


Reorientation of Policy and Governance for Civil Society Organizations to Facilitate People's Political Participation

Reorientasi Kebijakan dan Tata Kelola Organisasi Kemasyarakatan sebagai Wadah Partisipasi Politik Rakyat

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Abstract

This article examines the legal policy governing civil society organizations (CSOs) in Indonesia, which has shifted from a repressive instrument to a facilitative model. Previously, laws and regulations governing CSOs served as a tool of state control, limiting civil society freedoms and undermining freedom of association, often justified by political stability and security. Recent developments point to a restructuring that positions CSOs as strategic development partners and avenues for public political participation. Applying a legal-normative approach and legal-political analysis, this study highlights regulatory disharmony, conflicts of interest, and problematic ongoing policy implications that create tensions between democratic imperatives and state interests. The study's findings underscore that transforming the role of CSOs requires a redesigned legal system focused on protecting constitutional rights, social justice, and strengthening civil society—the foundation of democracy. Therefore, future legal policy for CSOs must balance legal certainty, freedom of association, and the public interest.

Keywords: Democracy; Freedom of Association; Political Participation.

Abstrak

Artikel ini mengkaji dinamika kebijakan hukum bagi organisasi kemasyarakatan di Indonesia, yang telah mengalami pergeseran paradigma dari instrumen represif menjadi model fasilitatif. Peraturan perundang-undangan sebelumnya yang mengatur organisasi kemasyarakatan cenderung berfungsi sebagai alat kontrol negara untuk membatasi kebebasan masyarakat sipil dan melemahkan kebebasan berserikat, seringkali dengan alasan stabilitas politik dan keamanan. Perkembangan terkini menunjukkan adanya penataan ulang yang menempatkan organisasi kemasyarakatan sebagai mitra pembangunan strategis dan saluran partisipasi politik rakyat. Melalui pendekatan hukum-normatif dan analisis hukum-politik, studi ini menyoroti ketidakharmonisan regulasi, konflik kepentingan, dan implikasi kebijakan bermasalah yang berkelanjutan yang mengarah pada ketegangan antara keharusan demokrasi dan kepentingan negara. Temuan studi ini menggarisbawahi bahwa transformasi peran organisasi kemasyarakatan memerlukan perancangan ulang tatanan hukum yang berfokus pada perlindungan hak konstitusional, keadilan sosial, dan penguatan masyarakat sipil sebagai fondasi demokrasi. Oleh karena itu, kebijakan hukum organisasi kemasyarakatan ke depan harus menyeimbangkan antara kepastian hukum, kebebasan berserikat, dan kepentingan publik.

Kata Kunci: Demokrasi; Kebebasan Berserikat; Partisipasi Politik.

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Introduction

Every citizen has the right to freedom of assembly and association without violence as regulated in Article 20 of the Universal Declaration of Human Rights.¹ The right to peaceful assembly must also be recognized by the State, and no restrictions may be placed on its exercise except those provided by law and necessary in a democratic society. This right is also regulated in Article 21 of Law Number 12 of 2005 concerning the Ratification of the International Covenant on Civil and Political Rights (ICCPR).²

This means that citizens who join associations and unions, including civil society organizations (CSOs), are legally protected by the state. This protection is a concrete manifestation of human rights guaranteed by the constitution, particularly the rights to associate, assemble, and freedom of expression.³ A CSOs is a voluntary organization formed by individuals who share common goals, duties, and interests in the social, religious, cultural, educational, or other fields, without the goal of seeking profit. The existence of CSOs plays a vital role in strengthening community participation in development, channeling community aspirations, and conducting critical and constructive oversight of government leadership.⁴

Therefore, the state not only guarantees the freedom to form and organize CSOs, but also regulates their implementation through laws in accordance with the principles of democracy, unity, and public order. CSOs are a forum for the community to exercise their freedom of association and assembly. CSOs are a form of social participation in the development of democracy.⁵ CSOs can also play a role as a means of political education and socialization in the implementation of democracy through general elections, by providing political understanding and knowledge to the community.⁶

¹ International Law Making, "Deklarasi Universal Hak-Hak Asasi Manusia," *Indonesian Journal of International Law*, no. 3 (2006): 1–6, <https://doi.org/10.1017/CBO9781107415324.004>.

² Resolusi Majelis Umum 2200 A (XXI), "Kovenan Internasional Hak Hak Sipil Dan Politik," *Konwenan Internasional*, no. Xxi (1966): 1–17.

³ Irmanjaya Thaher, *Politik Hukum Pembubaran Organisasi Kemasyarakatan Dalam Perspektif Hak Asasi Manusia* (Bandung: Penerbit Widina Media Utama, 2023).

⁴ Catur Wibowo and Herman Harefa, "Urgensi Pengawasan Organisasi Kemasyarakatan Oleh Pemerintah," *Jurnal Bina Praja* 07, no. 01 (2015): 01–19, <https://doi.org/10.21787/jbp.07.2015.01-19>.

⁵ Agus Riwanto Aditya Putra Setiawan, "Analisis Terhadap Pembubaran Organisasi Kemasyarakatan Dalam Perspektif Hak Asasi Manusia," *Res Publica* 4, no. 3 (2020): 273–88, <https://digilib.uin-suka.ac.id/id/eprint/31708/>.

⁶ Bambang Budi Utomo, "Partisipasi Politik Masyarakat Pada Pemilihan Umum Legislatif Tahun 2019," no. 0561 (2019): 1–8, https://r.search.yahoo.com/_ylt=Awr1TXzfC7BpMwIAjubLQwx.;_ylu=Y29sbwNzZzMEcG9zAzcEdnRpZAMEc2VjA3Ny/RV=2/RE=1774354656/RO=10/RU=https%3A%2F%2Fwww.bk3s.org%2Fojs%2Fjsb%2Farticle%2Fdownload%2FJSB%2F78%2F424/RK=2/RS=m_vkURN7jBxoqyQmu1sVnLrsW0o-.

