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E-INTEGRATIVE CONTROL SYSTEM AS A COMMUNITY ORGANIZATION SUPERVISION DESIGN TO REALIZE THE CONCEPT OF STATE

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ABSTRACT

The government, as the party that has the mandate from the people to exercise sovereignty, has revoked permits for the establishment of social organizations which are deemed contrary to the ideology of the State. The Ministry of Law and Human Rights as the party that grants the permit can immediately revoke the license on the basis of the contractus actus principle contained in the Perppu No. 2 of 2017 concerning Amendments to Law No. 17 of 2013 concerning Community Organization. Even though they have taken repressive steps, the Ministry of Law and Human Rights has not taken any preventive action in obstructing and preventing the emergence of social organizations that are contrary to the ideology of the State. Therefore the authors provide an effective solution in the form of an E-Integrative Control System as a Social Organization Supervision Design to Realize the Concept of State Sovereignty so that the Government as the party responsible for granting permits for the establishment of social organizations and contradicting state ideology, which could threaten the sovereignty and integrity of the Unitary State of the Republic of Indonesia.

Pemerintah, sebagai pihak yang mendapat amanat dari rakyat untuk melaksanakan kedaulatan, telah mencabut izin pendirian organisasi kemasyarakatan yang dianggap bertentangan dengan ideologi negara. Kementerian Hukum dan Hak Asasi Manusia sebagai pihak pemberi izin dapat segera mencabut izin berdasarkan prinsip contractus actus yang tertuang dalam Perppu Nomor 2 Tahun 2017 tentang Perubahan atas Undang-Undang Nomor 17 Tahun 2013 tentang Organisasi Kemasyarakatan. Meski telah mengambil langkah-langkah represif, Kementerian Hukum dan HAM tidak melakukan tindakan preventif apapun dalam menghalangi dan mencegah munculnya ormas-ormas yang bertentangan dengan ideologi negara. Oleh karena itu penulis memberikan solusi yang efektif dalam bentuk Sistem Pengendalian E-Integratif sebagai Rancangan Pengawasan Organisasi Kemasyarakatan untuk mewujudkan Konsep Kedaulatan Negara sehingga Pemerintah selaku pihak yang bertanggung jawab dalam pemberian izin pendiriannya kepada organisasi kemasyarakatan dan bertentangan dengan ideologi negara. Yang dapat mengancam kedaulatan dan keutuhan Negara Kesatuan Republik Indonesia.

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A. INTRODUCTION

Humans are social creatures (zoonpoliticon) who need other humans to meet their needs. In fulfilling their needs, humans instinctively communicate and interact to gather with other humans.¹

Today freedom of association and association is a constitutional right for citizens as stated in Article 28 E paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that everyone has the right to freedom of association, assembly and expression.²In the implementation of these constitutional rights, the State provides facilities for its citizens to gather and form associations in the form of social organizations by passing Law no. 17 of 2013 concerning Community Organizations as amended by Perppu No. 2 of 2017 concerning Amendments to Law No.17 of 2013 concerning Community Organizations. This shows that all regulations contained in the Law remain in effect as long as they do not conflict with the Perppu.

In connection with the establishment of a social organization, it is to participate in development for the achievement of the objectives of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia.³The purpose of forming community organizations can be further elaborated, including:⁴

1. Increase community participation and empowerment
2. Providing services to the community
3. Maintain religious values and belief in God Almighty
4. Preserving and maintaining norms, values, morals, ethics and culture that live in society
5. Preserving natural resources and the environment
6. Developing social solidarity, mutual cooperation, and tolerance in social life
7. Maintain, maintain, and strengthen the unity and integrity of the nation
8. Realizing the goals of the country.

With this no blame, social organizations become a supporting factor in realizing the goals of the nation and the State. Based on data from the Ministry of Law and Human Rights in 2010, there were 364 community organizations in Indonesia. This number is considered as a form of the flourishing of community organizations as a form of freedom of association, assembly, and expression in Indonesia.

