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Legal Politics of The Establishment of Government Regulations in Lieu of Law Number 2 of 2017 Concerning Amendments to Law Number 17 of 2013 Concerning Community Organizations

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Abstract

Government regulation in lieu of law (Perppu) is one type of legislation that is included in the hierarchy of laws and regulations in force in Indonesia. Related to the above, in mid-2017 President Joko Widodo signed a Government Regulation in Lieu of Law Number 2 of 2017 concerning Amendments to Law Number 17 of 2013 concerning Community Organizations. The government in its statement provided arguments related to the issuance of the Perppu, namely;[1] first, the Perppu was issued in the framework of the government's duty to protect the entire nation and the spilled blood of Indonesia; the two community organizations (community organizations) in Indonesia which currently reach 344,039 community organizations; Third, the reality is that currently, there are activities of community organizations (community organizations) that are contrary to Pancasila and the 1945 Constitution of the Republic of Indonesia. The purpose of this research is to be able to explore concrete information about legal politics carried out by the government in the formation of Perppu No. 2 of 2017. The research method used in writing this journal is juridical-normative legal research which only emphasizes the study of documents, the legal sources used are laws and regulations, court decisions or decrees, contracts / agreements / contracts, legal theories and opinions of scholars. That a Perppu must be seen from its purpose first before the Perppu is formed into a part of laws and regulations. That the government makes efforts to restore mass organizations as their original purpose and does not deviate from this by making the latest Perppu related to mass organizations. That the government has taken the right steps by making Perppu No. 2 of 2017 by prioritizing legal steps to change conditions in society which proves the law as a tool of social mobilization.

Keywords: Perppu, Legal politics, CSOs

[1] Statement Wiranto deep meet press related Perppu Organization community https://kominfo.go.id/index.php/content/detail/ 10094/government-issue-perppu-n o-22017 on-amendment-to-law-o rganization of society/0/artikel gpr

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I. INTRODUCTION

Government regulation in lieu of law (Perppu) is one type of legislation that is included in the hierarchy of laws and regulations in force in Indonesia. Based on Article 1 point 4 of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations, Perppu is a law and regulation stipulated by the President in terms of compelling emergencies. In essence, the substance of this perppu must also be based on Pancasila as a basic norm that applies in Indonesia and does not contradict the Constitution or the 1945 Constitution of the Republic of Indonesia.

Related to the above, in mid-2017 President Joko Widodo signed a Government Regulation in Lieu of Law Number 2 of 2017 concerning Amendments to Law Number 17 of 2013 concerning Community Organizations. Since the signing by the President, Perppu Number 2 of 2017 which was later ratified into Law Number 16 of 2017 concerning the Stipulation of Perppu Number 2 of 2017 into Law, is currently a debate and a national issue that is widely discussed in the mass media which raises pros and cons in the midst of Indonesian society. The socio-political uproar resulting from the pros and cons made society, the nation, and national figures divided and claimed that they were right.

The government in its statement provided arguments related to the issuance of the Perppu, namely; first, the Perppu was issued in the framework of the government's duty to protect the entire nation and the spilled blood of Indonesia; second, community organizations (community organizations) in Indonesia, which currently reach 344,039 community organizations, have been active in all fields of life, both at the national and regional levels, must be empowered and fostered, in order to make a positive contribution to national development; Third, the reality is that currently, there are activities of community organizations (community organizations) that are contrary to Pancasila and the 1945 Constitution of the Republic of Indonesia. It is a threat to the existence of the nation, by having caused conflict in society; fourth, Law Number 17 of 2013 concerning Community Organizations is no longer adequate as a means to prevent the spread of ideology that is contrary to Pancasila and the 1945 NRI Constitution, both from substantive aspects related to existing norms, prohibitions, and sanctions and legal procedures. Among other things, there is no mention of the principle of contrarius actus administrative law, namely the legal principle that the institution that issues the permit or that gives the endorsement is the institution that should have the authority to revoke or cancel it; So far, the understanding of teachings and actions that are contrary to Pancasila has been narrowly formulated, namely only limited to the teachings of Atheism, Marxism, and Leninism. Yet Indonesian history proves that other teachings can also contradict Pancasila.