CSOs is a form that symbolizes the involvement of public participation or civil society which is expected to become a balanced system, check and balance of the nation state.⁷ In essence, CSOs occupy a strategic position in Indonesian political and democratic life. As part of civil society, CSOs function to represent interests, consolidate efforts, and provide space for public political participation outside of formal electoral channels.⁸

However, the relationship between the state and CSOs has never been entirely harmonious. Indonesian legal history shows that since the New Order, the state has tended to be repressive and use legal instruments that restrict freedom of association.⁹ The legacy of state-dominated regulations, such as Law No. 8 of 1985 concerning CSOs, places them under the authority of the state and severely limits their role in strengthening democracy and social control.¹⁰

Under the New Order, strict suppression and oversight of CSOs deemed potential threats to security and political stability dominated. This was done to achieve political stability by controlling the dynamics of organizations, especially mass-based ones.¹¹ Critical and independent organizations tended to be marginalized or have their freedom of movement restricted.¹² The political environment during this period was based on a culture of hierarchy and patronage-client relationships, in which public political participation experienced a process of alienation and exclusion from public policy making.¹³

After the fall of the New Order, the door changed social life, especially regarding freedom of association and expression, thus opening up space for community movement, one of which is through CSOs. Post-reform, the urgency of policy reorientation towards CSOs became important to discuss in the formation of regulations for the sustainability of CSOs in Indonesia. Starting from Law No. 17 of 2013 which provides a breath of freedom and facilities to participate in efforts to achieve national development. This law was born as a response to the promise of reform in shifting the repressive paradigm

⁷ L. Juniar Prayudi, W. Aryo and S. Debra Lindawaty, *Peran Organisasi Masyarakat Dalam Harmonisasi Sosial, Publica Indonesia Utama*, 2022.

⁸ Haidar Adam, "Kedudukan Hukum Organisasi Kemasyarakatan Dalam Perspektif Siyasah," *Islamic Law: Jurnal Siyasah* 9, no. 1 (2024): 59–73, <https://doi.org/10.53429/iljs.v9i1.830>.

⁹ DPR RI, "Pansus RUU ORMAS, RDPU (Rapat Dengar Pendapat Umum) DPR RI" (Jakarta: DPR RI, 2012).

¹⁰ Prayudi, "Politik Pengendalian Rezim Terhadap Organisasi Masyarakat," *Kajian* 3, no. 2 (2018): 75–94, <https://jurnal.dpr.go.id/index.php/kajian/article/view/1875>.

¹¹ Jentera, "Sengkarut Hukum Pembubaran Ormas," Sekolah Tinggi Hukum Indonesia Jentera, 2013, <https://www.jentera.ac.id/publikasi/sengkarut-hukum-pembubaran-ormas>.

¹² DPR RI, "Pansus RUU ORMAS, RDPU (Rapat Dengar Pendapat Umum) DPR RI."

¹³ Prayudi, "Politik Pengendalian Rezim Terhadap Organisasi Masyarakat."

to a facilitative one by not limiting the space for CSOs to empower and become strategic partners of the central and regional governments.

In the process, there was also a shift in the spirit of facilitation in the regulation of CSOs with the formation of Government in Lieu of Law No. 2 of 2017, which was ratified as Law No. 16 of 2017, seeking to address challenges in the relationship between the state and civil society. This regulation is an implicit manifestation that the state still wants to use legal instruments as a tool or effort to subtly dissolve CSOs on security and ideological grounds. The dualism of the government's face is apparent with continued efforts to promote and strengthen CSOs as development partners. This has led to ambivalence regarding selective demands in the implementation of the law, where the state is inconsistent in guaranteeing the constitutional right to associate, through legal regulations that limit the role of CSOs in expanding the space for public political participation.¹⁴

However, over time, critical questions have arisen about the authenticity of this "facilitation." Although the legal and governance frameworks have changed, the question remains whether this political restructuring represents a genuine transition toward equal partnership or an evolution from repression to more subtle forms of control such as structural co-optation. The key point of this analysis is whether state facilitation truly contains elements of control that could potentially undermine the independence and crucial role of CSOs as a counterweight to power in a democratic state.¹⁵

Although government policy has formally shifted from a repressive to a facilitative paradigm, the phenomenon of covert co-optation has emerged in the post-reform era. This mechanism, which often leverages economic incentives and bureaucratic regulations, can undermine the critical thinking of CSOs and undermine their essential role as independent and effective civil society. In other words, the relationship between the state and CSOs is no longer confrontational (repressive) but transformative (co-optation), as partnerships and access to resources are highly attractive. Therefore, concrete facilitative measures are needed through the strengthening of CSOs.

A study on the role of CSOs in political participation can be seen in the research entitled "Political Islam and Public Space: Relations between the State, Islamic CSOs, and Social Awareness."¹⁶ Previous studies have only provided an ideological context but have not addressed institutional mechanisms. The novelty of this research lies in the shift in focus from the

¹⁴ Siti Ngainnur Rohmah, "Partisipasi Politik Organisasi Massa Dalam Pemilihan Kepala Daerah," *Buletin Hukum Dan Keadilan* 3 (2019): 7–18.

¹⁵ A Fikri Ainurrizqi and Oman Sukmana, "Partisipasi Politik Masyarakat Di Negara Demokrasi: Studi Kasus Pemilihan Umum 2024 Di Indonesia," *Journal of Society Bridge* 3, no. 1995 (2025).

