the *statute approach*, *conceptual approach*, and *case approach*. The difference in study with the title *The Nature of the Right to Association and Assemble According to Law No. 16 of 2017 Within the Frame of Pancasila* lies in perspective used, namely looking at the phenomenon of injustice and the threat of state unity in the dissolution of mass organizations after the ratification of Law No. 16 of 2017 using the Pancasila perspective.

Pancasila, as the basis of statehood and state ideology, must be used as a reference source in carrying out various national and state activities because it has accommodated the universal values of Divinity, Humanity, Unity, Democracy, and Justice that apply in life of Indonesian society. In line with this, Yudi Latif explained that the historical journey of the formulation of the values contained in Pancasila is the result of a synthesis of various beliefs, cultures, hopes, aspirations of identity, sovereignty, and the ideals of social justice in society. The ideological pillars of the five precepts are supported by the mainstream "trilogy of ideologies," namely: *first*, ideologies that are religious which means that the Indonesian people are generous, forgiving, loving, and compassionate, as contained in the first precept. *Both* ideologies have a national orientation, which means that the Indonesian people uphold human values internally and externally, namely the national spirit which is not chauvinistic but rather the spirit of world brotherhood, and world unity. This value is contained in the combination of the second and third precepts. *The three* ideologies are socialism-oriented, namely ideologies which mean that the practice of democracy practiced by all Indonesian people is a social justice-oriented democracy that do not only demand people's participation and emancipation in politics but involves the people to participate and emancipate in the economic field, as a combination desired by the fourth and fifth precepts of Pancasila (Yudi Latif, 2012). Although there are differences, the three ideological directions have a meeting point between two, namely socio-religious, socio-nationalism and socio-democratic.

Cases of injustice in the implementation of freedom of association are caused by interpretations of Pancasila, which are still based on group interests. They use indicators other than Pancasila in solving realase of association problems, both for registered organizations such as Muhammadiyah, Nahdatul Ulama, Nahdatul Wathan, as well as for organizations that have already registered. Disbanded, such as HTI, FPI, Khilafatulmuslimun organizations. This article argues that Pancasila, with its universal character values, has been agreed upon as the basis of statehood and state ideology, so there is no need to look for references and other references, including in this study which uses Pancasila as a barometer to measure the essence of the right to freedom of association and assembly Law No. 16 of 2017.

The state guarantees freedom of association and assembly for every Indonesian people through the ratification of Law No. 16 of 2017, as a derivative of the values of Pancasila and the 1945 Constitution. It is acknowledged that the regulation on the right to freedom of association and

assembly has not gone well evidenced by changes in Ormas regulations from 1985 (Pranoto, 2020) to 2017, still reaping pros and cons. State efforts to guarantee the rights, freedom of association, assembly, and organization of every Indonesian people based on Law No. 16 of 2017 are faced with the problem of fanaticism, chauvinism which is imbued by Ormas to each of its followers (Alfaqi, 2015) , so that the goal of certified the rights of every citizen is not one-way with Ormas, even the rights and freedoms that the State guaranteed are lost along with joining the Ormas.

The case of the dissolution of HTI, FPI, and Khilafatul Muslimun by the Government is an example of an Ormas indoctrinating its members to fight for the establishment of an Islamic *Khilafah* (Arif, 2016) and replacing Pancasila as the state ideology as contained in the Statutes (AD) and Bylaws (ART). If viewed from the applicable legal provisions, the AD, ART, and the activities of the Ormas violate the conditions of Law No. 16 of 2017 Article 59 paragraph (4) letter c: "Ormas are prohibited from adhering to, developing, and spreading teachings or understandings that are contrary to Pancasila" (HAM, 2017) . The loss of freedom guaranteed by the state is caused by the rules contained in the AD and ART of Ormas, which require all members to behave following the vision, mission, and goals of the Ormas that are followed and close themselves to the invention, mission, dream of other Ormas so that it is contrary to the ideals of Pancasila, the 1945 Constitution of the Republic of Indonesia and *Bhinneka Tunggal Ika*. Examples are HTI which has a vision and mission goal of establishing *Khilafah Islamiyah* (HTI, nd) , FPI which fights for the implementation of Islamic Sharia in a *Kaffah manner* (*Ad-Art FPI* , nd) , NU with the identity of maintaining Islamic traditions, and Muhammadiyah which has *Tajdid characteristics*.(Muhammadiyah Statutes and Bylaws, 2010) (renewal) (Results of the Decisions of the XXXII NU Congress, 2010) . Some of these characteristics then become the identity of each Ormas member when interacting with other Ormas, and it is not permissible for Ormas members to change, or replace what has been stated in the Bylaws of each Ormas, except through a Congress.

