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# Mass Organization Disbandment in Indonesia: Is Democracy Embattled?

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## Abstract

### Key words:

Democracy;  
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*The aim of this paper is to analyze the current problematic of freedom of association in Indonesia. The government has disbanded mass organizations under Jokowi's regime, yet in the other hand, the revision of Mass Organization Act proposed by the government has been done so that the freedom of association can be strengthened and as the effort to support organizations activities in Indonesia. Therefore, the government of Indonesia is inconsistent to preserve democracy in Indonesia through the disbandment of mass organization massively. Moreover, the discussion regarding the democracy of Indonesia has also made a part of this system to understand that how deficient electoral system leads towards the illegal disbandment of mass organizations in Indonesia. The method used in this research is normative legal research with statute and comparative approach to analyze whether the government is line with the law, and to find the best practice of mass organization disbandment that relying on rule of law and democracy values through comparative law. This paper concludes that, the government action to disband mass organization is a decadence of democracy and violates the rule of law and democracy. This paper advice that the model of mass organization of Indonesia must be reformulated that holds the value of rule of law and democracy.*

## Introduction

The three basic human rights including freedom of expression, freedom of assembly, and freedom of association has been guaranteed by most of the countries around the world. All these countries recognize, respect, and protect these basic rights of humans so that the recognition, respect, and preservation of these rights can be upheld (Kurniaty, 2019). Some of the basic human rights have been stated in the provisions of Article 20 of the Universal Declaration of Human Rights, these have been given below:

- All the people have the right to freedom of association and freedom of assembly without creating any violence.
- No one can be forced to be a part of any association.

The right to freedom of expression, freedom of assembly, and freedom of association can be found in the Article 5, letter d, number viii and ix of the Convention on the Elimination of Racial Discrimination. Some particular civil rights mentioned in the Article 5, letter d of the Convention on the Elimination of Racial Discrimination have been given below (Wahyuningsih et al., 2021):

The right of moving freely and residing within the territory of the concerned State, the right of leaving one's own country, or returning back to one's own country, the right of having the citizenship, the right of marrying and choosing a mate, the right of owning any property either on one's own behalf or with others, right of inheritance, the right of freedom of thought, belief, and religion, the right of having own opinions and

expressing them and the right of assembling and associating in a free and peaceful manner.

Freedom to assemble, associate, and express opinions is a right that has been guaranteed through the provisions of Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Based on the guarantee of these rights, the consequence is the proliferation of Islamic community organizations formed in Indonesia. The formation of mass organizations is a milestone to grow and develop awareness in expressing the freedom of opinion related to association and assembly. Seeing this, the government feels the need to make restrictions so that other parties' freedoms do not become a disaster (Azra, 2004). These restrictions are carried out by making a prohibition and an obligation that must be obeyed by an organization, where it is hoped that the formation of mass organization does not threaten security, order, national unity, and integrity. So, the intention of the existing mass organizations must be in line with the values of Pancasila and the 1945 Constitution of the Republic of Indonesia. However, it is miserable that many organizations have been found carrying out their activities, acted anarchically, and even committed violence (Azra, 2006).

Therefore, the government makes regulations regarding mass organizations and is currently being refined through Law Number 16 of 2017 concerning Community Organizations. Improvements made by the government through Law Number 16 of 2017 are related to the mechanism for disbanding mass organizations (Bush & Munawar-Rachman, 2014). The formation of Law Number 16 of 2017 has an impact on the dissolution of several mass organizations, such as the Hizbut Tahrir Indonesia (HTI), The Anti-Shia National Alliance (ANNAS), the Ansarut Tauhid Congregation (JAT), the Indonesian Mujahidin Council (MMI), the Islamic Community Forum (FUI), and the Islamic Defenders Front (FPI) (Davidson, 2018). The disbandment of the six mass organizations was because they had deviated from the Pancasila ideology in practice. It was found that these mass organizations had tried to shift Pancasila (Hefner, 2005).

However, even so, the dissolution carried out by the government became a problem in the community. This is because the government's disbandment of the six mass organizations is not in line with the mechanism for disbanding mass organizations regulated in Law Number 16 of 2017 (Lee, 2004). As stated in article 62 of Law Number 16 of 2017, several stages must be carried out by the government first, such as written warning 1 (one) time within 7 (seven) working days (paragraph 1), termination of activities by the minister (paragraph 2), and then revocation of certificate of registration or legal entity status (paragraph 3). But the legal provisions are not enforced on the dissolution of the six mass organizations. The government had not issued a warning letter in advance. Instead, immediately revoke HTI's legal entity status as a mass organization (McVey, 2019).