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On the basis of some of the considerations mentioned above, the government considers it necessary to issue Perppu Number 2 of 2017. Furthermore, according to the government, this perppu is a legal umbrella for the government to be more flexible in guaranteeing, empowering and fostering community organizations. Furthermore, in the general explanation of Perppu Number 2 of 2017, it is explained that the purpose and purpose of Perppu is to distinguish and at the same time protect community organizations that comply and are consistent with the principles and objectives of community organizations based on Pancasila and the Constitution of the Republic of Indonesia Year 1945 and community organizations whose principles and activities are manifestly contrary to Pancasila and the Constitution of the Republic of Indonesia Year 1945. This Government Regulation in Lieu of Law has separated the two groups of community organizations and is accompanied by the types of sanctions and their extraordinary application.

Through Perppu Number 2 of 2017, the procedure for dissolving community organizations was changed. In Law Number 17 of 2013, the process of dissolving community organizations must take court action to prove that these community organizations are guilty and violate applicable laws and regulations, if they already have legal force that can only be dissolved, but now with Perppu Number 2 of 2017, on the contrary, community organizations can be directly dissolved by the government by first revoking the legal entity status of community organizations aforementioned.

The Perppu has added interpretations of teachings or understandings that are contrary to Pancasila by adding other phrases or understandings. This is almost the same as the formulation of Article 16 of Law Number 8 of 1985 concerning Community Organization in force during the New Order period that: The government dissolves community organizations that adhere, develop, and spread the ideas or teachings of communism, Marxism, Leninism, and other ideologies, understandings, or teachings.

Where in the practice of the New Order government, the phrase "ideology, understanding, or other teachings" is a tool that can be used to muzzle certain community organizations that differ in voice from the government.

Related to the changes mentioned above, there are different opinions among the community. Some said they agreed with the changes in the provision, but on the other hand, there were people who stated that the provision for the dissolution of mass organizations that did not go through the judicial mechanism first, was tantamount to injuring Indonesia as a state of law itself. However, when viewed from the facts that occur in the field, there has been a real crunch related to the actions of mass organizations which are considered to have harmed the community a lot and disrupted order in the social life of the community. Cases of radicalism that often appear in the

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body of mass organizations themselves are one of the centers of attention from the government to immediately make improvements in the regulations of mass organizations.

According to the deputy expert staff V of the presidential staff office, Dr. Ifdhal Kasim has provided an explanation related to two important functions of the issuance of Perppu No. 2 of 2017, namely as a rule that can properly organize existing and developing mass organizations in Indonesia and demand increased supervision that must be carried out by state administrative officials who are authorized in terms of granting or revoking permits for the establishment of an organization. This explanation can be interpreted that the issuance of Perppu No. 2 of 2017 is the government's effort to restore the spirit of mass organizations by issuing regulations related to new mass organizations. This action is solely considered as a compelling emergency because regulations related to mass organizations were previously considered no longer relevant.

II. LITERATURE REVIEW

The author will try to associate this research with several previous scientific works, so that it will be related to the scientific work above. The scientific work that the author refers to is as follows:

1. Journal of Adhi Setyo Prabowo, Andhika Nugraha Triputra, Yoyok Junaidi, Didik Endro Purwoleksono with the title; Omnibus Law Politics in Indonesia. This journal discusses **Omnibus law** is a law that regulates many things or that includes many rules in it; But in practice there are still many obstacles and problems faced besides that they are still pros and cons in the formation of the **Omnibus law**;
2. Journal of Farhan Permaqi, S.H. with the title; Legal Politics of the Establishment of Government Regulations in Lieu of Law in the Principle of Compelling Emergencies; This journal discusses the state of urgency that forces can be interpreted as emergencies, abnormal circumstances; Something that is done in a compelling crunch is certainly of minimal analysis and is only formed to overcome the precarious conditions at that time and should no longer be needed when things return to normal; Because in the formation of laws that are regulated in such a complex way, it still exists and still produces products that have many shortcomings;
3. Journal of Mia Kusuma Fitriana, S.H., M.Hum., with the title; The Role of Legal Politics in the Formation of Laws and Regulations in Indonesia as a Means of Realizing State Goals; This journal discusses government policies regarding which laws will be retained, which laws will be replaced, which laws will be revised and

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which laws will be eliminated; Thus, through legal politics, the state makes a draft and plan for the development of national law in Indonesia.