¹⁶ ORMAS Islam and D A N Kesadaran Sosial, "ISLAM POLITIK DAN RUANG PUBLIK : RELASI NEGARA ," *IBTIKAR* 2, no. 1 (2025): 24–33.

simple question of "What is the ideological position of CSOs?" to the more complex question of "How can state policies and internal governance of CSOs be professionally restructured to optimize their effectiveness as forums for political participation?" This research complements ideological studies by offering prescriptive solutions at the regulatory and organizational management levels. This research has a fairly comprehensive scope because it examines social organizations in general, with a focus on aspects of institutional structure, policy framework, and administrative and legal governance in the context of restructuring organizational regulations and management.

The main objective of this study is to identify the forms of covert co-optation (through economic incentives and bureaucratic regulations) experienced by CSOs in post-reform Indonesia, in order to analyze the transformative impact of such co-optation on independence, critical effectiveness and, in particular, the weakening of the essential function of CSOs as agents of civic education that shape the critical consciousness of the community; and then to formulate a concrete internal and external strengthening framework and propose the necessary supporting measures to maintain an independent and strong civil society ecosystem.

The research method in this journal uses a juridical-normative approach with a qualitative and historical-analytical approach to examine in depth the reorientation of CSOs policies from a repressive model to a promotive approach. The qualitative approach is used to capture the socio-political dynamics of regulatory changes governing CSOs from the New Order era to post-Reformation. The juridical-normative approach focuses on a critical analysis of legal norms in Law Number 8 of 1985, Law Number 17 of 2013, Government Regulation in Lieu of Law (Perppu) Number 2 of 2017, and Law Number 16 of 2017, particularly regarding the legitimacy of the state in fostering, freezing, and disbanding CSOs.

A historical-analytical approach is used to map the political evolution of CSOs in the context of Indonesia's political transition, from tight state control during the New Order era to the paradoxical democratization efforts after the Reformation, which actually increased state intervention in the name of the stability of the sustainability of CSOs. Primary data for this study are drawn from legal texts and official regulations that are systematically analyzed, while secondary data are obtained from research reports, legal studies from credible institutions, and relevant newspaper articles to support the validity of the analysis and provide empirical context regarding the impact of regulations.

Legal Framework for the Management of Civil Society Organizations (CSOs) in Indonesia

In 1985, during the New Order regime, a policy was issued in which all CSOs and political parties had organizational principles inspired by Pancasila as an obligation. In this consideration¹⁷ states that social organizations need to make Pancasila their sole foundation (Article 2) and even include it in their Articles of Association (Article 4). The aim is to strengthen the understanding and practice of Pancasila in social, national, and state life in order to ensure the sustainability of Pancasila.

In fact, many CSOs were formed as a representation of the political movements developing in Indonesia. Consequently, almost all of them attempted to adapt and change their organizational principles. However, some rejected the principles of Pancasila, such as the Indonesian Islamic Students (PII). Consequently, the New Order regime disbanded the organization, and PII was declared banned and even illegal.¹⁸

Law Number 8 of 1985 concerning Community Organizations was issued in the context of the New Order, which was strongly based on the philosophy of development and political stability. The state played a central role in regulating and directing all aspects of community life. The goal was to achieve equitable national development, understood as development for all Indonesians. In this context, community organizations were viewed as a means of community participation and efforts to achieve development success, rather than as an independent force that functioned as a counterbalance.¹⁹

Article 1 of Law Number 8 of 1985 states:

"A Community Organization is an organization voluntarily formed by members of the Republic of Indonesia, citizens of the Republic of Indonesia, based on shared activities, professions, functions, religion, and belief in God Almighty, to participate in development in order to achieve national goals within the framework of the Unitary State of the Republic of Indonesia, based on Pancasila."

This means that the basic philosophy is to unify the principles of Pancasila as a principle used in social, national, and state life. Law Number 8 of 1985 is implicitly used as a basic instrument to standardize and regulate social movements, effectively eliminating ideological pluralism and monopolizing

¹⁷ DPR Presiden, "Undang-Undang Nomor 8 Tahun 1985 Tentang Organisasi Kemasyarakatan" 21, no. 4 (1985): 162.

¹⁸ Indriana Ertanti, "Konfigurasi Politik Pada Undang-Undang Nomor 16 Tahun 2007 Tentang Organisasi Kemasyarakatan Sebagai Produk Hukum Di Indonesia," *Diversi Jurnal Hukum* 7, no. 2 (2021): 129–50, <https://ejournal.uniska-kediri.ac.id/index.php/Diversi/article/download/433/473>.

¹⁹ Robert Samuels and Tentang Automodernity, "Peran Organisasi Masyarakat (ORMAS) Dan Lembaga Swadaya Masyarakat (LSM) Dalam Menopang Pembangunan Di Indonesia," *Jurnal Pemikiran Dan Penelitian Sosiologi* 1, no. 022 (2016): 49–67.

philosophical truth in the public sphere and eliminating heterogeneity in civil society. With the aim of mobilizing the consolidation of political power, eliminating potential ideological opposition, and becoming CSOs as an extension of the state to succeed in national development.

Control efforts can be seen in Article 12, CSOs receive guidance from the government which is regulated by government regulations. Regulations for freezing and dissolution are also regulated in Articles 13-15. There are 3 criteria for freezing CSOs administrators that can be carried out by the government: first, if they carry out activities that disrupt public security and order; second, if they receive assistance from foreign parties without government approval; and when, providing assistance to foreign parties that harm the interests of the nation and state. These criteria can be very subjective so that efforts to freeze and disband can be carried out at any time by the Government.

Law Number 8 of 1985 represents the existence of the New Order regime. Therefore, after the New Order regime collapsed in 1998, it opened up space for political liberalization and various freedoms (including association, assembly, and expression). This opened up the revival of a long-restricted civil society, resulting in the growth of various new CSOs that filled the void in political participation. CSOs became the driving force behind regime change after the fall of Suharto's regime in 1998, followed by various restructuring of parties, parliament, and the state security sector.