In addition to the disbandment of mass organizations that are not in line with the mechanism in Law Number 16 of 2017, in its decree, the government prohibits various forms of activities related to the six organizations. A statement also followed the ban that the six mass organizations were officially declared as banned organizations. However, this is also a question whether the disbandment of the mass organization can then take away the rights of its members to gather in an association (Toha & Harish, 2020). The decree only revokes the status of the registered letter and its legal entity status as an organization, not revoking the rights of members to assemble and associate. So, the government should only disband the mass organizations. While the members still have the right to conduct and form associations. As mandated by Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia, everyone has the right to associate and assemble.

Based on these reasons, the government is inconsistent with the legal rules that it has made through Law 16 of 2017. As should the implementation of the dissolution by the government is in line with the mechanism for dissolving mass organizations regulated in Article 60 to Article 62 of Law Number 16 of 2017. But the dissolution mass organizations that have been implemented so far have not followed the mechanism in Law Number 16 of 2017 (Setiawan & Tomsa, 2022). Even though all mass organizations regardless of their identity have the right to be prosecuted in accordance with the legal rules that govern, this guarantee has been mandated by the provisions of Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which essentially states that all citizens have the same position under the law (Ramakrishna, 2009). In line with the concept of a state of law that we agree with, one of the essential characteristics in a state of the law is that the usable power must be following applicable law, meaning that every task or authority that is carried out is used and carried out following the applicable rules. The term rule of law can be found in the explanation of the 1945 Constitution, which reads: "Indonesia is a country based on law and not based on mere power." It is also confirmed through Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (Sebastian, 2006).

So that as a country that upholds the rule of law, it is imperative that the dissolution of mass organizations be carried out following legal principles or the Rule of Law. This is so that the dissolution of mass organizations is carried out on the principle of justice, namely the existence of Equality (Lanti, 2002). Before the Law, namely equality before the law, and the Due Process of Law or the guarantee of human rights by the constitution. Because such neglect is not in line with our identity as a democratic country that places the people as the holder of power, or everything is based on the people (Bubandt, 2014). As stipulated in Article 1 paragraph (2) of the 1945 Constitution which states, "sovereignty, is in the hands of the people and carried out according to the constitution".

Based on the background of these problems, it is interesting for the author to see whether the implementation of the dissolution of mass organizations

by the government against the six mass organizations is under the principle of the rule of law. So, based on the background of the problem, the author is interested in discussing further through this paper entitled "....." Is the mechanism for compared to mass organizations in accordance with the principles of law and democracy?

## Analysis and Discussion

### Historical Records of Organization and Dissolution of Mass Organization

The definition of mass organization is regulated in the provisions of Article 1 of Law Number 16 of 2017, which states that: Community organization is an organization formed by the community voluntarily based on the similarity of activities, professions, functions, religion, and belief in God Almighty, as its formation is intended for development to achieve the goals of the Unitary State of the Republic of Indonesia based on Pancasila (Jandevi, 2019). So, it can be understood that the formation of this organization is based on a good purpose. When the implementation of the mass organization is no longer in line with the objectives stipulated in the Law, the government can act up to its dissolution (Masrukhin & Supaat, 2018).

Since the New Order era related to freedom of association and assembly has been realized through Law Number 8 of 1985 on Community Organization. In the past, this law was used as the basis for the government to cut down mass organizations deemed not following Pancasila or mass organizations that did not carry out the provisions of the mass organization law (Nashir etl., 2019). As provided for that, mass organizations must base their organizational principles, characteristics, and goals according to the Pancasila ideology stipulated in Article 2 paragraph (1) of Law Number 8 Year 1985. As a result, after enacting this Law, the Minister of Home Affairs Supradjo Rustam dissolved two organizations, namely: Indonesian Islamic Students (PII) and the Marhaenis Youth Movement (GPM).

The dissolution of the PII mass organization was carried out in 1985 because the Government stated that PII refused to use the Pancasila principle as an organizational principle in line with what was ordered by Law Number 8 Year 1985. As a result, the PII mass organization was dissolved and declared a prohibited organization (Nur & Susanto, 2020). Then it is the same with GPM, which refuses to base the principles, nature, and goals of its organization on Pancasila. As a result, GPM was dissolved by the government. So based on this, it can be understood that there is a desire from the government so that the formed mass organizations do not become enemies in the country. They are contrary to Pancasila, the basis for the implementation of our country (Schäfer, 2019).

