

State, Civil Society Organizations, Democracy and Democratization in Indonesia

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Abstract—This paper is intended to analyze the relationship between state, civil society, democracy and democratization by examining the case of the development of Social Organizations in Indonesia. The article is motivated by the existence of the event of the dissolution of CSOs in Indonesia which is a threat to the sustainability of democracy and democratization. The existence of civil society organization becomes pre conditions of democracy state that is independent association and is needed as a counterweight to the strength of the state. The results of this paper show that (1) CSOs in Indonesia can not be freed from the influence of the interests of the authorities because the Community Organization does not develop in a political vacuum. (2) Dissolution of CSOs is a form of decline from democracy if it is not based on good legal principle that is fulfillment of substantive justice aspect. (3) Consolidated democracy in Indonesia will be difficult if the social organization can not play its role as a counterweight to state power and is used only as an instrument of power from the state.

Keywords—state; civil society organizations; democracy; and democratization

Introduction

The study of civil society in Indonesia has been done by scholars from outside as well as from within the country. Some of the foreign scholars discussing civil society in Indonesia (Edward Aspinal [1] in MuthiahAlagappa, Mietzner [2], Freedman [3], VerenaBeitinger-Lee [4]), then from domestic scholars such as (Muhammad AS Hikam [5], AriefBudiman [6] and AdiSuryadiCula [7]). From various studies that have been conducted in Indonesia is dominated to see state relationship with civil society organization during the New Order until the beginning of the Reform and there is no study that analyzes civil society organization in the post-issuance period of Government Regulation inGovernment Regulation in Lieu of Law No. 2 of 2017 concerningCommunity Organization.

The concept of civil society, state, and democracy is an interesting discourse material in recent decades. These three concepts are interrelated elements and can not be

separated when discussing the political life of a country. The concept of civil society or often called civil society is sometimes contrasted with the concept of the state. This happens because the influence of the regime in power in a country can affect the life of civil society. If the ruling regime is authoritarian and even totalitarian it will not form a civil society, and in a democratic country it can be found that civil society is expected to be a counterweight to state power and bridges between state and society.

However, what needs to be considered is what kind of civil society can realize consolidated democracy, because many community associations do not guarantee the realization of democracy in a country. On the contrary, the dissolution of CSOs is also a form of authoritarianism with the law being used as an instrument in maintaining power and removing all forms of resistance against the regime in power. To that end, this paper seeks to see the relationship between the state, civil society, democracy and democratization in Indonesia after the issuing of the Perppu on community organization.

The Relationships between State, Civil Society, Democracy and Democratization

The concept of civil society is the result of thinking that is so long and rich in ideas. So it is with the meaning of civil society concept itself can also be seen from various perspectives. MuthiahAlagappa [8] interpreted

*“civil society as, **first**, a realm in the interstices of the state, political society, the market, and the society at large for organization by nonstate, nonmarket groups that take collective action in the pursuit of the public good; **second**, a distinct sphere for discourse and construction of normative ideals through interaction among nonstate groups on the basis of ideas and arguments; **third**, an autonomous arena of self-governance by nonstate actors in certain issue areas; and, **fourth**, an instrument for collective action to protect the autonomy of*

the nonstate public realm, affect regime type, and influence the politics and policies of the state, political society, and the market”.

Schumpeter [9] in his work Capitalism, Socialism, and Democracy, declared that the democratic method is that the institutional arrangement for arriving at political decisions in which the acquisition of the power of decision by means of a competitive struggle for the people's vote.

Meanwhile, David Beetham [10] more specifically linking the concept of democracy with civil society can be seen from the urgency of civil society for democracy due to the following reasons:

“This is where we experience democracy in action most directly: where we can ourselves engage in discussion about actions and policies for a group, and contribute to their implementation. A second reason lies in the contribution the associations of civil society make to the democratic quality of government, through helping ensure its accountability and responsiveness to citizens. Third is that the knowledge, skills and attitudes people develop through their own groups and associations carry over into and enrich the wider public sphere”.

