

EXECUTIVE SUMMARY
Monitoring and Evaluation Report on
Societal-based Organization Law/UU Ormas (UU No. 17 Year 2013)
Year-III and Year-IV (2 July 2015 – 1 July 2016 and 2 July 2016 – 1 July 2017)
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Monitoring of the implementation of the third and fourth Societal-based Organization Law (UU Ormas) is part of the monitoring and evaluation of legislation. The purpose of this monitoring is to find out the latest developments in the implementation of UU Ormas, to see the impacts and even possible emergence of new issues from the implementation of UU Ormas, and to confirm the effectiveness of UU Ormas. This report attempts to summarize facts, such as events and implementing regulations to the local level, and also presents analysis from a juridical perspective and human rights protection.

In general, the results of the third year monitoring showed that events which are formed by the implementation of UU Ormas occurred in 26 provinces and spread across 52 districts/cities, while the fourth year of monitoring showed that the events constituted by the implementation of UU Ormas occurred in 29 provinces and spread in 87 districts/cities. These results indicate that the scope of implementation of UU Ormas is widespread in every year, from the start of second year monitoring (19 provinces) to the fourth year of monitoring.

In addition, the findings indicate that there are differences in the types of most action between the third year period and the fourth year period. The most action in the third year period is the obligation to register with 53 actions, while the most action in the fourth year period is the banning of the organization with 90 actions. This type of action difference shows that there are differences in context, especially social and political, in the implementation of the third year of mass organization law with the fourth year. In other words, there are changes or shifts in government actions, both national and local, in implementing mass organization law.

In general, almost all types of action categories have increased from the second year to the fourth year period. The most significant increase occurred in the organization's prohibitive categories, from 2 actions in the second year period increased to 35 actions in the third year period and increased to 91 actions in the fourth year period. A significant increase also occurs in the category of registration obligations and access restrictions from the second to fourth year period. Category of registration obligations experienced a significant increase from 17 actions in the second year period to 53 actions in the third year period and again rose to 66 actions in the fourth year period. Due to access restriction category, there was a significant increase of 6 actions in the second year period to 26 actions in the third year period and again increased to 42 actions in the fourth year period.

Not only that, the increase also occurs in the CSOs stigmatization category, the prohibition of activities, and the formation of derivative rules from the second year period until the fourth year period. In the CSOs stigmatization category, there was an increase from 6 actions in the second year to 16 actions in the third year period and increased again to 25 actions in the fourth year period. In the prohibition of activity category, there was also an increase of 7 actions in the second year period to 14 actions in the third year period and again increased to 15 actions in the fourth year period. Related to the category of derivative rule formation, this category has also increased although only slightly. 8 regulations were found in the second

year period, increased to 11 regulations, including regional until national, and increased again to 13 regulations in the fourth year period. Regulations found within 3 years of monitoring cover the region up to the national level. Related to the simplification category of sanctions, this category cannot be compared because it is a new category in the fourth year period. However, this category arises because of the existence of certain contexts in the fourth year period, namely discourse of the revision of the mass organization law. For criminalization category, there was a decrease of 2 actions in the third year period to 1 action in the fourth year period.

From the above general findings, there are at least four main findings that can be elaborated using a juridical perspective and human rights protection in monitoring the third year period. The first main findings are the Verdict of the Constitutional Court Number 82/PUU-XI/2013 and Number 3/PUU-XII/2014 on Societal-based Organization Law on 23 December 2014 giving effect to the implementation of Societal-based Organization Law, mainly to (i) voluntary-based registration for societal-based organizations, and the organization that do not register, must still be recognized and protected its existence, and (ii) territorial scope for societal-based organization is unrecognized. Monitoring and evaluation implementation of the third year of UU Ormas shows the increasing events and actions, widespread the location of events, and increased diversity of perpetrators and victims. The third year findings also confirmed that the actions taken by the government apparatus are always based on the 'SKT¹ interpretation as an obligation for the societal-based organizations' which is clearly contradictory to the Verdict of the Constitutional Court and against the guarantee of freedom of association.

The second major finding is the largest scope of the implementation of UU Ormas lies on the validity of UU Ormas administration. The real action of the matter is an appeal to the obligation to the organization to register, including renewing or extending the SKT. This action is always followed by the consequences of government policies, such as requirements for organizations that want to receive services (facilities) and grants/social assistance (bansos/social assistance). In this case, the existence of SKT and funding facilities allocated to societal-based organizations- both grant and bansos-can be understood as instruments of the government apparatus in carrying out its policies, especially the data collection of mass organizations. In other words, the government apparatus places SKT and grants/bansos allocation as an instrument to obtain information on the number and profile of societal-based organizations.

Government apparatus was translated the registration step of societal-based organization in a more operational or technical form as verification and re-registration. The results of verification and re-registration will contribute indirectly to the actuality of SKT ownership data and grant/bansos expenditure budgeting. This serves as a foothold for the government apparatus to run institutional functional targets, ie, bureaucracy initiates and maintains a "partnership, coaching or empowerment" scheme. Such schemes may include budget allocation, scheduling and type of activities, as well as reporting on achievement of budget absorption and growth data of mass organizations.