But then the government saw that the existence of mass organizations was getting out of control. It was found that the freedom given to form a mass organization led to anarchic actions. Even the principles of mutual respect and respect for the freedom of others are no longer obeyed, causing social instability in the life of the nation and state, which should not be done because it is not in line with the life-breath of a democratic rule of law. So it can be understood that this is closely related to the practice of Pancasila values which certain organizations no longer carry out (Sudrajat, 2022). Meanwhile, the government considers that Law Number 8 Year 1985, which regulates related to mass organizations, especially regarding the disbandment of mass organizations is no longer relevant to be applied. Therefore, the government made improvements to the Mass Organizationn Law by establishing Law Number 17 Year 2013 concerning Community Organizations (Aspinall & Mietzner, 2019). But in fact, this Law also did not last long because the government perfected it again through Law Number 16 of 2017 concerning Community Organizations.

The change is based on several reasons, which have been summarized by Sudjito, in his writing entitled Reading "Political Interests" Behind the *Government Regulation in lieu of Law on Mass Organizations and Its Sociological Implications on Society*, include: One, Protect the entire nation and the homeland of Indonesia (Fogg, 2019). Two, the mass organizations that have been established in Indonesia have reached 344,039 mass organizations operating in all fields. So it is necessary to be fostered so that existing mass organizations can make a positive contribution and help the ideals of national development. Three, the current fact is that many mass organizations have started to contradict Pancasila and the 1945 Constitution of the Republic of Indonesia, which can then endanger the nation's existence and have also been found to have caused many conflicts in the community. Four, the presence of Law Number 17 Year 2013 is no longer adequate to prevent the spread of ideologies that are contrary to Pancasila—starting from norms, prohibitions, sanctions, and other legal procedures (Hasan, 2018). The principle of administrative law, namely *contrario actus*, is not fulfilled, which means that the institution that issues the permit is the institution that has the authority to revoke the permit. Five, Actions against Pancasila in Law Number 17 of 2013 are narrowly formulated.

The reasons for the formation of Law Number 16 of 2017, the government seems to want to achieve a good goal related to the existence of mass organizations in Indonesia. This is realized by reaffirming the prohibition that a mass organization must obey. As regulated through Article 59 of Law Number 16 of 2017. It is also followed by regulations relating to the new mechanism for the dissolution of mass organizations held through Articles 60 to 62 of Law Number 16 of 2017. This new mechanism associated with the dissolution of mass organizations is said to be the best mechanism to prevent the existence of mass organizations contrary to Pancasila in Indonesia (McGregor et al., 2018).

## Disbandment of Mass Organization

A debate has been provoked due to disbandment of a mass organization is also named as Hiszbut Tahrir Indonesia which is abbreviated as (HTI). The concern of debating over it is to analyze whether the actions taken by the government for disbanding Hiszbut Tahrir Indonesia (HTI) through the minister of coordinating political, legal, and security affairs, Wiranto, are following the law and human rights are not being violated due to this decision. Initially, the purpose of disbanding the mass organization was to consider if its activities are potentially threatening for the sovereignty of politics in Indonesia (Nisa, 2018). Khilafah ideology was adopted by (HTI) Hiszbut Tahrir Indonesia which was basically transnational in nature and its orientation was towards the abolishment of nation state. The presence of a mass organization is important so that the rights for assembling, associating, and expressing the opinions can be implemented. Moreover, it is required by the political parties to protect and guarantee according to the constitution. Mass organization is being guaranteed by the constitution of 1945 but it is not expected that liberating activities are held by it (Sarnoto & Hayatina, 2021). The regulation in lieu of law (Perppu) No. 2 of 2017 was issued by the government for disbandment of (HTI) Hiszbut Tahrir Indonesia. A long debate and polemic have been initiated as the regulation emerged. The situation which enforced the government for issuing the regulation is one of the main reasons of debate regarding the regulation in lieu of law No. 2 of 2017 for disbandment of mass organization (Wahanisa, 2022).

Considerable changes have been brought in the article 59 of the regulation in lieu of law No. 2 of 2017 regarding the mass organization. According to it, some things have been prohibited which cannot be carried out by the mass organization and these have been explained from different aspects in as follows:

Mass organization is prohibited for (Anggono, 2022): using attribute, flag, logo, or name of any government agency, using flag, logo, or official name of any other country or international agency for referring to the flag, logo, or name of the mass organization and using any emblem, flag, logo, or name in which similarities are completely or partially shared with the emblem, flag, logo, or name of mass organization or any political party. Mass organization is prohibited for (Anggono, 2022): receiving of giving donations to any party which is against the provisions of legislation and setting up funds for the any of the political parties. Mass organization is prohibited for (Anggono, 2022): performing any kind of hostile activity against the ethnic groups, religion, race, or any of social groups, abusing, blaspheming, or defiling any religion in the country of Indonesia, performing abuse, disturbing the peace, or impairing public and social facilities and taking actions which are associated with the authorities of law officers as mentioned in the provisions of legislation. Mass organization is prohibited for: using any flag, logo, name, or symbol which is partly or completely similar with the flag, logo, name, or symbol of any separatist

group or any forbidden organization, performing separatism activities by which the sovereignty of The Unitary State of the Republic of Indonesia can get threatened and adopting, developing, and sharing beliefs which are against Pancasila ([Anggono, 2022](#)).

