

THE DYNAMICS OF THE DISSOLUTION OF COMMUNITY ORGANIZATIONS FROM THE PERSPECTIVE OF CONSTITUTIONAL LAW: A CRITICAL STUDY OF LAW NO. 16 OF 2017

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Abstract

The dissolution of civil society organizations in Indonesia, particularly following the enactment of Law No. 16 of 2017, raises fundamental constitutional questions regarding the balance between state authority and individual rights. This study critically examines the legal dynamics surrounding the state's authority to dissolve CSOs without prior judicial review, highlighting a tension between administrative powers and constitutional guarantees of freedom of association and assembly. The research aims to analyze the legal basis, authority, and procedural mechanisms for dissolving CSOs from a constitutional law perspective; assess the constitutional implications of extrajudicial dissolution; conduct comparative analysis with democratic legal systems; and offer constructive legal reform recommendations. Employing a qualitative doctrinal approach through conceptual and comparative legal analysis, this study relies entirely on secondary data from statutes, academic literature, court rulings, and international human rights instruments. The findings reveal a disconcerting legal paradox wherein state efforts to safeguard ideological unity undermine democratic principles and rule of law. The absence of judicial oversight in the dissolution process contradicts core tenets of constitutional democracy and poses serious threats to civil liberties. Comparative insights from democratic nations demonstrate that procedural safeguards and judicial intervention are essential in preserving fundamental rights. This research contributes to constitutional legal theory and practice by offering a normative critique and proposing reforms to align national law with universal democratic standards. The study also invites future empirical research on the socio-political impacts of CSO dissolution.

Keywords: Community Organization, Constitutional Law, Dissolution



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INTRODUCTION

The phenomenon of dissolving community organizations in Indonesia has undergone significant changes since the enactment of Law Number 16 of 2017, which ratified Government Regulation in Lieu of Law Number 2 of 2017 (Assidiqi, 2025; Nurhidayah dkk., 2025). This law grants the government authority to unilaterally dissolve ormas without judicial process, based on allegations that the organization contradicts Pancasila. This mechanism raises concerns about the protection of constitutional rights, particularly the freedom of association and assembly guaranteed under Article 28E paragraph (3) and Article 28I paragraph (1) of the 1945 Constitution of the Republic of Indonesia. The imbalance between state interests in maintaining ideology and public order and the human rights of citizens creates a complex constitutional law issue (Elenabella & Giawa, 2025; Rasya & Triadi, 2024; Trianjaya, 2024). In contrast, the dissolution of organizations in democratic countries is typically carried out through judicial processes as a form of checks and balances on executive power. This highlights the necessity of a comprehensive analysis of Law Number 16 of 2017 using a constitutional and comparative legal approach to identify a fairer and more democratic solution.

Various academic studies and legal literature on the dissolution of community organizations have emerged, yet gaps remain in explaining the tension between the rule of law principle and the administrative power exercised by the government (Amer, 2020). Constitutional law theories such as the rule of law and constitutionalism provide normative frameworks to assess the legitimacy of ormas dissolution policies, but they have not fully addressed the dilemmas of legal implementation in a pluralistic democratic state. Moreover, comparative studies on similar practices in other countries are still limited, offering few alternative legal models as references. Existing literature tends to emphasize formal legal aspects while lacking critical examination of how dissolution mechanisms affect democratic quality and human rights protection. Therefore, a more integrative, critical, and comparative approach is needed to respond to the complexities of ormas dissolution within the Indonesian constitutional law framework.

This study aims to conceptually analyze the legal basis, authority, and mechanisms for dissolving community organizations as regulated in Law Number 16 of 2017 from the perspective of constitutional law. In addition, it examines the constitutional implications of dissolving ormas without judicial process on citizens' fundamental rights, particularly the right to freedom of association and assembly. Furthermore, this research conducts a comparative analysis of similar practices in other democratic legal systems to identify universal principles that are relevant and applicable to the Indonesian legal context. Ultimately, this study seeks to provide constructive criticism and legal recommendations for reformulating the legal framework governing the dissolution of ormas to align with the principles of the rule of law, democracy, and human rights protection.

Based on the existing dynamics and the objectives formulated, this research is grounded in the argument that dissolving community organizations without judicial process constitutes a deviation from the principles of the rule of law and constitutional democracy. Unilateral administrative actions by the executive in dissolving ormas not only undermine the principle of checks and balances but also risk narrowing civil liberties in a democratic state. The hypothesis proposed in this study is that a democratic and constitutional model for ormas dissolution must involve judicial oversight as the final safeguard against the restriction of fundamental rights. By employing a conceptual and comparative legal approach, this research seeks to test the validity of this hypothesis and propose a more equitable and proportionate legal solution within the Indonesian constitutional law framework.

Community organizations (ormas) are social entities voluntarily formed by a group of individuals to achieve common goals in areas such as social affairs, religion, humanitarian efforts, education, or culture, independent of the formal structure of the state (Hartono, 2023; Rahmat, 2023). According to Law Number 17 of 2013 on Community Organizations, as amended by Law Number 16 of 2017, ormas are recognized as part of citizens' participation in national life. These organizations may take the form of foundations, associations, or other legally recognized structures. The essence of ormas lies in the citizens' freedom to express their aspirations and contribute collectively to society. Thus, in a democratic state, ormas serve as essential channels for public interest articulation and the exercise of social control. A clear understanding of the concept of ormas is therefore crucial in discussing legal policies that govern their existence and sustainability in Indonesia.