DISCUSSION

The regulations made by Ormas have indirectly eliminated the rights and freedoms of association and assembly that the State has regulated for every community. Therefore the State must regulate them by formulating an Ormas format that still guarantees the right to freedom of association and assembly for each of its members following the ideals of Pancasila, the 1945 Constitution of the Republic of Indonesia and *Bhinneka Tunggal Ika*. Regulating freedom of association, assembly, and organization for all Indonesian people following Pancasila, the 1945 Constitution and Unity in Diversity face quite formidable challenges. Law No. 16 of 2017 stipulates several new articles that are contradictory to Pancasila, the 1945 Constitution, and Unity in Diversity, especially those relating to the right to freedom of association, assembly, and organization, such as:

First, Pancasila, through every precept guarantees the freedom of every citizen to associate, assemble and organize, namely freedom that refers to the values of Divinity, Humanity, Unity, Democracy, and Justice. Then the 1945 Constitution of the Republic of Indonesia Article 28E

paragraph (3) guarantees the rights and freedom of association and assembly for every Indonesian citizen (the 1945 Constitution of the Republic of Indonesia Accompanied by an Addendum, 2020) . Still, in Law No. 16 of 2017, the rights and freedoms referred to in danger of not being found. The threat of loss of freedom is caused by Article 59 paragraph (4) letter c), which states that Ormas which adhere to an ideology that is contrary to Pancasila can be disbanded by the relevant Ministry without going through a judge's decision in court (HAM, 2017) . This means that the opportunity to fight for justice and prove accusations through the trial process is no longer regulated. Even the decision to disband is not decided by a judge but by a ministry, such as the ministry of law and human rights. The legal argumentation basis for the authority to disband CSOs is not through trial is caused by the dissolution mechanism through a judge's decision at the trial which is considered to take quite a long time, so it is less effective, so the authority is given to the ministry related to the reason to maintain the unity of the Unitary State of the Republic of Indonesia. Of course such things are contrary to the values contained in every precept of Pancasila, especially with the precepts of *Social Justice for All Indonesian People*. Apart from contradicting the values contained in each of the Pancasila precepts, the method of understanding Pancasila certainly cannot be understood separately from one precept to another, as the government practices the understanding of Pancasila. In the case of the dissolution of Ormas, prioritizing maintaining national unity by ignoring the sense of social justice, humanity, democracy and even Godhead. Pancasila must be understood as a whole, where one precept and another has a close relationship (Kaelan, 1996) .

Second, mass organizations that are not subject to applicable legal provisions regarding freedom of association, assembly, and organization by understanding Pancasila according to their interests (Sholihah, 2016) . Several mass organizations that have been disbanded or are still existing, such as NU, Muhammadiyah, NW, NWDI, and others, have different methods from the government in interpreting and understanding the meaning of freedom of association, assembly and organization according to Pancasila and the 1945 Constitution, as described in the AD, ART each Ormas (Arif, 2016; Fauzi et al., 2021; Hasil Keputusan Muktamar NU ke-XXXII, 2010). When referring to the Pancasila interpretation model, the 1945 Constitution of the Republic of Indonesia, Law No. 16 of 2017 Version of Ormas, justice is difficult to achieve because each Ormas has its way of understanding freedom of association, assembly, and organization, then considers this model of understanding as the only truth and the only different from it is considered wrong (Kusumo & Hurriyah, 2019) . Even the government itself, in which there are individuals affiliated with certain Ormas ideology as well as executors of state administration authority, has not been able to escape the intervention of believed Ormas ideology, especially in formulating and deciding policies on behalf of the state, because the ideology believed to have influenced every decision (Aziz, 2020) , including in the case of disbanding HTI, FPI and Khilafatul Muslimun by the government, namely the government in which there were individuals affiliated with NU, NW, and other mass organizations. Such a situation is difficult to create justice for all because each CSO claims freedom of association, assembly, and organization according to its Ormas ideology. Because of this, the government and mass organizations must refer to the version of Pancasila that the State has determined, namely Pancasila, which was formulated and understood by Soekarno as its originator (Latif,