Indonesia is democratic state and a state of law as well, so the right of freely expressing the opinions and the right of organizing in the society is guaranteed and protected by the country. This thing eventually leads to make all the members capable of establishing a mass organization (Ormas). The freedom associated with establishing the mass organizations is uncontrolled and it is due to the lack of real control and supervision from the government. That's why a number of mass organizations have been developed into fraud and illegal organizations as well ([Wahyuningsih et al., 2021](#)).

As the impact of the formation of Law Number 16 of 2017 is the dissolution of several mass organizations that are considered to have contradicted Pancasila and the 1945 Constitution of the Republic of Indonesia, including:

a. Hizbut Tahrir Indonesia (HTI)

The HTI mass organization was disbanded in 2019 because the goals, principles, and characteristics of the HTI mass organization contradict the Pancasila and the 1945 Constitution of the Republic of Indonesia. In addition, these organizations are often found to cause conflicts and endanger the community's security, especially the Unitary State of the Republic of Indonesia (NKRI) ([McGregor & Setiawan, 2019](#)).

b. National Anti-Shia Alliance (ANNAS)

This alliance was formed based on hatred for the Shia sect, which they considered a dangerous sect. At the same time, Shia is a SECT recognized by Islam in the world. However, this Social Organization spreads hate speech against Shia schools so that hatred arises between people. Therefore, the existence of the ANNAS organization is contrary to the 1945 Constitution of the Republic of Indonesia. Because the 1945 Constitution of the Republic of Indonesia explicitly states that the right to worship is a citizen's right protected by the state ([Roosa, 2006](#)).

c. The Ansarut Tauhid Congregation (JAT)

This organization supports ISIS and is a driving force for ISIS in Indonesia. It was even found that this organization was the perpetrator of the 2002 Bali bombings. So then, in 2010, Counterterrorism Special Detachment 88 (*Densus 88*) arrested the leadership of JAT because it was proven that they had financed the military training of terrorist groups in Aceh. Then this organization was disbanded because this organization declared its support for the Islamic State of Iraq and Syria (ISIS).



d. Indonesian Mujahideen Council (MMI)

Just like JAT, this organization is also led by Abu Bakar Ba'asyir. It was also found that the terrorist who committed suicide in the Thamrin bombing was a member of MMI. This mass organization has also declared itself as a supporter of ISIS ([Santoso, et al. 2019](#)).

e. Islamic Community Forum (FUI)

This mass organization is also categorized as a radical mass organization. During the celebrations of the Prophet's Birthday and Christmas in 2016, FUI reportedly sent a threat to dissolve the event.

f. Islamic Defenders Front (FPI)

This former mass organization is one of the mass organizations that has often shocked the television media and social media for their actions that often disturb people's comfort and his utterances that usually do not heed social norms and religious norms. Indeed, the disbandment of the FPI mass organization was not because the government dissolved it but because the permit period had expired in 2019 ([Ufen, 2008](#)). However, it could not be extended again because of the track record of FPI's journey, which caused many problems. It was also found that the vision and mission of the founding of FPI were not in line with Pancasila.

### **The Right to Association and Unconstitutional Disbandment of Mass Organization**

The government's policy in the dissolution of these six mass organizations was declared inconsistent or contrary to the regulated dissolution mechanism Law Number 16 of 2017. As it is based on 3 (three) reasons, among others:

#### **1) Dissolution does not go through the stages regulated in Law Number 16 of 2017**

The dissolution carried out by the government of HTI, ANNAS, JAT, FUI, MMI, and FPI is carried out directly without going through the stages as regulated in Law No. 16 regarding the stages of the mechanism for dissolving CSOs, as in essence are: One, mass organizations that violate the prohibition on Law Number 16 of 2017 may be subject to administrative and criminal sanctions ([Warburton & Aspinall, 2019](#)). Then, two, the administrative sanctions referred to be written warnings, witnesses to the termination of activities, then revocation of registered certificates or legal entity status. Three, written warnings are issued only 1 (one) time within seven working days since the warning is delivered. Fourth, if the mass organization does not heed the warning letter, then the activity can be stopped. Five, if the mass organization does not comply with the sanction of cessation of activities, it can be carried out with the revocation of the

registered certificate or legal entity status. So, if it is based on the mechanism made by the government, the government should not revoke the registered certificate and legal entity status before carrying out other stages.