III. METHODOLOGY

The research method used in writing this journal is juridical-normative legal research which only emphasizes the study of documents, the legal sources used are laws and regulations, court decisions or decrees, contracts / agreements / contracts, legal theories and opinions of scholars.[2]

IV. RESULT AND DISCUSSION

A. Legal Politics of the Establishment of Government Regulations in Lieu of Law Number 2 of 2017

Legal politics itself according to Prof. Mahfud MD is defined as a state step related to applicable and aspiring laws that are used as goals in order to achieve the goals of the state itself. According to Soedarto, legal politics is all the efforts of the state in creating good and relevant laws and regulations in accordance with existing situations and conditions. Meanwhile, according to Satjipto Rahardjo, legal politics itself is a state activity in choosing the best way to be used to achieve a social and legal goal needed by the state.[3]

So it can be concluded in general that legal politics is a way or activity carried out by the state that functions to achieve a state goal in order to create a stable legal and social situation for the benefit of the people. What is meant by the purpose of the state to ensure a stable legal situation is that the state can create and implement laws based on a principle of justice, expediency, order, and legal capacity. [4] Therefore, a system and / or mechanism in the process of forming a law will go through a legal political mechanism that will be studied and selected by the government that holds the power of a state. The establishment of laws and regulations is also based on the will of the regime of the ruling government. So that its formation will also follow from the ways that are considered necessary and correct in realizing the ideals of the state according to the regime. However, even so, this does not mean that the laws and regulations produced by the ruling regime

[2] Ali Zainudin, "*Legal Research Methods*", 2009

[3] Islamiyati and Hendrawati Dewi, "Political Analysis of Law and Its Implementation", Vol. 2No. (2019): Law, Development & Justice Review, May 2019"

[4] Fitriana Mia, "THE ROLE OF LEGAL POLITICS IN THE FORMATION OF LAWS AND REGULATIONS IN INDONESIA AS A MEANS OF REALIZING STATE GOALS", Journal of Indonesian Legization

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can be arbitrary. All steps taken, of course, are for the benefit of the people at large and not only benefit one party.

Indonesia as a democratic country that implements the trias politika system in its government has given legislative authority to the DPR as a representative of the people to form a legal system that is in accordance with the needs of the people themselves. These representatives are members of political parties elected by the public to be able to represent the voices of the people in parliament. Therefore, the formation of a law in Indonesia is based on political decisions that produce a law that is fair, useful, and has certainty.[5]

However, if in the concept of trias politika, a state must separate powers between the executive as the party that runs the government and the law, the judiciary as the party that maintains the law and has the right to provide justice related to violations of the law, and the legislature as the party that forms a law.[6]Indonesia has differences in terms of separation of powers, namely Indonesia prioritizes the division of powers between executive, judicial and legislative and not separation of powers. It is proven that what can form a law does not only lie in legislative authority but in all state institutions, both executive and judicial.

As stated in Law No. 12 of 2011 article 8 paragraph (1) that: [7]

> "*Types of laws and regulations other than those referred to in Article 7 paragraph (1) include regulations stipulated by the People's Consultative Assembly, House of Representatives, Regional Representative Council, Supreme Court, Constitutional Court, Audit Board, Judicial Commission, Bank Indonesia, Ministers, agencies, institutions, or commissions at the same level established by Law or the Government by order of the Law, Provincial People's Representative Council, Governor, Regency/City People's Representative Council, Regent/Mayor, Village Head or equivalent*."

Article 1 point 4 defines what is meant by government regulation in lieu of law (Perppu) as follows: [8]

> "*Government Regulations in Lieu of Law are laws and regulations established by the President in the event of a compelling emergency*."

[5] Ibid

[6] Oktavira Bernadetha, "The Meaning of Trias Politika and Its Application in Indonesia", https://www.hukumonline.com/klinik/a/trias-politica-di-Indonesia-lt623c3bc471c1e, May 4, 2023, accessed [December 10, 2023]

[7] Law No. 12 of 2011

[8] Law No. 12 of 2011

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This provision indicates that in addition to the legislature, the executive and judicial institutions also have their own authority to form laws and regulations. In the case of the formation of Perppu stipulated by the President, certain special conditions are given, namely the existence of a compelling emergency. This means that the President cannot immediately issue a Perppu without consideration of a compelling emergency. However, many views state that the phrase "compelling crunch" can be said to be a multiinterpretive phrase. This can be interpreted because there is no limit or benchmark in determining what a situation looks like that can be categorized as having a compelling emergency. Prof. Islmail Sunny argues that the limit of the urgency of force in issuing Perppu legal products is that when an emergency occurs, there is nothing other than an emergency that can make the President issue a Perppu.[9]

However, this explanation is still not enough to provide a true definition of the limits of what can be said that an event is a critical and compelling event. If we look further into the emergency that has been explained by Prof. Ismail Sunny, the President can also interpret a very diverse emergency. Basically, this provision will not be separated from the role of the President as a state leader who must ensure safety, order, and comfort for the people, so the President in the event of a compelling emergency can take his own role to make a Perppu which is felt to be a solution to serious problems that are critical and can threaten the order of people's life in Indonesia.