2020) , not based on group, ethnicity, religious, cultural interpretations. The existence of clear boundaries set by the State in understanding Pancasila as a basic value in exercising the right to freedom of association, assembly and organization will result in an understanding that is not biased against the interests of Ormas, so that the essence of Ormas as partners with the government to jointly achieve the goal of the State.

Third, the government passed Law No. 16 of 2017 aimed at maintaining the unity and integrity of the State. Still, several articles actually open up opportunities for the development of ideologies that threaten the unity, such as Article 1 letter (a) concerning the Statutes of Ormas/AD and letter (b) regarding Ormas Bylaws/ART (HAM, 2017) . In this article, it is stated that the AD is the basic regulation of the Ormas as a guideline for carrying out the vision, mission, goals, and work programs of the Ormas, then the ART elaborates of the provisions that have not been regulated in the AD. This article does not explain Pancasila as the basic norm and the 1945 Constitution as a source of law for Ormas as determined by the State, Pancasila is only used as a formality which is replaced by the Ormas ideology. The negative effects of these changes gave rise to fanaticism, chauvinism, and even radicalism, as Louis Althusser (Puspitarini, 1967) said the ideological doctrine of mass organization form the negative attitude in question for each of its members to represent themselves as the best mass organization, then different mass organizations. Views and ideology are considered as rivals. This description confirms that CSOs and all their activities are closely related to revolutionary activities. That is, CBOs that have power will conquer and control other CSOs, including the State. Such a negative attitude of Ormas is getting stronger because it gains legitimacy from Article 20 letter (c, d) concerning the Rights of Ormas, which are allowed to *fight for the ideals and goals of the Organization, carry out activities to achieve the goals Organization*, and Article 21 concerning Ormas obligations letter (a) namely *Carrying out activities following the goals of the Organization* (HAM, 2017) . Ormas with revolutionary ideological characteristics (Aziz, 2020) , if allowed to carry out activities to realize their ideological goals, will become a threat to other mass organizations and even the state. Several major mass organizations in Indonesia today, such as NU and Muhammadiyah, show the same symptoms. NU and Muhammadiyah are the mass organizations with the largest number of members in Indonesia which dominate strategic positions in politics, economics, education, and law, making them free to set the direction and goals of the state (Darajat, 2017) . The position of dominant CSOs who do not have professional boundaries as members of CSOs and executors of government, is increasingly adding to the problem of unity and justice. Individuals who carry out government functions and are affiliated with one of the CBO ideologies will influence their attitudes and decisions, just as HTI, FPI, NU, NW, and Muhammadiyah try to control the goals of the State of Indonesia according to their ideology. Because of that individuals affiliated with one Ormas will interact in the social world by representing themselves as members of the Ormas they believe in and forget about self-representation as Indonesian citizens, as is the characteristic of interpellation that is owned by an ideology (Puspitarini, 1967) . Organizational differences should not be used as an excuse to act unfairly by prioritizing the freedom of the group and ignoring the freedom of other groups, thereby triggering conflict, because other groups that have different ideological and organizational choices are not a reason for conflict,

but are aware of these differences as God's decision and are more oriented towards look for equations that are then able to unify. Understanding Pancasila should be done by following its hierarchical structure pattern (Kaelan, 1996) , so that Godliness and Humanity are its basic assets because no matter how good the quality of humanity, the quality of religion is, if there is no spirit of unity, the Indonesian nation will still experience obstacles in realizing its ideals. Realizing social justice for all Indonesian people as contained in the Pancasila precepts (Latif, 2020) .