In addition, looking at the legal rules of Law Number 16 of 2017 do not at all provide exceptions to specific mass organizations. The imposition of sanctions in articles 60 to 62 of Law Number 16 of 2017 applies to all mass organizations that violate the provisions stipulated in the Law. This means that concerning an organization that violates the Pancasila ideology or violates other rules, the government must still impose sanctions following the stages specified in the legal regulations (Araf, 2017). Because the government should not be able to say that a mass organization has violated the rule of law, the government in acting against it is also not in line with the rule of law. However, the actions taken by this government were for a good cause, to there are no mass organizations that are contrary to Pancasila. However, this does not necessarily make it customary to ignore the rights of mass organizations that should be dealt with following the applicable legal mechanism. As such rights have been guaranteed through the provisions of Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which essentially states that all citizens have the same position under the law. And as a country that upholds the rule of law, we believe that the Indonesian state is law in line with the provisions of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (Efendi et al., 2019). So, all actions or implementations carried out in the Indonesian state are based on a law and due process of law, as the characteristics of the rule of law according to Julius Stahl, and AV Dicey, that legal adage *Lex rejicit superflua, pugnantia, incongrua* means: The law rejects things that are contradictory and inappropriate, policies that are contrary to the Constitution, the Human Rights Law, Mass Organization Law.

## 2) Imposing Sanctions as Prohibited Organization

In addition to being disbanded because it contradicted the ideology of Pancasila and the 1945 Constitution of the Republic of Indonesia, the Joint Decree of Minister also stated that these six mass organizations were also declared prohibited organizations. This means that there should be no more associations or activities related to these six organizations while in Articles 60 to 62 of Law Number 16 of 2017 relating to sanctions for mass organizations, they do not regulate the determination as prohibited mass organizations (Pan et al., 2017). This means that an act of violation committed by a mass organization or deviating from the Pancasila ideology can only be dealt with following as regulated in Law Number 16 Year 2017 namely the provision of administrative sanctions and/or criminal sanctions. Therefore, the determination as a prohibited organization raises a question, whether the disbandment of the mass organization can take away its members' rights to gather in an association while the rights of association is guaranteed by the 1945 Constitution (Garoupa, 2007).

As mandated by Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia, everyone has the right to associate and assemble. The decree with the ministers only revoked the status of the registered letter and its legal entity status as a mass organization, not revoking the rights of members to assemble and associate (Wahanisa, 2022). So, the government should only disband the mass organizations. While the members still have the right to conduct and form associations. As mandated by Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia, everyone has the right to associate and assemble. The decree with the ministers only revoked the status of the registered letter and its legal entity as a mass organization, not revoking the rights of members to assemble and associate. So, the government should only disband the mass organizations. While the members still have the right to conduct and form associations. As mandated by Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia, everyone has the right to associate and assemble.

This is basically in line with the purpose of the formation of Law Number 16 of 2017 that the rule of law is used as the basis for the government to dissolve mass organizations. So if a mass organization acts contrary to Pancasila as regulated in Article 2 of Law Number 16 of 2017, which stipulates that: *The principles of mass organizations do not conflict with Pancasila and the 1945 Constitution of the Republic of Indonesia (Zimerman, 2003)*. Then the sanctions given are in the form of administrative sanctions. As stipulated in Article 60 of Law Number 16 of 2017, which states that *Mass organizations violating the provisions as referred to in Article 21, Article 51, and Article 59 paragraph (1) and paragraph (2) will be subject to administrative sanctions.* This means that related to the obligation for each mass organization to carry out its mass organization in line with the Pancasila ideology, it is strictly regulated. Then the sanctions are also stated explicitly, namely the provision of administrative sanctions, which in the explanation do not include sanctions in the form of stipulation as a prohibited organization. Hence, if the government bases the dissolution of mass organizations on the provisions of Law 16 of 2017, the government should also base its sanctions on the provisions of the Law.

Whereas concerning the determination as a prohibited organization, it is only regulated in the Provisional People's Consultative Assembly Decree of the Republic of Indonesia Number XXV/MPRS/1996 (Tap MPRS No. teachings Communism/Marxism-Leninism in Indonesia. This means that the determination of the six mass organizations as prohibited organizations has no legal basis. So, if the government feels that there is a need for sanctions in the form of stipulation as a prohibited organization, then the government should be able to formulate these rules into a clear legal rule. Because with no regulation regarding sanctions for refusing organizations, the government cannot apply these rules.