So the presence of Perppu No. 2 of 2017 is the answer to a compelling urgency from the phenomenon of CSOs in Indonesia which is increasingly troubling the public for all its actions which are considered no longer relevant to the original purpose of establishing CSOs. If we look at the definition of CSOs in Article 1 number 1 of Perppu No. 2 of 2017 is:

> "*Community Organizations hereinafter referred to as CSOs are organizations established and formed by the community voluntarily based on the same aspirations, wills, needs, interests, activities, and goals to participate in development for the achievement of the goals of the Unitary State of the Republic of Indonesia based on Pancasila and the Law on the State of the Republic of Indonesia Year 1945.*"

The provisions in the article mean that all common wills, aspirations, needs, interests, activities, and objectives in the formation of a mass organization must still be in line with the participation given in state development in order to achieve

[9] Simarmora Janpatar, "Government Regulations in Lieu of Law are laws and regulations stipulated by the President in terms of compelling emergencies", Mimbar Hukum, Vol. 22 No. 1, 2010

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the goals of the Unitary State of Indonesia. CSOs should be an important component of the state to build unity strength in order to support, implement and even supervise state policy measures. Legal politics by including CSOs in a separate law is so that public participation can move actively and massively in order to realize the goals of statehood together with the government. Historically, it can even be seen that the role of CSOs in the struggle for independence in Indonesia is very large. So it is necessary to have laws and regulations that regulate as a legal umbrella for the formation of CSOs themselves.[10]

If the formation of CSOs is not in line with the goals and ideals of the nation and state, it can be concluded that the behavior or activities and activities carried out have deviated from the purpose of the formation of CSOs themselves. It can also be said that the CSOs are no longer effective and no longer relevant to continue running because they are not in accordance with the original purpose of their formation. Apart from being seen from the purpose of the formation of CSOs themselves, which must also be considered, in the process in the field, often the actions carried out by CSOs are very detrimental to the community and even disturb public order. In fact, as we all know that CSOs should be organizations that represent the community in terms of achieving the desired goals. The participation of CSOs in a community group is needed because the geographical conditions in our Indonesian country are different ethnicities and ethnicities. So it is hoped that the formation of CSOs will be able to become representatives of society who have high intellectual insight, maintain peace, and order in society.

However, the facts on the ground state that in the last 5 years there have been many acts of mass organizations that have arbitrarily committed acts of violence, destruction, vigilantism, brawls, and some even committed criminal acts of persecution to the surrounding community because they did not want to pay security money. In addition, there are several CSOs that openly oppose or do not recognize and discredit Pancasila, which is the state basis or *ground norm of the* Unitary State of the Republic of Indonesia. In addition, there are also many mass organizations under the guise of religion but affiliated with terrorist networks.

We can see deviations in goals carried out by several CSOs, for example in West Karawang on October 24, 2021, there was a clash between the Indonesian Lower People's Movement (GMBI) and the Unitary State Non-Governmental

[10] Wibowo and herman, "THE URGENCY OF SUPERVISION OF COMMUNITY ORGANIZATIONS BY THE GOVERNMENT", Journal of Bina Praja, Vol. 7 No. 1, March 2015.

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Organization of the Republic of Indonesia (NGO NKRI).[11] The beginning of the problem that allegedly occurred was due to the struggle for waste between the two. The clashes have left the community with losses in the event that a vehicle is set on fire on the spot. In addition, there were also injuries and casualties from both sides. In Magelang there has even been a riot involving 2 wing mass organizations from the Political Party (Parpol) between the PDIP Warriors and the Kaaba Youth Movement (GMK).[12]Where Laskar PDIP is a wing mass organization of PDIP and GMK is a wing mass organization of PPP. The riot occurred with the act of throwing stones between the two sides. At least 6 motorcycle-type vehicles were burned due to the riot. The two allegedly clashed due to different choices in the 2024 General Election which made the two involved in a brawl between mass organizations.