The demands for regulation of CSOs during the transition period from the New Order regime to the reform regime, which embraced democratic freedom and a human rights approach, were responded to by the Susilo Bambang Yudhoyono (SBY) government through new regulations. These demands gave birth to the legal framework of Law Number 17 of 2013 concerning CSOs as an answer. There was a shift in regulation that can be seen from the consideration that CSOs can "participate" in development to realize national goals within the framework of the Unitary State of the Republic of Indonesia based on Pancasila. The phrase participation is important to be used as a point in the representation of democracy and does not make Pancasila the only principle but only as a foundation.

The definition of community organizations has also undergone changes as regulated in Article 1:²⁰

"Civil Society Organizations, hereinafter referred to as CSOs, are organizations that are founded and formed by the community voluntarily based on shared aspirations, desires, needs, interests, activities and

²⁰ Undang-Undang Nomor 17, "UNDANG-UNDANG REPUBLIK INDONESIA NOMOR 17 TAHUN 2013 TENTANG ORGANISASI KEMASYARAKATAN" 1, no. 1 (2013): 1-9.

goals to participate in development in order to achieve the goals of the Unitary State of the Republic of Indonesia based on Pancasila."

The breath of freedom can also be seen in articles 2-4 concerning Principles, Characteristics, and Nature. There is no longer a requirement for a single principle, but most importantly, the principles of CSOs do not conflict with Pancasila and the 1945 Constitution of the Republic of Indonesia. CSOs are also given the freedom to include certain characteristics that reflect the will and ideals of CSOs, which are voluntary, social, independent, non-profit, and democratic. The goal is also clear in article 5, namely that CSOs increase community participation and empowerment.

Articles 40-42 also regulate the empowerment of CSOs. The government or regional government carries out empowerment to improve the performance and sustainability of CSOs. This empowerment is carried out while respecting and considering the history, track record, role, and integrity of CSOs in the life of society, the nation, and the state. This is done through policy facilitation, strengthening institutional capacity, and improving the quality of human resources.

While Law Number 17 is progressive, Article 59 remains unclear regarding the prohibition on activities that "disturb public order and tranquility." The government, regional governments, and communities may continue to implement oversight measures under Article 53. However, there are significant changes to the mechanism for disbanding CSOs. These organizations must undergo a disbandment process decided by the district court (judicial process) under Article 71.

The 2014 regime change, coupled with ideological tensions and political polarization in Indonesia, fueled tensions over the sustainability of Pancasila. Consequently, President Joko Widodo's administration enacted Law No. 16 of 2017 concerning the Ratification of Government Regulation in Lieu of Law (Perppu) No. 2 of 2017 concerning Amendments to Law No. 17 of 2013 concerning CSOs, as an urgent need.

The amendment through Law Number 16 of 2017 was made on the grounds of the urgent need to regulate the development of CSOs based on organizational principles that are contrary to Pancasila and/or the 1945 Constitution of the Republic of Indonesia. This Perppu is based on the view that Law Number 17 of 2013 concerning CSOs has not yet adopted the principle of *cantrarius actus* so that it is not effective in applying sanctions to CSOs that adhere to, develop, and spread teachings or understandings that are contrary to Pancasila and the 1945 Constitution of the Republic of Indonesia.²¹

²¹ Undang-Undang RI, "Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2017 Tentang Perubahan Atas Undang-Undang Nomor 17 Tahun 2013 Tentang Organisasi

There are formal aspect problems in the formation of the Perppu, namely that it is not in line with the purpose of its formation "*in the event of urgent and compelling circumstances*" as stated in Article 22 paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Where legal arrangements are needed quickly and urgently, the formation of the Perppu CSOs is not in line with this and is far from urgent and compelling circumstances.

In addition, materially, the Perppu is problematic because it eliminates the role of the court in dissolving a CSOs.²² This can be seen in the mechanism for dissolving CSOs in articles 61 and 62. That the revocation of legal entity status is carried out by the minister who organizes government affairs in the field of law and human rights and can request consideration from the relevant agency (Article 61 paragraph (1) letter c and paragraph (3) letter b. Article 62 was also changed to read comply with the sanction of termination, and articles 63 to 80 were removed²³.

The shift in the Perppu which was ratified through this law is very clear regarding the elimination of the judicial process element in the dissolution of CSOs by eliminating the Supreme Court element as stated in the 2013 CSOs Law. This elimination gives dominance to the power to subjectively be able to disband CSOs that have tendencies that contradict Pancasila and the 1945 Constitution of the Republic of Indonesia. This regulatory change is a form of authoritarianism and repression against CSOs.

Law Number 16 of 2017 concerning Ratification of Government Regulation in Lieu of Law (Perppu) Number 2 of 2017 concerning Amendments to Law Number 17 of 2013 concerning CSOs. Law Number 16 of 2017 concerning Ratification of Government Regulation in Lieu of Law (Perppu) Number 2 of 2017 concerning Amendments to Law Number 17 of 2013 concerning CSOs.²⁴

CSOs, which should strengthen civil society through empowerment and represent the aspirations of its members and the community as part of the elements of people's sovereignty,²⁵ Instead, they were repressed by the amendments to the 2017 Law on CSOs. In principle, CSOs should be able to

Kemasyarakatan Terhadap Undang-Undang Dasar 1945," *Semarang Law Review ...*, 1945, <http://journals.usm.ac.id/index.php/slr/article/view/2351>.

²² Muhammad Afif Zia Ul-Haq, "Problematika Penerbitan PERPPU Di Indonesia: Studi Kasus PERPPU No 1 Tahun 2017 Tentang Organisasi Kemasyarakatan," *Japhtn-Han* 2, no. 2 (2023): 291–304, <https://doi.org/10.55292/japhtnhan.v2i2.39>.