### 3) Non-Correctional Effort

As explained earlier, it was stated that one of the reasons for the government in establishing Law Number 16 of 2017 is so that existing mass organizations can be fostered by the state so that they can make a positive contribution and help in terms of national development. This means that the government delivers a coaching promise related to mass organizations established in Indonesia. As for the existing mass organizations can run in harmony with the values of Pancasila and participate in realizing the ideals of the nation. This can also be seen from the role of the six organizations (Eryke & Herlambang, 2013). For example, the FPI mass organization has been established in 1998 with a huge number of followers. If the government can foster and empower these mass organizations, it will certainly help the government realize development. However, the issue of coaching was only conveyed as a reason for the formation of Law Number 16 of 2017 and was not included as one of its provisions. And in its implementation, the government forgets about these coaching points.

However, it cannot be forgotten that regarding the empowerment of mass organizations, it has been regulated through Article 40 of Law Number 17 Year 2013, stating that "*The Government and/or Regional Governments empower mass organization to improve performance and maintain the survival of mass organization.*" Based on these provisions, it can be understood that in the implementation of an organization, there is a role from the government to help strive so that the performance of the mass organization can be improved (White-Hughto et al., 2018). The government can carry out this empowerment by providing policy facilitation in the form of laws and regulations supporting the organizational empowerment. So that the role of the government, in this case, is needed to provide supervision over the implementation of the activities of mass organizations. That way, the government will know what policies mass organizations require to improve their performance.

The question is why mass organizations have been around for a long time, only to find that they deviate from the Pancasila ideology. If the government supervises and carries out this empowerment task, the organizations concerned will not have room to deviate from the Pancasila ideology. The empowerment or guidance intended in Law Number 17 Year 2013 is intended to achieve several things, among others: One, there is an agreement on fundamental values, ideology, and ideals to unite into a nation (normative integration). Second, there is a sense of functional dependence and concrete functional benefits from each mass organization in a single unit (functional integration). Third, so that there is strength in maintaining the commitment of each mass organization to create stability and order (coercive integration).

Based on this, the government should act against any mass organizations that deviate from the Pancasila ideology, namely conducting guidance as

stated in Law Number 17 Year 2013 and the initial basis for the formation of Law Number 16 of 2017. So that mass organizations that previously deviated from their original goals can be returned to the initial purpose of forming the organization. Then, if, through the government's guidance, the relevant mass organizations still do not heed the Pancasila ideology. The government can act following the provisions in Articles 60 to 62 of Law Number 16 of 2017 directly against mass organizations that deviate from the Pancasila ideology (Fitzpatrick, 2007).

Meanwhile, the government forgets that there is a need for fostering and restoring the mindset of the people who are members of these organizations. So that they are in line with the values of Pancasila. Because by disbanding, it will cause the members of these mass organizations to become out of control and have the potential to establish more new mass organizations that are not in line with Pancasila. This, again, will be detrimental to the Indonesian state.

### **Focus of the Law Intervention**

If democracy is system of government which is made by the people and is for the people (Rosa et al., 2010) then the idea to safeguard the democracy can be viewed in terms of acquiring, diverting, exercising, and accounting for the power. A legal control is required to be there for all the aspects of democracy (Bowes et al., 2019). In general, electoral democracy is the process by which public offices are filled with the different representative people elected by universal, free, equal, direct, and secret suffrage. The freedom to people for electing the representatives should be regulated under the law so that the disputes can be avoided, and it can be made sure that the competent and upright leaders are selected for the country by its public. Therefore, the most strict and ideal criteria should be determined according to the law of country for conducting elections of political leaders. Such criteria might include (Ali, 2003):

- Standards of care for the public interest.
- Adequate intellectualism.
- Entrenchment.
- Clear network.
- Moral integrity of the candidates.

The aim of conducting elections in the country should be to have such political leaders that have enough skills, moral standards, and are integrally capable to prioritize and promote the interests of public. This is one of the main functions played by the law for safeguarding the elections. The law has always been involved in the history of elections conducted in Indonesia. The process of holding elections and establishing the resolution mechanisms for solving electoral disputes were also considered under the regulations of law. But the electoral laws of Indonesia have not been capable of building such a system in which all the above functions can be

implemented due to which unqualified leaders got elected who have low integrity values and virtues.

### **Reasons for Law Intervention**

The reason due to which it is important for the law to step into the electoral system is because the people hold the government power under the democratic system. This power is exercised by the people by casting their vote for choosing their representatives. For doing so, people should have adequate knowledge so that informed choices can be made by them. Al-Mawardi gave an argument that such choice can be made by the people if they will have a fair attitude and a complete understanding about the characteristics of an appropriate and suitable leader. Mezey argued in his work "Representative Democracy: Legislators and Their Constituents" that public do not have the access to complete information regarding their issues, that's why appropriate policies cannot be implemented by them and then every individual considers his own interest for making the decisions. The agendas of various political parties are not understood by many of the voters in Indonesia.

