

CHAPTER ONE

INTRODUCTION

A. Background

On July 10th 2017, the government of Indonesia issued the Government Regulation-In-Lieu of Law on Civil Society Organization (CSOs) No.2 of 2017 (*Perppu Ormas*) with the reason that the existence of such organizations which are not in line with the *Pancasila* and the 1945 Constitution feasibly to endanger national stability.¹ Furthermore, this *Perppu* has been approved by the House of Representative in the parliament building on October 24th 2017.² So, automatically *Perppu* became law, namely Law No. 16 of 2017.³ However, in the session of approval, not all political parties agreed to approve this *Perppu* to be a law.⁴ A faction of the Great Indonesia

¹ *Pancasila* is written in the preamble of 1945 Constitutions and usually called as the Indonesia Philosophy, *Panca* is lima and *Sila* is principles, the content of *Pancasila* are: (1) Belief in One and Only Almighty God; (2) A just and civilized humanity; (3) Unity of Indonesia (4) Democracy led by wisdom in the consultations (the people's) of representatives, (5) Social justice of all Indonesians.

²Reiny Dwinanda,"House Passes Perppu Ormas into Law" available at <http://www.republika.co.id/berita/en/national-politics/17/10/25/oyd9w2414-house-passes-perppu-ormas-into-law> accessed on November 20th, 2017 at 04.06 am.

³ Government declare the state of emergency while issuance the *perppu ormas*. According to Article 12 of 1945 Constitution "The President declares the state of emergency. The condition of State of Emergency regulated by law" further article 22 of 1945 Constitution regulated the *perppu* as follow: (1) In compelling crisis situation the president shall have rights to issuance the government-regulation-in-the lieu of law;(2) The government regulation have to be approved by the parliament (DPR) in its next session;(3) if it (government regulation) not approved, it may revoked.

⁴ Because the deliberation of *perppu ormas* not attained after two hours lobbying off seven political party agree to passed those president regulation in-the-lieu-of law to become law, those fractions among others: Indonesia Democratic Party of Struggle (PDI-P); United development Party (PPP); National Awakening Party (PKB); Golkar Party; Nasdem Party; Democratic Party(Demokrat); People Conscience Party(Hanura) and three other rejects :Prosperous Justice Party(PKS), National Mandate Party (PAN) and Great Indonesia Movement Party(GERINDRA) however, of seven political party, third ask for Revision as well as possible after it enacted, namely: United Development Party (PPP), National Awakening Party (PKB), and Democratic party(Demokrat). Because the disscission is not

Movement Party (GERINDRA), Prosperous Justice Party (PKS), and National Mandate Party (PAN) rejected the *Perppu* to be enacted as law because the function of the ordinary court is abolished in this law. This is against the principle of a democratic state based on rule of law.⁵

This new law became controversies not only fractions of political parties but also the parliament. A constitutional expert, Yusril Ihza Mahendra argued that several issues of this law against the rule of law and arbitrarily against people rights that are not compatible with democracy and the purpose of reforms. He named it as the decline of democracy.⁶ There are problematic provisions in law No.16 of 2017 particularly in the abolishment of judicial function that is feasible to create abusing of the power of government. It is proven by the termination of *Hizbut Tahrir*, a religious organization through revocation of their legal entity status before the enactment of this law.

attained result, the decisions shall be held by voting. The 445 members of parliament presented in the plenary meeting of *peppu ormas*. 314 members agreed *perppu ormas* passed to become law. Meanwhile, 131 disagreed. Therefore, by initiating the various notes that have been submitted by existing factions, *perppu ormas* becomes law. See “Perppu Ormas disetujui DPR melalui mekanisme voting“, available at <http://www.dpr.go.id/berita/detail/id/18109> accessed on Thursday, July 19th, 2018 at 08.36 pm.

⁵ Tolak UU Ormas ini alasan, Pan, Gerindra dan PKS see <https://news.detik.com/berita/3698638/tolak-uu-ormas-ini-alasan-gerindra-pan-pks> accessed on Thursday, July 19th, 2018 at 11.21 am.

⁶ Yusril Sebut Pemerintah sewenang-wenang dengan *perppu ormas*, available at <https://www.cnnindonesia.com/nasional/20170712184328-12-227457/yusril-sebut-pemerintah-sewenang-wenang-dengan-perppu-ormas> accessed on Thursday July 19th, 2018 at 08.29 am.

However, President Joko Widodo allows the interested party to proceed the case to Court if they disagree with the new law.⁷

Indeed, a question arises, “how to seek justice without trial” which means no due process of law. In fact, Indonesia is a country based on rule of law.⁸ Not only to negate the function of the court which is not in line with the 1945 Constitution but also to diminish the role of Civil Society Organizations in nowadays life. This research attempts to evaluate the mechanism of dissolution of CSOs in Law No.16 of 2017. The research also studies on the mechanism of dissolution of CSOs in Turkey as Comparison.

B. Formulation of Problem

From the backgrounds above, the researcher can formulate a statement of the problem as follow: “How is the mechanism of dissolution of Civil Society Organizations in Indonesia and turkey?”

C. Objective of Research

1. To understand the mechanism of dissolution of Civil Society Organizations (CSOs) in Indonesia and Turkey.
2. To analyze the problem of dissolution of Civil Society Organizations (CSOs) in Indonesia and Turkey.

⁷ Tidak Setuju Perppu Ormas Jokowi Persilahkan Tempuh Jalur Hukum, available at <https://www.suara.com/news/2017/07/16/115806/tidak-setuju-perppu-ormas-jokowi-persilahkan-tempuh-jalur-hukum> accessed on Thursday July 19th, 2018 at 05.04 pm.

⁸ See Article 1(3) of 1945 Constitutions

3. To propose a suggestion on a better mechanism of Civil Society organizations (CSOs) in Indonesia.

D. Benefit of Research

1. Theoretical Benefit

Theoretically, the research will give the theoretical understanding of the mechanism of banning Civil Society Organizations (CSOs) in Indonesia and Turkey

2. Practical Benefit

Practically, the researcher proposes suggestion of better mechanism of dissolution of Civil Society Organization (CSOs) in Indonesia.