²³ 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 Kemasyarakatan Menjadi Undang-Undang, 2017, 25, http://setkab.go.id/wp-content/uploads/2017/07/Perpu_Nomor_2_Tahun_2017.pdf.

²⁴ Victor Imanuel Nalle, "Asas Contarius Actus Pada Perpu ORMAS: Kritik Dalam Perspektif Hukum Administrasi Negara Dan Hak Asasi Manusia," *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 4, no. 2 (2017): 244–62, <https://doi.org/10.22304/pjih.v4n2.a2>.

²⁵ Dzikri Ghufraniillah, "Telaah Kedudukan Organisasi Kemasyarakatan Dalam Sistem Ketatanegaraan Ditinjau Dari Asas Kedaulatan Rakyat," *Res Publica* 6, no. 3 (2022): 346–55.

realize collective autonomy through empowerment. Instead, CSOs have been used as instruments for the interests of those in power and political elites through empowerment. In this regard, CSOs must be committed to strengthening participation and bridging the interests of the community.

From an international legal perspective, the existence of CSOs as instruments of political participation has been firmly enshrined in various human rights instruments.²⁶ One of the most important instruments is the 1948 Universal Declaration of Human Rights (UDHR) of the United Nations, which reaffirms the right to freedom of peaceful assembly and association in Article 20. This principle was further strengthened in the 1966 International Covenant on Civil and Political Rights (ICCPR), specifically in Article 22. This article guarantees the right of every individual to form and join organizations, including organizations that advocate for the political and social interests of the community. In the context of a democratic state, CSOs are considered an important component of public participation mechanisms and checks and balances on state power.

Compared to the national legal framework, regulations governing CSOs in Indonesia are reflected in Law Number 17 of 2013 concerning CSOs, which was later amended by Law Number 16 of 2017. This regulation provides the legal basis for the establishment and management of CSOs while also imposing several restrictions related to public order, state ideology, and the integrity of the unitary state of Indonesia. However, from an international human rights perspective, restrictions on freedom of association must comply with the principles of legality, necessity, and proportionality as stipulated in the International Covenant on Civil and Political Rights (ICCPR). Therefore, a reorientation of civil society organization policies and governance is crucial to ensure that national regulations not only maintain social and political stability but also guarantee space for democratic political participation in accordance with international human rights standards.

Civil Society Organizations as a Representation of People's Political Participation

CSOs are legal organizations that operate independently of the government, or at least without direct government influence. Article 28 of the 1945 Constitution guarantees all Indonesian citizens the right to associate and assemble, express their opinions verbally and in writing, and so on.²⁷ This is

²⁶ Fakultas Hukum and Universitas Pamulang, "Tinjauan Yuridis Normatif Terhadap Fenomena Penolakan Organisasi Kemasyarakatan Terhadap Penerapan Undang-Undang No 16 Tahun 2017 Tentang Organisasi Kemasyarakatan," *Pamulang Law Review* 1, no. 2 (2018).

²⁷ Nalle, "Asas Contarius Actus Pada Perpu Ormas: Kritik Dalam Perspektif Hukum Administrasi Negara Dan Hak Asasi Manusia."

stated in Article 24 of Law No. 39 of 1999 concerning Human Rights, which states that everyone has the right to assemble, express opinions and associate for peaceful purposes.

The role of CSOs is to connect the interests of the community with those of the state or government when the community wishes to convey those interests to the state or government. The function of CSOs is to represent the aspirations of their members within the organization.

The presence of CSOs is a manifestation of Indonesia's recognition as a constitutional state that upholds democracy where every individual and community has the freedom of association, assembly, and opinion guaranteed in the constitution. The formation of CSOs as a forum for the community to actualize their freedom of association and assembly. CSOs is one form of community participation in developing democracy in an effort to uphold freedom, equality, togetherness, and honesty.

In the process of implementing the Law on CSOs, especially Law No. 17 of 2013 and its amendments through Perppu No. 2 of 2017 (which was later ratified as Law No. 16 of 2017), it is often seen as failing to reflect people's participation. Due to the dissolution and alignment of the Single ideology in the formation of organizations, the space to form organizations in accordance with political beliefs and views is considered to threaten the sovereignty of the state and can be dissolved, while CSOs are formed as Checks and balances in the Indonesian state as one of the pillars of democracy.

To understand this, CSOs are a means of channeling opinions and thoughts for members of the Republic of Indonesia citizen community and are considered to have a very important role in increasing the active participation of all levels of society in realizing a Pancasila society based on the 1945 Constitution in order to ensure the strengthening of national unity and integrity, guarantee the success of national development as a practice of Pancasila, and at the same time guarantee the achievement of national goals.

Ideally, CSOs are strategic partners that must be empowered to oversee and collaborate with the government (including local government partners in carrying out development). CSOs can also play a role as a forum to provide opportunities for the community to gather and express opinions. As Aristotle stated that humans are political humans, meaning they unite in one polis, and form one city. Likewise, community organizations are individuals who are united into one with a mutual agreement in fighting for their rights. However, in the end, the formation of a CSOs as an organizational institution as a form of participation space and expressing attitudes towards the state, is now obscured by the many organizations that have grown in Indonesia with the aim of hindering the progress of democracy and development.

The growth of several CSOs, which can be categorized as hindering the progress of democracy and development, often leads to a "negative" connotation among the public. Because these organizations are formed solely for frivolous interests, some of these groups are also associated with violent behavior, territorial control, and involvement in violent business activities, such as national security, nightclub and office security, debt collection, and parking management. As a result, the public often labels these organizations as "thugs."