Fourth, CSOs demand guarantees of freedom of association and assembly rights from the state, but CBOs themselves limit the rights and freedoms of each member to organize. Even in understanding Pancasila as the basis of the state, Pancasila is positioned second in organization after the CSO ideology it adheres to. Thus the strong impression of the State is used as a tool to realize the stronger vision, mission, and goals of Ormas (Rochim & Andri, 2018) . Such conditions are inversely proportional to the initial goal of Ormas as a partner of the government in realizing the goals of the State.

Fifth, The government understands Pancasila by passing Law No. 16 of 2017 Article 61 paragraph (3) letter b as the legal basis for disbanding Ormas without a trial process, while Pancasila (the precepts of social justice for all Indonesian people) and the 1945 Constitution Article 27 (1) confirm that every citizen has the same position before the law, then an Ormas should be dissolved through a Judge's decision through a trial. To unravel the different understandings of freedom of association, assembly and organization within the framework of Pancasila, it is necessary to address it by understanding Pancasila holistically, both from the aspects of values, history, social, culture, spirituality which are the background for the birth of Pancasila. The value, historical, social and cultural components referred to are as stated in each of the Pancasila precepts (Latif, n.d.) , namely Pancasila which was declared by Soekarno and figures representing the Indonesian people (Basarah, 2018) .

The essence of the right to associate and assemble in the Pancasila perspective is the religious value contained in the first precept of Pancasila. Humans, as creatures who believe in the existence of God, should reflect this belief in their lives, including by respecting the rights to freedom, association, and other people's associations. The government as the executor of state power refers to a constitution that is theologically styled, implemented in the spirit of divine values, namely the awareness that God has created different human beings, then does not make these differences a reason for conflict, but believes in them as God's power to be referred to as guidelines, and his orders (Prof. Dr. Jimly Asshiddiqie, 2008). The formation of awareness of maintaining unity, justice, peace-loving, forgiving, compassionate, merciful, generous, and tolerant based on religious values in addressing the diversity of rights to freedom of association, gathering of other people in organizations will give birth to an attitude of mutual understanding among fellow Indonesians and generally for every human being in the world, personally or in groups/Ormas as a power of God (Asshiddiqi, 1966) . Humans, as God's creation, have differences, including differences in understanding the truth of God's law and the truth of human law, so these differences must be understood as God's provisions that must be addressed by mutual understanding and not as an arena for truth claims that give birth to conflict (Latif,

2011) . Differences in barometers of understanding human law, apart from being standard provisions of God's creation are also caused by differences in educational, religious, cultural, and environmental backgrounds in which humans live, such as the educational background of the disbanded Ormas leaders (Najamudin, 2018) .

These differences in background affect the understanding of human law, so in order to avoid conflicts caused by different understandings of law, this can be done by building a shared awareness that humans are creatures of God who were created in different circumstances, then taking care of these differences with the principle of justice so that a sense of unity is maintained. , including in exercising the rights and freedoms of association and assembly. Thus what is meant by the essence of freedom of association, assembly, according to the Pancasila precepts Belief in the One and Only God is belief in God by implementing Divine values (forgiveness, compassion, compassion, generosity, fairness, peace, etc.) in exercising freedom of association, assembly and organization. Second Pancasila precept, *just and civilized humanity*. The state expects all Indonesian people to become human beings with just and civilized characteristics, namely by understanding and respecting the right to freedom of association, and associating with other human beings as they wish to be understood and respected. Therefore, exercising the right and freedom to associate, gather and organize must be in a fair way so that unity is maintained, namely the spirit of unity with the awareness that God has created human beings with differences and realizes these differences as God's destiny so that they respect each other. Thus Godliness and Humanity as the basic capital, especially to realize common goals both by the state and followers of Ormas amid the diversity of Ormas, religion, ethnicity, language, and others, because no matter how good the quality of humanity, the quality of religion if there is no sense of togetherness /unity, it is difficult to realize the shared vision, mission and goals, including in implementing freedom of association, assembly as contained in the third principle of Pancasila (Basarah, 2018) .