In addition, the scheme of "partnership, coaching, or empowerment" is also followed by policies such as ensuring the activeness of a societal-based organization, domicile certainty, and changes in organizational structure. This shows that the need for information about mass

¹ SKT is the registration letter issued by Directorate General Nation Unity and Politics of Ministry of Home

organizations-not just profiles and number of mass organizations-but also targets internal dynamics to organizational decision choices. In other words, governance of mass organizations is the target and the next target of a bureaucratic agenda. This also indicates that the demands of transparency, accountability, and professionalism of mass organizations as one of the background of the birth of mass organization law does not only become the realm of mass organizations, but also desired and controlled by the bureaucracy. Therefore, the scheme of "partnership, coaching, or empowering" of societal-based organizations can be understood as the entry point for the operation of SKT instruments and grant/bansos allocation.

The entry points generated by the scheme can be used to activate other agendas of the bureaucracy, i.e. supervision and intervention of societal-based organizations. A concrete example of a bureaucratic agenda that requires and utilizes the entry point of the scheme "partnership, coaching, or empowerment" is a budget politics in the region through the APBD². Another example is the interests of bureaucracy in co-opting the support environment and actualization of societal-based organizations.

The third major finding is the emergence of anomalies in the form of policies, such as SKT prerequisites in order to obtain service facilities and grants/bansos, followed by stigmatization of societal-based organizations. It is in the form of positioning organizations that do not have SKT as an "entity that is not clear, illegal, fake, and will be disciplined or frozen". This also indicates that for organizations that choose not to access grant/bansos fund so that it is not necessary to have SKT, they are in an invalid status administratively.

The fourth key finding is that state actors still carry out actions that lead to restrictions on the fulfillment of the right to freedom of association. The real manifestation of this is the existence of SKT-as the administrative legitimacy-is made to state instruments in limiting freedom of assembly and association. Another example of the restriction of freedom of association in the implementation of the third mass organization law is the government's effort in strengthening the values and ideology of Pancasila³ through the Ministry of Home Affairs Circular Letter No. 220/2065/POLPUM dated 12 May 2016 on Reprimand and Handling of CSOs that are against the Pancasila. This Circular Letter can be used as a tool by the state to silence the critical attitude and control of the people just because the state does not agree with certain societal-based organizations so that eventually it is pinned as an anti-Pancasila organization. In fact, restrictive action on the implementation of the right to freedom of association and assembly must refer to Article 28 J Paragraph (2) of the 1945 Constitution, as well as the limiting principles that are set forth in international human rights law as stated in the Verdict of the Constitutional Court No. 3/PUU-XII/2014.

In the fourth year of monitoring, there are five key findings that can be elaborated using a juridical and the protection of human rights perspective. The first main finding is the similarity of findings from monitoring and evaluation of UU Ormas implementation in the fourth year with the previous year monitoring and evaluation, which is still a policy in the form of obligations for societal-based organizations to register and have SKT, including extending SKT for those who have expired. This further confirms the conclusion of monitoring and evaluation of the implementation of the third year of the mass organization law that states that the state still focuses on the bureaucratic agenda through the consolidation

² APBD or Local Budget Income and Expenditure is the local government budget.

³ Pancasila is the five principles of Indonesia.

of the administrative validity. It is also shown with the construction of a database of mass organizations in the form of societal-based organization Information System (SIORMAS).

The second major finding is that the current format of community registration is not really relevant, especially in measuring its relation to transparent, accountable, and professional societal-based organization governance. In fact, it is worth to question the relevance between the target of administrative validity with the support capacity of independence and expansion of the contribution of societal-based organizations.

The third main finding is the agenda of bureaucratic consolidation and administrative legitimacy target that has appeared on the implementation of UU Ormas in the third year actually delivering an understanding related to the registration scheme of societal-based organizations. The monitoring and evaluation findings of the fourth year implementation of UU Ormas is interpreted as a notification, it turns out that the practice in the field tends to shift to obligation. If the registration is interpreted as an obligation, it is highly dependent on the authorization regime which gives full authority to the state to refuse or accept the existence of the mass organization.

The fourth main finding is the emergence of Government Regulation No. 58 year 2016, Government Regulation No. 59 year 2016, and a governmental discourse that wants to simplify the mechanism of dissolution of societal-based organizations, by eliminating judicial decisions in the middle of the work of SIORMAS. The presence of these two government regulations turned out to show other problems that reinforce the complexity of the implementation of UU Ormas. Both government regulations contain norms with various categories of issues, such as the uncertainty of the construction of norms or multi-interpreted norms, norms that openly invite issues related to the authority of the implementing actors, the confusion of legal subjects to norms containing procedures without the constraints of discretion, which potentially lead to distortion.

The last major findings in the monitoring and evaluation of UU Ormas in the fourth year is the discourse of the dissolution of societal-based organizations by not involving court decisions indirectly reducing the precautionary principle, especially testing the proportionality of the reduction of the right to freedom of assembly and association by the state. In other words, the dissolution of mass organizations must be placed by the government as a last resort and must go through the judicial power, in this case the judiciary, and the decision also has a mechanism of resistance through legal efforts in a higher court.