The report also discusses acts of thuggery perpetrated by a number of CSOs, which have resulted in losses for various groups, including businesspeople. The report states that individuals claiming to be CSOs frequently engage in extortion, thus hindering the entry of investors into Indonesia. This is inconsistent with the spirit of CSOs as organizations that provide a forum for association and foster community participation with the aim of addressing social issues. For example, the role of CSOs in addressing development disparities and poverty, which are closely related to the social conditions of the community.

In this context, the government must help convey to each CSOs the social and moral urgency of establishing an CSO to fill the gap. This will enable CSOs to support Indonesia's development and, as partners with the government, contribute to development and prosperity for the Indonesian people. It is hoped that CSOs can facilitate citizen participation in social, political, educational, cultural, and other activities.

The role of CSOs in supporting and participating in realizing national and regional development needs to be continuously strengthened. There is a crucial relationship between CSOs and the government in building social, cultural, and community structures in a region. The role of the community in building democratic life is becoming more open. This provides broad space for expression, the freedom to form community groups concerned with the continuity of national and state life, and the formation of a civil society that plays a more comprehensive role in managing government, development, and society.

1. The Socio-Political Function of Civil Society Organizations in Democracy

The existence of political parties should ideally be a space for articulating the aspirations and interests of the people targeted by reform, as should CSOs as a form of political participation. This new policy then gave rise to political euphoria in the form of a surging democratic spirit, where a very prominent response was the rise of a competitive spirit that gave birth to new parties with diverse ideological identities and goals. The emergence of new political parties is theoretically an important institution in the political empowerment of society after the era of authoritarian governments. However, the reality is that

political parties have not effectively carried out their function as a force that articulates the interests of society.

CSOs must be able to act as a balancing force in a democratic state. They institutionalize shared aspirations and interests within participatory organizations. They symbolize public participation or civil society and aim to create a balanced system of checks and balances within the nation-state. Civil society, through CSOs, must thrive within a democratic framework of freedom of expression, association, and assembly, thus preventing the state from descending into an authoritarian system.²⁸ CSOs can also participate in government programs by playing an important role in optimizing the potential for social functioning in society.²⁹

As a political tool in a democratic country, CSOs can be utilized as a political tool. This utilization in a country's democratic life can foster associations that enable the public to convey their aspirations, opinions, needs, and interests to the government. However, it is worth noting that CSOs grow only as associations, forgetting the nature or primary purpose of their formation to serve as a forum for the community. This problem then sets a bad precedent for CSOs in social life.

Social and religious organizations occupy a privileged position compared to other organizations. This is evident in Indonesia, where religious organizations such as Nahdlatul Ulama (NU) and Muhammadiyah are active. First, religious organizations do not specifically seek profit, especially financial gain. Second, socio-religious organizations operate outside the framework of the state. Third, their activities are more focused on the interests of their members (the community). Fourth, their membership is very large.

Even in the post-independence era, religious organizations continued to play this strategic role. Political empowerment was one avenue for their da'wah movements. Religious organizations (such as Nahdlatul Ulama (NU) and Muhammadiyah), through their widespread socio-religious movements and influence, have assumed a far greater role than their individual physical counterparts. Both have been more successful in playing a political role than any other Islamic party. In the context of discourse, the public listens far more to the moral and intellectual appeals of Muhammadiyah and NU than to official political forces.

In the post-independence period, religious organizations (CSOs) continued to play a strategic role in social and political life. Beyond their missionary and community development functions, they also served as important channels for

²⁸ Prayudi, W. Aryo and Lindawaty, *Peran Organisasi Masyarakat Dalam Harmonisasi Sosial*.

²⁹ Dyana Chusnulitta Jatnika et al., "Program Pemerintah Dan Dinamika Partisipasi Masyarakat Untuk Optimalisasi Keberfungsian Sosial," *Jurnal Pekerjaan Sosial* 7, no. 2 (2025): 237–49, <https://doi.org/10.24198/focus.v7i2.60625>.

political participation. Organizations such as Nahdlatul Ulama (NU) and Muhammadiyah, thanks to their extensive social, educational, and religious networks, were able to transcend their formal organizational roles and become significant players in shaping public opinion and socio-political direction.

In many ways, these two organizations are considered even more effective in their cultural and political roles than the Islamic parties that previously dominated Indonesia's political system. This is evident in the strong moral and intellectual legitimacy of NU and Muhammadiyah in the public sphere, which often gives their messages a wider audience than those of established political forces. Thus, religious organizations function not only as socio-political institutions but also as instruments for articulating the political interests of society through cultural, moral, and intellectual means.

2. Relations between The State and Civil Society Organizations

The emergence of various CSOs after the Reformation has had complex social impacts on their role in national development. Many CSOs have now been established, encompassing a wide spectrum of organizations and ideologies. This era is referred to as an era of plurality, a dynamic relationship between society and the state or government, compared to the New Order era.

The plurality of CSOs is feared to be a threat to the state, necessitating the creation of new legislation, on the grounds that the old regulations do not adhere to the principle of *contarius actus*. This principle is essentially interpreted as "the one who makes the decision, has the authority to cancel it." This means that the creation of the new CSOs Law, namely Law No. 16 of 2017 concerning CSOs, ratifies the Government Regulation in Lieu of Law (Perppu), replacing Law No. 17 of 2013, which is considered no longer suitable for current societal conditions and needs. Efforts can be made to cancel it at any time by the creator. Another reason for its creation is that this law aims to provide a more comprehensive legal basis for CSOs, so that they can increase the role of society in various activities and ensure unity and the sustainability of national goals.

In the history of Indonesian society, social movements have been manifested in the form of social organizations, one of which is socio-religious organizations. Historically, these organizations have played a strategic role, from the pre-independence era to the current reform era. Their role is not limited to the traditional role of religious empowerment through fostering religious life to strengthen the religious commitment of religious adherents, but has also played a strategic role in socio-political life and social movements.