Civil society can build democracy. Diamond et al. [11] doing research related to democratic consolidation process in Latin America countries. Diamond et al emphasizes an important dimension of democracy: (1) *meaningful and extensive competition*, (2) *a highly inclusive level of political participation*, dan (3) *civil and political liberties secured through political equality under a rule of law*.

The same opinion is also expressed by Georg Sørensen [12], which emphasizes that the transition to democracy and consolidation of democracy is strongly influenced by three important factors:

- (1) *The legitimacy of political rule*
- (2) *Institutionalized political parties*
- (3) *The strength of civil society*

The Relationships between State, Civil Society, Democracy and Democratization in Indonesia

The Relationships between State and mass organizations in Indonesia from time to time have ups and downs that are strongly influenced by the commitment of the state to develop the values of democracy. At the time of the New Order era, the development of mass organizations in Indonesia stagnated and cooptated by the regime so that it can not perform its function as a counterweight to the power of the state and yet there is democratization in Indonesia even though the New Order Government at that time formed Law No. 8 of 1985 concering Community

Organization. Lawon mass organizations during the New Order period required every organization to use a single principle of Pancasila. One that rejects the regulation of the Act is Pemuda Islam Indonesia (PII) to be dissolved by the government.

In the era of President Susilo Bambang Yudhoyono, it can be said is the culmination of the development of civil society organization as an effort to realize the consolidation of democracy. The government of Susilo Bambang Yudhoyono succeeded in establishing Law No. 17 of 2013 concerning Community Organization.. Substantively the mass organizations law during the SBY period is so complex. CSOs can be classified into two forms: Community-Owned Organizations and Non-Member Organizations. Both forms of CSOs are required to have permits, making it easier to manage them. Meanwhile, related to the dissolution of CSOs was conducted through the court process so that the aspect of justice was very concerned by the Government at that time.

Meanwhile, in the era of President Joko Widodo emerged the dynamics in the development of the Organization and its relationship with the country ie post-release Government Regulation in Lieu of Law No. 2 of 2017 concerning Community Organization.. This mass organization substantially changed the mechanism of dismissal and dissolution of CSOs. If in the previous regulation the government imposed sanctions in advance of written warnings, termination of assistance and/or grants, temporary suspension of activities and subsequent revocation of registered certificates or revocation of legal entity status through litigation. So it can be ascertained that the process of dismissal and dissolution of Ormas takes a long time. Whereas, the Institution Order stipulated that for the dismissal and dissolution of CSOs need a long time which started with giving a written warning to the concerned mass organizations for 7 days and if not followed it will be stopped temporary activities and then if not obeyed it will be revoked Surat Keterangan Terdaftar (SKT) or revocation of the legal body status of the CSO concerned. The court process is abolished in this Perppu and the board and / or members of the CBO will also be subject to criminal sanctions.

Referring to the provisions of the law, it is clear that President Joko Widodo's current regime is demonstrating his power. The formation of the Public Order indicates the first that the State has an interest in CSOs and the development of CSOs can't be separated from the influence of the regime because the CSOs are not in the vacuum of politics. Especially after the formation of this Perppu, the government officially revoked the status of Hizbut Tahrir Indonesia (HTI) legal entity on July 19, 2017 through the Decree of the Minister of Law and Human Rights No. AHU-30.AH.01.082017 on the revocation of Decree of the Minister of Law and Human Rights No. AHU-0028.60.10.2014 concerning the legalization of the incorporation of legal entities of HTI associations.

Revocation of HTI legal entity status is caused by the allegations against this Organization because HTI does not carry out a positive role to take part in the development process in order to achieve the national goals, HTI is no longer compatible with Pancasila and of the 1945 Constitution and its activities are considered to cause a clash in the community that can threaten security and public order, and endanger the integrity of the NKRI.

In connection with this, it is possible that the government's argument is true. However, to keep in mind is the Perppu Ormas is not intended for HTI only but for the organization as a whole. The impression caused by the Perppu of this mass organization is only used to dissolve HTI which is considered as opposed to the government. This fact is reinforced by no follow-up of the government after the existence of this Institution Government in investigating other mass organizations. The data shows that there are still some "unsettled" separatist groups from the Public Order. The separatist group tends to be left without any systematic effort to halt its activities.