1 Indonesia (1). Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. UUDNKRI 1945. Ps.28E ayat

2 Sutaryo. 2013. *Membangun Kedaulatan Bangsa Berdasarkan Nilai-Nilai Pancasila: Pemberdayaan Masyarakat Dalam Kawasan Terluar, Terdepan, dan Tertinggal (3T)*. Yogyakarta. Kumpulan Makalah Call For Papper Kongres PancasilaVII

3 Indonesia (2). Peraturann Pemerintah Pengganti Undang Undang Tentang *Organisasi Kemasyarakatan* Perppu No. 2 Tahun 2017 LN NOMOR 138 TLN NOMOR 6084.Pasal 1 angka1

4 Dra. Nia Kania Winayanti. 2011. *Dasar Hukum Pendiriandan Pembubaran Ormas*. Yogyakarta. Pustaka Yustisia. hlm.3.

5 Anonim. 2010. *Data Laporan Organisasi Kemasyarakatan*. www.kemenkumham.go.id. diakses pada tanggal 12 September 2020 pukul 13.45WIB

The increase in the number of civil society organizations began when there form began. Post-reform, social organizations grew and developed as a form of freedom that was previously prohibited in the New Order era. Freedom of association, association and freedom of expression are recognized as human rights which must be protected by the State.⁶ The ideals of social organizations in carrying out the objectives of activities, and common interests that are built with awareness and groups that are believed to be able to solve common interests in a forum that is popular with the name of social organization. This form of organization is used as opposed to the term political party.⁷ Community organizations can be formed by community groups based on several similarities in activities, professions and function objectives, such as religion, education, culture, economy, law and soon. Community organization is a form of community participation in carrying out development to promote a just life and prosperity. The existence of social organizations in Indonesia has actually been formed since the Dutch colonial era.⁸ In fact, some of these social organizations eventually became political parties that spearhead the national movement.

In the implementation of social organization activities have a positive impact on society. Community organizations have several benefits, including:⁹

1. Organizations change people's lives. This benefit can be observed from the number of organizations that can make life better. For example, health organizations make people physically healthy, educational organizations become smart people, military organizations and police make people safe.
2. Organization as a guide for achieving goals. By organizing the achievement of goals becomes easier.
3. Organization offers careers. An organization is a group of people who have skills, knowledge and goals. Therefore, people who want to develop their career can join an organization, because the organization will always offer a career to someone who has more knowledge and skills.
4. Organization as a scientific reserve. By organizing knowledge can be improved continuously. Past history can be documented, research can be developed, as well as works that cannot be done alone can be done together.

But on the other hand, social organizations are also abused by some irresponsible parties by holding social organization activities that are contrary to the ideology of the State, thus threatening the condemnation and sovereignty of the Unitary State of the Republic of Indonesia. In Article 1 number 1 Perppu No. 2 of 2017 states clearly that the requirements for

6 Mohammad Monib. 2011. *Islam Dan Hak Asasi Manusia Dalam Pandangan Nurcholish Madjid*. Jakarta. Gramedia Pustaka. hlm.46

7 Khalimi. 2010. *Ormas Ormas Islam (Sejarah, Akar, Teologi, Dan Politik)*. Jakarta. Gaung Persada. Hlm. 142

8 Ibid. hlm. 124

9 Mufti Makarim. *Peran Organisasi Masyarakat Sipil Dalam Reformasi Sektor Keamanan*. Pusat Dokumentasi ELSAM

establishing a social organization are based on Pancasila and the Law 1945 Constitution of the Republic of Indonesia.¹⁰ Then the principle of social organization is clarified again in Article 2 of Law No.17 of 2013 concerning Community Organizations which states that social organizations are based on Pancasila as the only principle (principles in the life of society, nation and state). Then in the elucidation of this law it stipulates that the determination of Pancasila as the only principle for social organization does not mean that Pancasila will replace religion, and it is impossible for religion to be created between the wolf which there is no conflict to values.

The establishment of social organizations has been regulated in the Law and Perppu on social organizations. The main requirement for forming a social organization is that a social organization must not conflict with the ideology of the State. The Ministry of Law and Human Rights is a state institution that is given the authority to issue permits or legitimacy for the establishment of social organizations. However, when a social organization has obtained permission to become a legal social organization, the social organization deviates from the deed and / or requirements to establish a social organization that has been regulated in positive which states that a social organization is obliged to submit to Pancasila and the Indonesian Constitution. 1945 as the state ideology.