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³⁰ Fajar Nur Sahid, "Membangun Organisasi Masyarakat Sipil Yang Sehat Dan Akuntabel," *JOURNAL OF POLITICS AND DEMOCRACY STUDIES* 3, no. 1 (2022): 1-18.

The function of socio-religious organizations can be described and imagined by borrowing the theory of functional analysis put forward by a sociologist named Robert K. Berton. According to Berton, functional analysis can be carried out by looking at what is intended to be achieved or its goals, as well as the indirect consequences³¹. By adhering to this theory, the function of an organization can also be seen in terms of the goals it seeks to achieve and the indirect consequences or impacts that arise from the existence of the organization's movements or activities. In general, the goal of a social organization is to "realize the welfare of its members, which is not only limited to financial well-being but also encompasses other aspects that are the focus of its activities."

The development efforts are based on the assumption that numerous problems will arise if development efforts are not regulated, such as conflicts of interest between organizations. This is inconsistent with the future political system, which seeks to implement a Pancasila democratic political system that is closer to the lives of the people, more educational in nature, sensitive to societal issues, capable of actualizing public aspirations, and demanding a higher quality of national life.

The empowerment paradigm provides opportunities for community groups to plan and then implement development programs of their own choosing (CSOs). In this paradigm, the state does not occupy a primary position, allowing public participation in its essential sense to grow significantly. The development paradigm emphasizes top-down change, while empowerment emphasizes bottom-up change. Social movements, often referred to as new social movements, are one manifestation of this bottom-up development paradigm.³²

As CSOs began to develop and gain strength in the political economy and policy arena independently, the government began to worry about their existence. For example, before CSOs were accommodated within their power, they often criticized government policies, such as (in the past) the Nahdlatul Ulama (NU).

However, over time, NU has become more integrated into the ruling elite, so tensions between society and the state have eased. CSOs that remain independent, meaning they continue to promote their role as a vehicle for real participation and that create conflict with the state, can be subject to repressive action. For example, the HTI and FPI were ultimately disbanded through Government Regulation in Lieu of Law (Perpu) No. 2 of 2017, as they were deemed to violate state policy and security. One of the government's reasons for disbanding certain CSOs is that they violate Pancasila and the

³¹ Edy Wahyono, "Penerapan Teori Fungsi Untuk Menganalisa Kehidupan Masyarakat," *Gelar: Jurnal Seni Budaya* *Jurnal Seni Dan Budaya*, 2006, <https://jurnal.isi-ska.ac.id/index.php/gelar/article/view/1215>.

³² R Karsidi, "Paradigma Baru Penyuluhan Pembangunan," *Mediator* 2, no. 1 (2001): 115–25.

1945 Constitution of the Republic of Indonesia.³³ This demonstrates the government's selective approach to regulating CSOs in Indonesia. Reactionary organizations are nurtured as if they were enjoying a breath of fresh air, even though they frequently extort and silence democratic space for the public.

This selective enforcement of CSOs suggests that the government is not truly striving to protect and provide democratic space for CSOs with progressive political and economic perspectives to review national policy. The government views CSOs with progressive political and economic perspectives, and those that are not easily tamed like most CSOs, as threatening and likely to be disbanded. In fact, the government should be opening up democratic space for discussions to review policy and development in Indonesia together with CSOs.

The selective enforcement of CSOs in Indonesia has fostered public understanding that CSOs are not politically motivated, but merely gatherings for shared interests and ceremonial activities. Philosophically, the existence of CSOs can foster political awareness in a society currently experiencing fragmentation and a growing distrust of politics. Therefore, the purpose of CSOs is to provide political education and monitor the performance of central and regional governments.

3. Reorientation of Policy Facilitating the Role of Civil Society Organizations

The state has stifled the potential of CSOs as a balancing force (checks and balances). The monolithization of CSOs, which forces every similar organization to merge into one entity, destroys the autonomy of civil society, transforming it from an independent entity into an instrument of the government. This is a preemptive control strategy to prevent the emergence of ideological or political threats before they can become stronger. This system fundamentally contradicts the concept of civil society as a forum for criticism and advocacy, and is one of the most repressive legacies of the New Order regime, enduring into the post-Reformation era.

Although their rights are guaranteed and protected under Article 28 of the Fourth Amendment to the 1945 Constitution, the role of CSOs in associations and societies still has several limitations. There are four important limitations in carrying out this role. First, they must respect the human rights of others. Second, they must maintain public order. Third, they must respect ethics and morality. Fourth, in the context of the ICCPR (International Covenant on Civil and Political Rights), they must maintain "national security" and national unity.³⁴

³³ Syawaluddin Hanafi, "Problematika Hukum Organisasi Masyarakat Dalam Undang-Undang Nomor 16 Tahun 2017 Tentang Organisasi Masyarakat," *Jurisprudentie* 6, no. 2 (2019): 307–15.

³⁴ Prayudi, W. Aryo and Lindawaty, *Peran Organisasi Masyarakat Dalam Harmonisasi Sosial*.

It can be said that CSOs are a bridge between the interests of the community and the interests of the state or government regarding matters that the community wishes to convey to the state or government. Therefore, the government needs to conduct a critical and substantial review of Law Number 16 of 2017 concerning CSOs, specifically Articles 61 and 62. These articles regulate the mechanism for disbanding CSOs without trial. Changes to the legal framework must take into account the principles of democracy as well as the right to civil liberties in organizing as a form of the State fulfilling and guaranteeing the constitutional rights of the community. The dissolution of CSOs can be seen as an action that has the potential to violate human rights, considering that CSOs are one form of realization of citizens' constitutional rights to exercise freedom of assembly and association.³⁵

Furthermore, the government needs to reinstate the due process of law mechanism for disbanding CSOs. This, as stipulated in the 2013 CSOs Law, is even more comprehensive and robust, incorporating the judicial process, namely registration in district courts. This is crucial to provide constitutional certainty and restore public confidence in the rights stipulated in the Civil and Political Covenant. This is to ensure a balance between national security and civil liberties.