CONCLUSION

The state, as the largest organization in making decisions for the Indonesian people, must refer to the values of God, humanity, unity and justice in the spirit of wisdom in deliberations/representations to realize social justice, not based on the influence of ideology adopted by policymakers. Including in implementing the provisions of Law no. 16 of 2017, specifically regarding the regulation of freedom of association and the dissolution of mass organizations contrary to Pancasila. In several articles contained in Law No. 16 of 2017, the values of the Pancasila precepts have been reflected, although these have been reflected in several of these articles, the fact that there are still unfair practices, opportunities for the development of an anti-Pancasila ideology are still open and even listed in several articles. Then to strengthen the existence of Ormas' understanding of Pancasila as a State ideology, several articles governing AD & ART must be made expressly to require it to be included in the AD ART to serious supervision of the understanding and implementation of Pancasila as a State ideology, as the social contract that has been done by the government and the people when they agreed to form the Unitary State of the Republic of Indonesia.

Bibliography

1. Ad- Art FPI. (n.d.). Retrieved from https://www.indonesiana.id/read/136968/munarman-tak-ributkan-lagi-izin-tapi-inilah-jebakan-maut-bagi-fpi-pada-2020?page_num=3
2. Alfaqi, M. Z. (2015). Memahami Indonesia Melalui Prespektif Nasionalisme, Politik Identitas, Serta Solidaritas. *Jurnal Pendidikan Pancasila Dan Kewarganegaraan*, 28(2), 113–114. Retrieved from <http://journal.um.ac.id/index.php/jppk/article/view/5451/2120>
3. Ali, K. (2020). *Perundang-Undangan Di Indonesia Syarif Hidayatullah Jakarta 1441 H / 2020 Kebebasan Berserikat Dalam Peraturan Perundang-Undangan Di Indonesia*. Retrieved from <http://repository.uinjkt.ac.id/dspace/handle/123456789/52779>
4. Amer, N. (2020). Analisis Pembubaran Organisasi Kemasyarakatan Dalam Perspektif Negara Hukum. *Jurnal Legalitas*, 13(01), 1–15. <https://doi.org/10.33756/jelta.v13i01.5417>
5. Arif, S. (2016). Kontradiksi HTI atas Pancasila. *Jurnal Keamanan Nasional*, 2(1), 19–34.
6. Asshiddiqi, J. (1966). *Konstitusi Dan Hak Asasi Manusia 1 Oleh: Jimly Asshiddiqie 2*.
7. Atmadja, I Dewa Gede, I. N. P. B. (2018). Teori-Teori Hukum. *Setara Press*, 233. Retrieved from <http://repository.warmadewa.ac.id/id/eprint/441/>
8. Aziz, M. F. (2020). *Peristiwa pembakaran bendera eks Hizbut Tahrir Indonesia (HTI) oleh barisan Ansor serbaguna Nahdlatul Ulama (Banser) dalam perspektif ideologi Louis Althusser*. Retrieved from <http://digilib.uinsby.ac.id/41849/>
9. Basarah, A. (2018). *Pancasila sebagai Identitas Pemersatu Kemajemukan Indonesia: Tinjauan Ketatanegaraan*. Retrieved from <http://repository.uki.ac.id/856/1/MPR RI.pdf>
10. Darajat, Z. (2017). Muhammadiyah dan NU: Penjaga Moderatisme Islam di Indonesia. *Hayula: Indonesian Journal of Multidisciplinary Islamic Studies*, 1(1), 81–96. <https://doi.org/10.21009/hayula.001.1.05>
11. Fauzi, M., Mellayanah, M., Rizki Rivaldi, M. A., & Abhipraya, F. A. (2021). Larangan Pengunggahan Konten Terkait FPI: Tinjauan Perspektif Hak Asasi Manusia di Indonesia. *Kosmik Hukum*, 21(2), 19. <https://doi.org/10.30595/kosmikhukum.v21i2.9947>
12. HAM, K. H. dan. *UU No 17 Tahun 2013*. , 1 § (2013).
13. HAM, K. H. dan. (2017). *Undang-Undang No 16 Tahun 2017 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2017 Tentang Perubahan Atas Undang-Undang Nomor 17 Tahun 2013 Tentang Organisasi Kemsyarakatan Menjadi Undang-Undang*. 25. Retrieved from <https://jdih.setkab.go.id/PUUdoc/175343/UU Nomor 16 Tahun 2017.pdf>
14. HAM, K. H. dan. Kementrian Hukum dan HAM, Pencabutan SK Badan Hukum HTI. , 1 Proceedings of 2013 2nd International Conference on Measurement, Information and Control, ICMIC 2013 § (2021).
15. Hasil Keputusan Muktamar NU ke-XXXII. *Hasil Keputusan Muktamar NU ke-XXXII*. , (2010).
16. HTI, L. S. (n.d.). *Legalitas syarikah*.
17. Juliansyah, F., Yusuf, & Mundayat, A. A. (2019). The Government Strategy In Facing Khilafatul Muslimin Movements At Cikembar and Kebon Pedes Sukabumi. *Jurnal Peperangan Asimetris*, 51(1), 42–64. Retrieved from <https://jurnalprodi.idu.ac.id/index.php/PA/article/view/368/346>
18. Juwana, H. (2021). Human Rights in Indonesia. *Indonesian Journal of International Law*, 4(1). <https://doi.org/10.17304/ijil.vol4.1.131>
19. Kaelan. (1996). Kesatuan Sila-sila Pancasila. *Jurnal Filsafat*, 1(1), 42–52. Retrieved from <https://journal.ugm.ac.id/wisdom/article/view/31640>