Then no less terrible than the arbitrary acts committed by CSOs are those carried out by the Islamic Defenders Front (FPI) which has been dissolved by the government. In 2011, FPI conducted sweeps to the streets every year during Ramadan in search of stalls that remained open during the day. If they find a stall that is open during the day, they will immediately persecute or destroy the goods there so that the stall owner immediately closes his food stall. This happened in Makassar where FPI raided the Topaz Restaurant (RM) which was found to be open during the day and destroyed chairs in the restaurant. Not only the FPI mob chairs also smashed plates, glasses, and glass on RM Topaz. Even the FPI threatened not to hesitate to burn down the restaurant if it continued to resist and did not close its stall.

If we look at the community's point of view related to the event, of course the community will not feel comfortable and will instead feel threatened by it. The existence of these mass organizations actually becomes a frightening scourge for the community and not as representatives of those who should be able to protect the community. The number of CSOs in Indonesia is not only an advantage to support the development of the country and realize its ideals. However, it is also a threat because the many differences between one community group and another will make the seeds of conflict can occur and even disturb the comfort and order of the community.

[11] CNN Indonesia, "CSOs Riot in Karawang Swallows Victims, Allegedly Due to Waste Grab", https://www.cnnindonesia.com/nasional/20211125071635-12-725780/kerusuhan-ormas-di-karawang-telan-korban-diduga-akibat-rebutan-limbah, Retrieved [December 10, 2023]

[12] Adhik Kurniawan, "Riots in Muntilan Involve 2 Political Party CSOs, Kesbangpol Central Java Speaks Up", Solopos Central Java, October 16, 2023, accessed [December 10, 2023]

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In addition to riots and destruction, there are also mass organizations that reject the ideology of Pancasila such as the Jamaah Ansarut Tauhid (JAT), Hizbut Tahrir Indonesia (HTI), and the Indonesian Mujahideen Council (MMI). The three CSOs exemplified have openly made calls to replace the Pancasila ideology and the country's constitution as well as the political system of government and the foundation of statehood. The organization under the guise of religion wants to change the ideology of the Indonesian state from Pancasila to religious in this case Islam. This movement of mass organizations under the guise of religion has deviated into the category of radicalization that has invaded the sovereignty of the Indonesian state.

Based on the facts presented in the field, the Government, especially the president as the head of government and head of state, needs to take strategic steps in order to handle similar cases in the future. Law No. 17 of 2013 is clearly no longer relevant as a legal umbrella and also a supervision for many CSOs in Indonesia. There needs to be a change that is fast and not protracted in terms of making a significant change to find a solution to the problem. There is a compelling urgency that is clearly and clearly demonstrated in this case. The spread of radicalism in Indonesia through CSOs is one of the factors in the urgency that forces it to stipulate Perppu No. 2 of 2017.

Law No. 17 of 2013 cannot even define well what things or activities can be included in an action that is contrary to the values contained in the nation's ideology, namely Pancasila itself. As stipulated in the provisions of Law No. 17 of 2013, it only narrowly defines the definition of activities that are contrary to Pancasila only in the teachings of Atheism, Marxism / Komnism, and Leninism.13 The regulation of a deviant understanding of Pancasila in addition to these teachings should also be one of the main focuses in terms of prohibiting CSOs from doing things that are contrary to Pancasila.

In the absence of these provisions in the previous regulation, namely Law No. 17 of 2013, there is a legal vacuum or rechstvacuum in the provisions of the law. If we look further, the meaning of a legal vacuum is the existence of an event where there are no laws and regulations that have regulations related to an action or behavior of

[13] Khoulud Bestiani, "Comparison of Arrangements for Dissolution of Community Organizations According to Law Number 17 of 2013 concerning Community Organizations and Law Number 16 of 2017 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2017 concerning Amendments to Law Number 17 of 2013 concerning Community Organizations into Law", Thesis UII, Yogyakarta, 2018.

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the community.14 In addition to the absence of a law that regulates a legal vacuum, it can also occur in conditions where there are already laws and regulations that have regulated community behavior, but there is an ambiguity or vagueness in words, phrases, or sentences intended or not regulated by a provision in the legislation.

If a law has a legal vacuum in its regulation, it will have an impact on the legal uncertainty that will be experienced by the community (rechtsonzekerheid). Legal uncertainty is one of the events that can be expressed as a state of compelling urgency. This is because legal uncertainty can cause a new phenomenon in the realm of law enforcement itself, namely the occurrence of legal chaos.15 In this case, Law No. 17 of 2013 can be indicated to produce a phenomenon in such a critical way. So the government, in this case, the President needs to immediately take action that is not only fast but also appropriate.