Therefore, they cannot differentiate among various facts that are important to be considered while casting their votes. This state of ignorance ultimately leads them towards adopting illegal practices of money politics and patronage practices after losing their interest in the political system (Zulfikri, 2010). The democracy in Indonesia has become battled due to the elections being subjected to battle ground because the candidates put their struggles not to promote the detailed plans of governance but their main focus lies to maximize their number of votes. This thing has been practiced by the candidates due to inadequacy of education at the end of voters and public (Zulfikri, 2010). Practicing oligarchy of the political party has become the characteristic property of politics in Indonesia since the fall of New Order regime (Demirhan et al., 2010).

Moreover, the mechanisms and requirements to determine the candidates are also weak. The law formulation over this aspect is weak to such an extent that anyone can become a law maker, president, or head of the region in Indonesia.

### **Comparison of the Mechanism of Disbandment of Mass Organization with Taiwan**

Article 44 of The Fisherman Association Act states that if any fishermen association neglects its duties, offends public interests, or trespasses the scope of its obligations, the competent authorities may issue warning to it. Then, Article 45 states that if any of the resolutions adopted by a fishermen association violates laws and regulations, offends public interests, or trespasses its tenets or duties, the competent authorities may reissue warning or revoke its resolution (Inayati et al., 2012). Furthermore, Article 46 said that if a fishermen association trespasses its principles or duties in

a meaningful manner, the competent authorities may dismiss the association or abolish its registration. A fishermen association shall be re-organized soon after being dismissed, or its registration is canceled ([Wismayanti et al., 2019](#)).

This clarifies that the right to establish an organization is part of human rights, and the dissolution of an organization is a violation of human rights. Such as the Law in Taiwan, which provides an opportunity to continue the organization's activities, but only changes the management structure and re-registers it, without labeling it as a prohibited organization and prohibited from operating forever.

## Discussion

The basis of democracy in Indonesia is the law and its aim is to achieve justice in the society and welfare of the people living in Indonesia. Acting upon the amendments in the Constitution of 1945, the electoral democracy of Indonesia has been shifted towards the liberal direction according to which the selection of official persons is made on the procedural and financial bases. And other factors including merit, being competent, integrity, and morality are not included for supporting this procedure. Ultimately, the law of the country seems to be just a tool by which such a liberal system can be legitimized and it will be harmful for the sovereignty of the people living in Indonesia ([Fahmi et al., 2019](#)). According to the Article 1 of the 1945 Constitution, people of Indonesia are responsible for the political sovereignty in the country, and it is not the responsibility of People's Consultative Assembly or (MPR) Majelis Permusyawaratan Rakyat. Two important precisions have been made in the new formulated version of this provision which has been resulted after making amendments in the Constitution of 1945. These precisions include: the fact that sovereignty is in the hands of people of Indonesia and this sovereignty will be implemented according to the Constitution of 1945.

It has been implied according to the Article 1, section 3 of the 1945 Constitution that Indonesia is a country where the rule of law exists and the government is based on constitutional provisions instead of relying on the absolutism ([Bagir, 2004](#); [Fahmi et al., 2019](#)) referred this system to be the "adoption of a constitutional democratic system" ([Crane et al., 2008](#)) according to which the power of government is under the regulations and constrains mentioned in the constitution. Free and fair elections imply that people should be given the right of choosing their representatives without any fear and cohesion. It also implies that all the rules should be set up according to the law of country so that the rights of voters and candidates can be protected and there should be no tension during the whole process of conducting elections which can be disadvantageous for the philosophical ideas of making a constitutional democracy. Moreover, the law should also consider the fact that elections do not become the elitist because the practices and behaviors associated with anti-democracy can hijack it by using money politic or oligarchy of political parties as well. Therefore, law

is one of the important elements which help to maintain a balance in electoral democracy. Plato (429 BC) made an argument that democracy leads to increase the quest of freedom and it leads to damaging the order of the society (Feldman et al., 2013). It means that uncontrolled and unmonitored freedom in the democracy can lead towards anarchy. That's why it is important that the democracy should be guarded by the law. Although equality and freedom are considered to be the important aspects of democracy (Fahmi et al., 2019) but they should be subjected to certain limitations which should be governed by the law. That's why law must be used as a tool for keeping a balance in democracy in a right manner so that the justice can be prevailed in the society and welfare of people living in Indonesia can also be ensured.