20. Koalisi Kebebasan Berserikat. (2013a). *Kajian penafsiran uu ormas*. Retrieved from <https://adoc.pub/kajian-penafsiran-uu-ormas-oleh-koalisi-kebebasan-berserikat.html>
21. Koalisi Kebebasan Berserikat. (2013b). *Sosialisasi uu ormas* (Vol. 3). Retrieved from <https://adoc.pub/kerangka-acuan-sosialisasi-uu-ormas-oleh-koalisi-kebebasan-b.html>
22. Kusumo, R., & Hurriyah, H. (2019). Populisme Islam di Indonesia: Studi Kasus Aksi Bela Islam oleh GNPF-MUI Tahun 2016-2017. *Jurnal Politik*, 4(1), 87. <https://doi.org/10.7454/jp.v4i1.172>
23. Latif, Y. (2011). Revitalisasi Pancasila di Tengah Dua Fundamentalisme. *Jurnal Dignitas*, 38–48. Retrieved from [http://download.garuda.kemdikbud.go.id/article.php?article=1464340&val=17712&title=Revitalisasi Pancasila Di Tengah Dua Fundamentalisme](http://download.garuda.kemdikbud.go.id/article.php?article=1464340&val=17712&title=Revitalisasi%20Pancasila%20Di%20Tengah%20Dua%20Fundamentalisme)
24. Latif, Y. (2020). *Reaktualisasi Pancasila*. Retrieved from [https://pusdik.mkri.id/materi/materi_197_Reaktualisasi Pancasila \(Yudi Latif\).pdf](https://pusdik.mkri.id/materi/materi_197_Reaktualisasi%20Pancasila%20(Yudi%20Latif).pdf)
25. Latif, Yudi. (2012). “ Revitalisasi Nilai-Nilai Pancasila .” *Majelis*, 04. Retrieved from [https://www.mpr.go.id/img/jurnal/file/050422_2012 _ Jumal Majelis Edisi 4 - Revitalisasi Nilai-Nilai Pancasila.PDF#page=49](https://www.mpr.go.id/img/jurnal/file/050422_2012_Jumal%20Majelis%20Edisi%204%20-%20Revitalisasi%20Nilai-Nilai%20Pancasila.PDF#page=49)
26. Mentri, S. *SKB Larangan Kegiatan Ormas FPI.pdf*. , (2020).
27. Najamudin, N. (2018). Pre Understanding, Effective Histori, Fusion Of Horisons Komisi Penyiaran Indonesia Daerah (KPID NTB) Terhadap Undang-Undang Penyiaran No 32 Tahun 2002 Dan P3SPS. *JURNAL Schemata : Pascasarjana UIN Mataram*, 7(1), 91–110. <https://doi.org/10.20414/schemata.v7i1.295>
28. PP-Muhammadiyah. *Anggaran Dasar dan Anggaran Rumah Tangga Muhammadiyah*. , (2010).