This is evidenced by the case of the disbandment of the social organization Hizbutahrir Indonesia (HTI). The government stated that HTI in its development had deviated from the ideology of the Indonesian State, namely Pancasila. Wiranto as the Coordinating Minister for Political, Legal and Security Affairs stated three reasons for the government to dissolve HTI, namely:¹¹ As a legal community organization, HTI does not play a positive role in taking part in the development process in order to achieve national goals;

1. The activities carried out by HTI are strongly indicated to be in conflict with the objectives, principles and characteristics based on Pancasila and the 1945 Constitution of the Republic of Indonesia as regulated in Law Number 17 of 2013 concerning Community Organization
2. The activities carried out by HTI are considered to have caused clashes in the community that could threaten public security and order and endanger the integrity of the Republic of Indonesia.

So that the government issued Perppu No. 2 of 2017 concerning Amendments to Law No.17 of 2013 concerning Community Organizations as a basis for legitimacy to dissolve social organizations that are considered contradictory with Pancasila as the state ideology. The Perppu adheres to other principle of contractus which means that it is the one who gives the decision who can the decision so that the Perppu No. 2 of 2017 gives only the Ministry of Law and Human Rights which has the authority to dissolve social organizations because the Ministry of Law and Human Rights is the party that grants permission and legitimacy for the establishment of a

10 Op.cit

11 Hary Lukita Wardani.2017. *Liku Liku Pembubaran HTI dari Proses Hukum Hingga Perppu* diakses dari www.detiknews.com pada tanggal 15 september 2020 pukul 07.43 WIB

social organization. However, despite the passing of Perppu No. 2 of 2017, the government did not solve the problem comprehensively. The government through the Ministry of Law and Human Rights only revoked the status of a social organization legal entity when the community organization deviates from the state ideology. On the other hand, social organizations also do not have a basis for arguing in defense of the Ministry of Law and Human Rights when there are reports from part inside / outside of social organizations related to deviations from the ideology of a social organization due to Perppu No. 2 of 2017 which adheres to the principle of *contractus actus* so that therefore community organizations do not have the opportunity to file a defense.

In Law No. 17 of 2013 on Community Organization and Perppu No. 2 of 2017 concerning Amendment to Law No. 17 of 2013 concerning Community Organizations does not explicitly regulate supervision of social organizations. The Ministry of Law and Human Rights, which issues permits for the establishment of social organizations, does not pay attention to the development of social organizations. So as a result, radical social organizations emerge and deviate from the state ideology, such as the HTI case above. Based on data from the Ministry of Law and Human Rights in 2010, there were 364 social organizations in Indonesia and this could continue to grow. With the relatively large number of social organizations, it has the potential to emerge radical social organizations against the state ideology that can threaten the sovereignty and integrity of the State. If supervision of the implementation of activities and development of social organizations can be applied properly, its existence can be prevented from social organizations that are not in accord with the ideology of the State and the Government is also making it easier to carry out early detection of social organizations that have received permission from the Government. Therefore, the authors are interested in conducting scientific research with the title *E-Integrative Control System; Design of Community Organization Supervision to Realize the Concept of State Sovereignty* so that the Government as the party responsible for granting permits for the establishment of social organizations can play an active role in preventing the emergence of radical social organizations and contradicting the state ideology that can threaten the sovereignty and integrity of the Unitary State of the Republic of Indonesia.

B. RESULTS AND DISCUSSION

1. Problems Related to Social Organizations Deviating from Pancasila and the 1945 Constitution of the Republic of Indonesia

Sovereignty is a fixed price for every country. Indonesia as a sovereign country and upholds democracy provides opportunities for its citizens to gather and unite. Starting from this foundation, Law No. 17 of 2013 on Community Organization was born as a legitimacy to establish a social organization.

For example, there are activities carried out by HTI which based on the decision of the Ministry of Law and Human Rights HTI are

declared as social organizations that are contrary to the objectives, principles and characteristics based on Pancasila and the 1945 Constitution of the Republic of Indonesia as regulated in Law No.17 of 2013 concerning Community Organizations and Perppu No.2 of 2017 concerning Amendments to Law No.17 of 2013 concerning Community Organizations¹²The existence of a case related to Hizbutahir Indonesia (HTI) is a warning to the country considering that currently the number of social organizations is very large and spread throughout Indonesia. Each of these social organizations has the potential to deviate from the state ideology so that it can threaten the sovereignty of the State. Because ideology is the foundation for the nation and state.