The sovereignty of people was in the hands of Majelis Permusyawaratan Rakyat (MPR) before the amendments were made in the Constitution of 1945 (Fahmi et al., 2019) and its authority was also absolute to them (Asshiddiqie, 2002). Before amendment, the provision of constitution was viewed as if the sovereignty of people had been transferred to the higher authorities, the Leviathan, as Hobbes put it (Bagir, 2004). The amendments in the Constitution of 1945 brought such changes by which it was implied that the MPR is no longer the holder of sovereignty of people (Asshiddiqie, 2002). And all the branches of government will be responsible for the people's sovereignty according to the Constitution (Bagir, 2004) According to the amendments made in the Constitution of 1945, the head of region including the President and the Vice President are elected by the public by conducting general elections in the country and the popular vote system is used for electing them. This also leads to the formation of mass organizations. The freedom associated with establishing the mass organizations is uncontrolled and it is due to the lack of real control and supervision from the government. That's why several mass organizations have been developed into fraud and illegal organizations as well.

The formation of mass organizations is a milestone towards growth as well as also develop awareness in expressing the freedom of opinion related to association and assembly. Seeing this, the government feels the need to make restrictions so that other parties' freedoms do not become a disaster. For this purpose, a prohibition as well as an obligation should be made for carrying out such restrictions and the organizations must obey them. It should be ensured that the formation of mass organization does not threaten security, order, national unity, and integrity. So, the intention of the existing mass organizations must be in line with the values of Pancasila and the 1945 Constitution of the Republic of Indonesia. However, it has been found that many organizations have been carrying out their activities as well as acted anarchically, and even committed violence.



These concepts have become unavoidable due to the ineffectiveness of the electoral laws available in the country. That's why it is important to identify the flaws in the electoral laws of Indonesia and taking suitable measure for overcoming them to safeguard the electoral democracy in the country of Indonesia to provide rights to the mass organizations as well without hindering their school of thoughts. However, in case of any violence from the mass organization, the action should be taken by the state by considering the rule of law.

## **Conclusion**

A general electoral system based on the popular vote system was established in Indonesia after the amendments in the 1945 Constitution and it helped in implementing democratic system in Indonesia along with other constitutional reforms as well. But the inefficiencies in the electoral laws have turned the electoral system into a liberal model. Therefore, such political leaders are not elected who have interest in ensuring the sovereignty of people and they are more oriented towards getting power, being famous, and accumulating wealth. Here the role played by law is of not much considerable importance. It is important that the law should play its significant role in the electoral system so that the justice and welfare in the society of Indonesia can be ensured and the electoral democracy of Indonesia will also not lose its way. It can be done by the adoption of such strict limitations for the candidates and the voters by which the voting rights can be protected. It should also be made sure that the electoral process is not getting influenced by the money politics at any stage. On the other hand, the factor of electing competent, integral, and high moral leaders for fulfilling the aspirations of people living in Indonesia.

Mass organization is part of the pillar of democracy that must be maintained in the rule of law state as the manifestation of freedom of association. The state must follow some principle in case the state intends to disband mass organization, such as due process of law, existing laws. In Indonesia, some disbandment of mass organization cases by the Indonesian government contradicts with the rule of law and democracy principle since they arbitrarily disband the organization. Therefore, the government of Indonesia is decreasing the value of democracy. As common principle in disbanding an organization, the decision must be issued by the court to give the legality to revoke the activity of an organization, not by the political power which it tends to touch the political interest and subjective.

## **Limitations and Future Research Indications**

Due to less accessibility, the data obtained for this study was not sufficient to determine the condition of mass organizations in Indonesia at present. For future research studies, more detailed data should be obtained by consulting different governing bodies in Indonesia to obtain the better understanding of mass organizations situation in Indonesia.

This study was only conducted in context of Indonesia due to insufficient reach to other countries around the world. This gave the insight of understanding the role of mass organizations and their disbandment in context of developing country i. e. Indonesia. For future research studies, more developed countries should be considered along with the developing countries to have a better understanding of the laws made in different countries for mass organization disbandment determining its impact on democracy of the countries.

This study only focused on the disbandment of mass organizations in Indonesia in context of democracy. For future research studies, the new Law also known as “NGO Law” enforced in Indonesia on the foreign mass organizations, should also be studied to conclude the needed reformations in this aspect.

### Implications

This study is of great significance both theoretically as well as practically. Theoretically it is implicated to improve the literature review on mass organizations and their role in the society as well as the laws made to disbandment the mass organizations were also discussed in this study that helped in understanding the reasons behind their enforcement especially in the context of democracy. In Indonesia however, many mass organizations were disbandment by the states without following any principles or laws. This study will help in improving this situation by encouraging the states to follow proper laws as well as principles to disbandment the mass organizations. This study also helped in making the policies and the laws of Indonesia strong, regarding disbandment of mass organizations to ensure the application of proper process for this purpose. The public also become aware of the freedom of speech and supported mass organizations.

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