29. Pranoto, E. (2020). Kajian Sosio Legal Pengesahan Undang-Undang Organisasi Kemasyarakatan. *Spektrum Hukum*, 17(1). <https://doi.org/10.35973/sh.v17i1.1570>
30. Pratama, N. A. (2021). Analisis Pembubaran Ormas Tanpa Proses Peradilan Pasca Penetapan UU No. 16 Tahun 2017 Tentang Ormas. *Rechtenstudent*, 1(2), 166–178. <https://doi.org/10.35719/rch.v1i2.27>
31. Prof. Dr. Jimly Asshiddiqie, S. (2008). *Konstitusi Kebudayaan Dan Kebudayaan Konstitusi* (Vol. 53).
32. Puspitarini. (1967). Literary Theory: An Anthology. In J. and M. Ryan (Ed.), *Angewandte Chemie International Edition*, 6(11), 951–952. (Secon Edit, Vol. 2). Retrieved from https://d1wqtxtslxzle7.cloudfront.net/59483321/Literary_Theory_-_An_Anthology_Blackwell20190601-94544-fbkrbp-with-cover-page-v2.pdf?Expires=1669391391&Signature=OgMsR4aYX9D4u2SgFaVkUXpUb1u8f5L6Vh425XgJfRdvdPeYUJuiYoIg51hUuFtLjSFvYdFE47Ic7SkI-e5n8WTSRpEaT
33. Rakyat, M. P. *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 disertai Adendum*. , (2020).
34. Rochim, A., & Andri, M. (2018). Peran Organisasi Masyarakat Sebagai Mitra Dan Kontrol Pemerintah Terhadap Hak-Hak Demokrasi Berdasarkan UU NO 16 Tahun 2017 Tentang Organisasi Kemasyarakatan. *Jurnal Yusticia Fakultas Hukum Universitas Darul ‘Ulum Jomban*, 7(1), 1–14. Retrieved from <http://ejournal.undar.ac.id/index.php/yusticia/article/view/130>
35. Salam. (2019). Kedudukan Undang-Undang Nomor 16 tahun 2017 Tentang Perrpu Ormas Nomor 2 Tahun 2017 Tentang Ormas Ditinjau Dari Perspektif Al-Mafahim, Al-Asasyah Al-Islamiyah (Vol. 2).
36. Sholihah, I. (2016). Menyoal Organisasi Kemasyarakatan (Ormas) Anti-Pancasila. *RechtsVinding : Media Pembinaan Hukum NAsional*, 2016(Juni), 1–5. Retrieved from [https://rechtsvinding.bphn.go.id/jurnal_online/Menyoal Ormas Anti-Pancasila.pdf](https://rechtsvinding.bphn.go.id/jurnal_online/Menyoal%20Ormas%20Anti-Pancasila.pdf)

RELATIONS BETWEEN THE STATE AND CONSERVATIVE ISLAMIC GROUPS; STUDY OF CONTROVERSY, TENSION, AND POLEMICS.pdf

GRADEMARK REPORT

FINAL GRADE

GENERAL COMMENTS

/0

PAGE 1

PAGE 2

PAGE 3

PAGE 4

PAGE 5

PAGE 6

PAGE 7

PAGE 8

PAGE 9

PAGE 10

PAGE 11

PAGE 12

PAGE 13