With the HTI case that was dissolved by the Ministry of Law and Human Rights, the government should be able to anticipate the existence of social organizations that deviate from the ideology of the State by controlling, not only emphasizing the freedom of assembly and association. So far there has been no special supervision of social organizations, so to determine the mistakes of a social organization is only based on the subjectivity of the Ministry of Law and Human Rights and reports or complaints from other parties.

Supervision Whereas this is contrary to the freedom of assembly and association. There needs to be a design of supervision of social organizations that do not interfere with the freedom of assembly and association but which can maintain the integrity and sovereignty of the State effectively and integratively.

2.Application of the concept of E-Integrative Control

The state carries out the constitutional mandate to protect freedom of association and assembly for its citizens using legal instruments. The state passed Law No. 17/2013 on Community Organization and Perppu No. 2 of 2017 concerning Amendments to Law No. 17 of 2013 concerning Community Organizations in response to community needs and instruments to provide freedom for citizens to assemble and associate to form community organizations. However, the freedom to form social organizations is also limited to legal regulations made by the government whereby a social organization can be established as long as it does not conflict with Pancasila and the 1945 Constitution of the Republic of Indonesia. This is done to maintain the ideology of the State and maintain the integrity and sovereignty of the State.

The government as a State institution that is mandated by the people to safeguard the sovereignty of the Republic of Indonesia has taken steps to pass Perppu No. 2 of 2017 concerning Amendments to Law No.17 of 2013 concerning Community Organizations which become the legitimacy of the government in dissolving social organizations.

12 Hary Lukita Wardani.2017. *Liku Liku Pembubaran HTI dari Proses HukumHingga Perppu* diakses dari www.detiknews.com pada tanggal 15 september 2020 pukul 07.43WIB

Currently, supervision to anticipate the existence of social organizations that deviate from the ideology of the State has not become a priority as a step to solve problems of social organizations. When a social organization problem occurs, the Ministry of Law and Human Rights immediately revokes the permit for the establishment of a social organization. Whereas the existence of supervision is also an important instrument in maintaining the sovereignty of the State without limiting the constitutional rights to assembly and association. According to the author, it is necessary to design a supervision of social organizations without limiting the freedom of assembly and association through the E-Integrative Control System to Realize the Concept of State Sovereignty. Apart from routine controlling, the Social Organization Supervisory Body can also carry out investigations independently, starting with sufficient preliminary findings or evidence. Investigations can also be carried out as an action on reports from the public or other parties about the existence of social organizations. The results of the investigation by the Social Organization Supervisory Agency in the form of a written report will be submitted to the Ministry of Law and Human Rights to be considered as the legality of the legal status of social organizations.

So that the supervision carried out by the Social Organization Supervisory Agency through the E-Integrative Control System can prevent the growth of social organizations that deviate from the state ideology that threatens the sovereignty of the State and does not override the constitutional rights of citizens to assemble and associate.

C. CONCLUSION

The problem with social organizations is the emergence of social organizations that are against the Pancasila and the 1945 Constitution of the Republic of Indonesia which threaten the sovereignty of the state. This arises because the government, through the Ministry of Law and Human Rights, which gives permission to establish community organizations, does not supervise the implementation of community organization activities. The existence of Perppu No. 2 of 2017 concerning Amendments to Law No. 17 of 2013 concerning Community Organizations also does not solve the problem because the principle of *contractus actus* in the Perppu gives the Ministry of Law and Human Rights the authority to assess the integrity of a social organization. So a supervisory model is needed that does not rule out freedom of association and association. Based on the problems that have occurred, There is a need for a strategic solution through the E-Integrative Control System to Realize the Concept of State Sovereignty. The E-Integrative Control System in carrying out its duties involves community leaders, academics, representatives of social organizations, and the Ministry of Law and Human Rights. The supervision carried out was guided by Law No. 17/2013 concerning Community Organization and Perppu No. 2 of 2017 concerning Amendments to Law No.17 of 2013 concerning Community Organizations. The E-Integrative Control System can carry out investigations to reported social organizations and the results of the reports will be submitted to the Ministry of Law and Human Rights as a

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