An indication of the existence of political interest also comes with the removal of the status of HTI legal entity. HTI has been criticizing the government for failing to bring people to prosperity. The increasingly pro-foreign policy and foreign debt proves that the regime has failed to meet the expectations of its people. Moreover, cases of blasphemy of Islam make HTI as the front side of the resistance. On the other hand political interest is also seen after HTI is dissolved, the government provides large funds to one of the largest mass organizations in Indonesia that is devoted to the economic development of these organizations. This fund certainly raises the controversy because on one side there are mass organizations that disbanded HTI and on the other side there are organizations that are given assistance because it supports the dissolution of HTI.

Second, the dissolution of CSOs is a form of decline from democracy in Indonesia. In a democratic political system, the main principle is the existence of the rule of law principle. Rule of law is applied with the intention that all citizens get justice. In the case of this Perppu, the State directly eliminates the right to freedom of association, expressing the opinion as well as the right to equal treatment before the law. The consequence of the issue of the Perppu is that the court route is abolished so that substantive justice will not be obtained even though CSOs can object to the revocation of the legal status of Pengadilan Tata Usaha Negara (PTUN). This means that CSOs are the ones who are severely disadvantaged if there are allegations from the government against the CSOs.

Currently, HTI as the only mass organization whose license has been revoked has submitted formal and material test of the Public Order to the Constitutional Court. This formal and material test against Article 59 (4) c, Article 61 (3), Article 62, Article 80, Article 82A (1), (2) dan (3) and

Perppu Ormas. The formal lawsuit against this Public Order is considered inconsistent with the provisions of Article 22 Paragraph (3) of the 1945 Constitution and the Decision of the Constitutional Court No. 138/PUU-VII/2009. The requirement of the formation of the Perppu according to the decision of the Constitutional Court is, Firstly, because there is a situation that must be addressed and overcome it must be by law equivalent. Secondly, the consideration of the law is absent or even if the law exists, is inadequate to address the situation. Third, if the revision of the law and brought to DPR will take a long time, while the precarious situation will continue.

Finally, Consolidated democracy in Indonesia will be difficult if the community organization can't play its role as a counterweight to the power of the state and is only used as an instrument of power from the state. CSOs that were indicated as government opposition and criticized the government would be easily co-opted and even dissolved. The current condition is reminiscent of the history of the Old Order during the dissolution of the Gerakan Pemuda Islam Indonesia (GPII) in 1963 for being accused of "un-Pancasila", but only because it did not agree to NASAKOM.

Therefore, with the existence of this Institution, this perspective raises the perspective that the current government is anti-criticism and paranoid. Ideally it is the need for a dialogue forum so that a constructive solution to the problems is expected. Georg Sørensen [13], has asserted that a strong civil society will lead to the consolidation of democracy. However, the fact that civil society has now begun to be limited by its repressive movement through the Perppu Ormas. Arbitrariness will occur if only based on the subjective assessment of the government on the activities of a CSO and there is no room for CSOs to defend themselves through the courts.

Conclusion

The relations of the state, civil society, democracy and democratization in Indonesia are strongly influenced by the regime in power. The regime has the power to organize the development of mass organizations through legal products. The state's relation to CSOs in Indonesia is a relation to domination and co-optation. The government-issued mass organizations will pose a threat to the development of CSOs themselves in carrying out their functions as a counterweight to the strength of the state. The development of CSOs was also determined by the political context that took place at that time so that no CSOs were detached from the political influence of the regime. The dissolution of mass organizations became a step backward for democracy in Indonesia because it was carried out in a repressive manner without any dialogue and no self-defense in the judiciary. This suggests that the right of association, the right to organize and the right to express opinion have begun to be controlled by the government as well as the practice of the dictatorial regime. In the end, the

consolidation of democracy in Indonesia will not be realized because the CSOs in Indonesia are not performing their functions properly because of the domination and co-optation of the state through the Public Order.

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