The need for regulations related to the expansion of meaning in the event of an action of CSOs that deviate from the values of Pancasila is a government step to be able to prevent bad phenomena in the future that will be difficult to overcome. The President in this case taking a policy to immediately issue Perppu No. 2 of 2017 can be said to be an appropriate and strategic step taking seeing the relevance in the regulation of Law No. 13 of 2017 is considered unsuitable to be maintained. The strategic policy made by the president in steps to prevent the possibility of legal chaos is actually in line with the role of legal politics in the formation of laws and regulations, namely legal politics as a basic guide in the process of determining values, determination, formation and development of national law.16

When viewed from the role of legal politics in the formation of laws and regulations, the President's decision to immediately form Perppu No. 2 of 2017 is a step in the development of national law, in this case regulations related to CSOs that need to be reviewed and adjusted to the conditions that exist today. Basically, the circulating issues stating that the government targets certain mass organizations to be disbanded by issuing Perppu No. 2 of 2017 are false and baseless. This is because Perppu No. 2 of 2017 does not discredit only a few CSOs, but the provisions contained in the regulation apply to all existing CSOs.

[14] Pratama Fachrizza, "The Rechtsvacuum Phenomenon in Government Regulation of the Republic of Indonesia Number 51 of 2020 Related to the Passport Extension Period to 10 Years", Journal of Law and Border Protection, Vol.1, 2019.

[15] Ibid

[16] Fitriana Mia, "The Role of Legal Politics in the Formation of Laws and Regulations in Indonesia as a Means of Realizing State Goals", Journal of Indonesian Legislation.

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Another thing as the government's legal politics by stipulating Perppu No. 2 of 2017 is to apply the principle of contrarius actus which means that government officials who give permission to an institution or organization have the authority to be able to revoke directly the permission of the institution or organization.17 According to Philipus M. Hadjon and Tatiek Sri Djatmiati in MK magazine stated that what is meant by the principle of contrarius actus is something that states that the state administrative body or official that issues state administrative decisions by itself is also authorized to cancel them.18This means that Perppu No. 2 of 2017 wants to improve the provisions that are not yet in Law No. 17 of 2013 where in the provisions of the law if CSOs want to be disbanded, it is necessary to go through court proceedings.

B. Perppu Preparation Process in accordance with Legal Principles Applicable in Indonesia

After the discussion above, we discussed the legal politics of the establishment of Perppu No. 2 of 2017 which is a concrete and effective step taken by the President to overcome a compelling urgent action in the event of a legal vacuum in Law No. 17 of 2013, we also need to examine whether the formation of the Perppu is in accordance with the regulations of making the Perppu itself. The most common context known by many parties related to the formation of the Perppu itself is the existence of a compelling emergency. Above, it has also been explained that the sentence contains a lot of controversy which causes many assumptions stating that often in making Perppu the President as the authority to make Perppu determines the phrase "compelling crunch" to be very subjective. This opinion is very worried by many parties, if the President determines the formation of Perppu with a high subjectivity factor, it could be that the Perppu made is actually not a quality legislation in terms of the urgency of its formation.

Although Perppu is an authority of the President to form laws and regulations whose level is equated with the law itself which can be formed in a different way than the formation of laws in general, there is a period of validity of the Perppu itself which is 1 year.19 The provision that there must be approval from the DPR

[17] Nalle, V. I. (2017). The Principle of Contarius Actus on Perpu Ormas: Criticism in the Perspective of State Administrative Law and Human Rights. *PADJADJARAN Journal of Law*, *4*(2), 244-262.

[18] Aurelia Bernadetha, "Knowing What is *the Principle of Contrarius Actus*", https://www.hukumonline.com/klinik/a/asas-contrarius-actus-lt5a4091a9d6c08, November 17, 2023, Retrieved [December 13, 2023]

[19] Siddiq, M. (2014). Urgency of force or interests of the ruler (analysis of the formation of Government Regulations in Lieu of Law (PERPPU)). *Ash-Shir'ah: Journal of Shari'ah and Law*, *48*(1).

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related to the Perppu that has been determined for 1 year is one way that it can be proven that the stipulated Perppu is a subjective view of the President alone as a maker or indeed the formation of the Perppu based on facts that can be seen objectively.