Efforts to strengthen the facilitative role of central and regional governments in empowering CSOs are underway, with a focus on strengthening institutional capacity and improving the quality of human resources within these organizations. This strengthening is being expanded by making CSOs a forum for bottom-up articulation of aspirations. CSOs can articulate the interests of specific groups (e.g., farmers, women, laborers, youth, and indigenous communities).

CSOs as a balance of power must be able to encourage government transparency and accountability by monitoring various policies issued by the government.³⁶ CSOs can expose various abuses of power and violations of human rights. They can also be used for social integration efforts in communities divided by conflict.³⁷

Constructive participation by CSOs is necessary to influence the process of public policy engagement. CSOs can convey empirical data (real-life experiences) to provide a realistic picture of social conditions in the community. Furthermore, CSOs can be involved in various policy formulation

³⁵ Aditya Putra Setiawan, "Analisis Terhadap Pembubaran Organisasi Kemasyarakatan Dalam Perspektif Hak Asasi Manusia."

³⁶ Samsiah Nelly, "Partisipasi Masyarakat Dalam Proses Pembuatan Kebijakan Publik," *Jurnal Sociopolitico Jurnal Sociopolitico* 6, no. 1 (2024): 86–94.

³⁷ Apria Ivoni Suci, "Peran Organisasi Kemasyarakatan Islam Di Indonesia," Sekretariat Kabinet Republik Indonesia, 2022, <https://setkab.go.id/peran-organisasi-kemasyarakatan-islam-di-indonesia/2>.

processes (from public hearings and public consultations to drafting).³⁸ CSOs can serve as implementing partners in government policy programs and oversee their implementation to ensure they meet desired expectations. Furthermore, CSOs can also monitor and evaluate the process and provide input on policy implementation in the community. This can be achieved through objective evidence, including data from studies, surveys, field reports, etc.

Most importantly, CSOs play a role in strengthening public political participation in every political process that impacts their daily lives. This can be done by increasing public political literacy by holding discussions, outreach, and training on national issues. They also serve as a platform to open up space for citizen participation, encouraging community forums, village deliberations, and participatory budgeting. It is hoped that CSOs will produce a cadre of leaders who are militant, possess integrity, and stand on the side of the people.

CSOs need to mobilize public political participation to connect the people with those in power. This can strengthen the people's bargaining power within the political system. Therefore, it is hoped that CSOs can contribute to creating an inclusive, transparent, and accountable government. One way to determine the quality of leadership is through general elections.³⁹ It is also important for the process of formulating public policy that cannot be separated from public participation in conveying aspirations, ideas, and various perspectives that can enrich and influence the direction of the policy taken.⁴⁰

First, CSOs serve as a social space for the community. This aligns with the organization's function of transforming people's lives. Examples of this benefit include religious outreach organizations, which foster a moral society aligned with religious values. Second, CSOs also serve as a platform for the interests of its members, specifically the public they advocate for. Third, CSOs serves as a platform for fostering a sense of responsibility. Fourth, CSOs is a pillar of democracy. Therefore, the more individuals who join an organization, the easier it will be for them to express their aspirations and interests. Fifth, CSOs also serves as a vehicle for developing leaders within the community, both formal and informal.

This is because those who join these organizations are accustomed to developing programs for the benefit of their members. Therefore, it's no surprise that political parties often recruit alumni of these organizations as their cadres. They are sought after because they generally have considerable

³⁸ Fanila Kasmita Kusuma, "Peran Partisipasi Masyarakat Dalam Proses Perumusan Kebijakan Publik Di Era Desentralisasi," *Binapatria* 18, no. 1978 (2024): 2505–14.

³⁹ Hananda Avivah and Amelia Haryanti, "Peran Masyarakat Dalam Partisipasi Politik Menghadapi Pemilihan Umum Tahun 2024," *Jurnal Mahasiswa Karakter Bangsa (JMKB)* 3, no. 1 (2024).

⁴⁰ Nelly, "Partisipasi Masyarakat Dalam Proses Pembuatan Kebijakan Publik."

leadership experience. Thus, the organization also offers career opportunities, as knowledge and skills can be acquired within these CSOs.

Conclusion

This paper demonstrates that the development of regulations and policies on CSOs in Indonesia reflects the dynamics of legal policy, characterized by tensions between state interests and public participation. Initially, CSOs legal policy tended to be repressive, characterized by the use of regulations as a means of state control over civil society, often used as a legitimate excuse to silence criticism. This suggests a legal framework that prioritizes the stability of power over guaranteeing freedom of association as a constitutional right. However, legal policy has evolved toward a supportive model in which CSOs function as development partners and channels for popular political participation. This shift does not necessarily erase the traces of past repression, but rather requires a redesign of the legal system in accordance with the principles of democracy, social justice, and respect for human rights.

In this context, the transformation of the role of CSOs from objects of state control to subjects of political participation presents both significant opportunities and challenges. It is crucial to provide civil liberties within regulations without sacrificing the public interest. Therefore, the answer to the main research question lies in the urgent need to formulate legal policies for CSOs that are not only based on a security paradigm, but also guarantee freedom of association, strengthen the role of civil society in the democratic process, and promote social justice. The urgent harmonization of regulations and practices on the ground is crucial for the development of CSOs as a forum for healthy, critical, and constructive public political participation in national development.

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