Later, the Perppu which is considered by the DPR as a law needed because there are compelling emergency factors such as a legal vacuum, then the Perppu will be enacted as a law. Conversely, if a Perppu establishment determined by the President is considered irrelevant or is considered to have no element of compelling urgency, then the Perppu will not be approved by the DPR and its position as one of the laws and regulations will be revoked.

According to article 52 of Law No. 12 of 2011 regulates the preparation of Perppu as follows:[20]

1. The Perppu will be submitted to the DPR during the session in order to synchronize and harmonize.
2. The proposed Perppu will form the Perppu Determination Bill into law.
3. The House of Representatives will give a form of approval or not.
4. If the Perppu has been approved by the DPR, it will be determined that the Perppu will become law in a plenary meeting.
5. If the Perppu is not approved then the Perppu will be considered invalid.

The Constitutional Court (MK) in decision No. 138/PUU-VII/2009 has determined 3 main parameters for the President to determine a Perppu are as follows:[21]

1. The existence of circumstances i.e. an urgent need to resolve legal issues quickly based on the law;
2. The required law does not exist so that there is a legal vacuum or there has been an arrangement in a law but it is no longer relevant and/or adequate;
3. The legal vacuum that occurs cannot wait for the legislature to form new laws with the usual procedures due to time constraints and the need for legal certainty.

The three parameters that have been set by the Constitutional Court in the framework of making Perppu have become a strong foundation in the formation of the Perppu itself which will be made by the President. In fact, the Constitutional Court does not mind the subjectivity of making the Perppu itself made by the President. Basically, the establishment of Perppu is indeed a presidential authority that he can do based on the subjectivity of his views. However, the parameters made

[20] Faqih, M. (2019). THE PROCESS OF FORMING LAWS AND GOVERNMENT REGULATIONS IN LIEU OF LAWS. *Pulpit of Justitis*, *3*(2), 165-178.

[21] Tri Jata Ayu Pramesti, "When Will Perppu Be Made by the President and What Are the Conditions?", Law Online, February 8, 2022, Retrieved [December 13, 2023]

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by the Constitutional Court have shown that there is a requirement that the President can declare a phenomenon categorized as a phenomenon that has a compelling urgency must be based on the objectivity of facts in the field.

Considerations in determining the phenomenon have been determined by the Constitutional Court as a guide for the government, in this case the President to determine whether a situation can be declared as a category of compelling circumstances. So we can conclude that the subjectivity of the President's views in determining the formation of the Perppu itself still meets the element of objectivity, namely the existence of facts in the field that are used as a matter of consideration. Thus, in the process of making Perppu has a shorter period of time compared to lawmaking in general. This is because there is an urgent force that urges the government to quickly make changes for legal certainty.

V. CONCLUSION

That the formation of Perppu No. 2 of 2017 is due to legal politics from the government to immediately provide legal certainty in cracking down on CSOs that are considered no longer in accordance with the definition and purpose of the establishment of CSOs themselves. The fact about the actions and activities carried out by these CSOs in the field that disturb order and peace in the community is the reason for the compelling urgency that cannot be resolved by the old laws and regulations, namely Law No. 17 of 2013 which is no longer relevant to use. That Perppu No. 2 of 2017 is a quick and appropriate step for the government to provide concrete solutions to the problems of CSOs that disturb the community that cannot be acted upon as stipulated in Law No. 17 of 2013.

That the establishment of Perppu No. 2 of 2017 is in accordance with the provisions in the establishment of Perppu itself. That all the necessary elements have been fulfilled properly. Indeed, the formation of the Perppu itself is a form of subjectivity from the Government, in this case the President. However, in the formation of Perppu No. 2 of 2017, it has been explained the facts on the ground that there is a compelling urgency to be able to provide legal certainty in the community as soon as possible. That the subjectivity of views in making Perppu is based on views from facts presented objectively so as to cause consideration in making a better and relevant form of legislation. That the government's subjective view in forming a Perppu does not need to be worried because the determination of a Perppu has a limited period of time, where after that period has expired, a meeting must be held with the DPR and assessed the objectivity of the formation of the Perppu. If the DPR declares that there needs to be a determination, the Perppu will be enacted into law. However, if in a meeting with the

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DPR states that it is not objective and not critical in the process of determining the Perppu, then the Perppu that is proposed to be rejected will be revoked and return to the previous laws and regulations.

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