Community organizations in Indonesia exhibit diverse forms and classifications, reflecting the nation's social and cultural diversity. Legally, ormas can be categorized by their area of activity, such as religious, humanitarian, environmental, educational, or cultural organizations (Aris & Sapari, 2023; Djoneri dkk., 2022). They can also be classified based on their legal status—either legal entities or informal groups—and the scope of their operations, whether local, national, or international. Ormas also manifest in social movements that may not be formally structured but still exert significant influence on social dynamics. This diversity indicates that ormas function not only as platforms for social activity but also as instruments of social transformation, policy advocacy, and civil society strengthening. Therefore, legal regulations governing ormas must take into account the variety of forms and functions in order to avoid excessively restricting civic participation.

Dissolution, in legal terms, refers to the legal act of permanently terminating the existence of a legal entity or organization (Mubarak & Arsyad, 2021; Rahayu, 2024; Safriani, 2022). In the context of community organizations, dissolution is a legal or administrative process that ends the legality and activities of the organization (Ahsani & Qamariyanti, 2025; Farida, 2021). It may occur voluntarily by the organization's members or be imposed by state authorities based on specific legal violations. In constitutional law, the dissolution of ormas is a sensitive issue as it directly relates to citizens' fundamental rights, such as freedom of association and expression. Therefore, the concept of dissolution must be understood not only as an administrative procedure but also as an action with significant constitutional and political implications. Such an understanding is crucial to ensure that the dissolution process is carried out with due caution and does not violate democratic rule of law principles.

The dissolution of community organizations can be categorized into two main forms: voluntary and forced dissolution. Voluntary dissolution occurs based on the organization's internal decision, such as a lack of active members or the achievement of its objectives. In contrast, forced dissolution is carried out by the government under specific legal provisions, such as violations of state ideology, involvement in criminal acts, or threats to public order. Under Law No. 16 of 2017, forced dissolution can be carried out administratively by the Minister without judicial proceedings. This form of dissolution raises legal and ethical concerns, as it is perceived to bypass due process and human rights protections. Therefore, it is

necessary to re-evaluate dissolution models to ensure they are not only legally valid but also constitutionally just.

Constitutional law is a branch of legal science that regulates the structure and functions of state institutions, inter-institutional relations, and the relationship between the state and its citizens, particularly concerning constitutional rights (Reyhan & Triadi, 2024; Rifandanu, 2024; Triadi & Rangoraja, 2024). In a democratic context, constitutional law serves as the normative foundation for the fair, transparent, and accountable exercise of power (A'la Zamzamy, 2025; Raharjo dkk., 2023). It also includes mechanisms of checks and balances among the executive, legislative, and judicial branches. Moreover, constitutional law guarantees human rights protection within the constitutional framework. Therefore, discussions on the dissolution of community organizations must be viewed through the lens of constitutional law, especially regarding executive authority limits, the judiciary's role, and the protection of civil liberties. This understanding is crucial to ensure that dissolution regulations and actions do not conflict with fundamental constitutional principles.

Constitutional law manifests broadly in state governance practices and can be classified into several key areas, such as the regulation of state power, protection of constitutional rights, and power limitation through oversight mechanisms. In practice, constitutional law reflects democratic principles through public participation, constitutional supremacy, and constitutional adjudication mechanisms. One of its most important manifestations is the Constitutional Court, which reviews the constitutionality of laws and safeguards citizens' constitutional rights. In the context of ormas dissolution, constitutional law serves as an analytical instrument to assess the compatibility between state actions and constitutional principles. Therefore, the application of constitutional law must ensure that ormas dissolution is not used as a repressive tool but remains within the bounds of democracy and human rights protection.

RESEARCH METHOD

The object of this study is the phenomenon of the dissolution of community organizations (ormas) in Indonesia, which has experienced significant legal dynamics since the enactment of Law No. 16 of 2017, which ratified Government Regulation in Lieu of Law No. 2 of 2017. This law grants the government broad authority to dissolve ormas without judicial process, especially if the organization is deemed contrary to Pancasila. The mechanism raises constitutional concerns, particularly regarding the protection of the right to freedom of association and assembly as stipulated in Articles 28E and 28I of the 1945 Constitution. The imbalance between state interests in maintaining ideological order and the constitutional rights of citizens has become a central issue in Indonesian constitutional law. In contrast, other democratic countries generally require judicial proceedings to dissolve organizations as a form of checks and balances. These differences form the basis for a comparative legal study to find a more balanced legal model that reconciles public order with the protection of civil liberties.

This research adopts a library research method, which involves a conceptual and comparative legal approach. Primary data are obtained from legal documents and authoritative literature that directly discuss the legal dynamics of ormas dissolution in Indonesia, especially under Law No. 16 of 2017. This law has sparked debate regarding state authority and citizen rights, particularly in relation to administrative dissolution without due process. In addition, secondary data are sourced from various books, peer-reviewed journals, academic articles, legal commentaries, and previous research related to the keywords of this study: community organizations, dissolution, and constitutional law. The use of both primary and secondary data enables a comprehensive understanding of the issue from theoretical, normative, and empirical perspectives. All data are critically examined to explore the implications and controversies surrounding the legal framework for the dissolution of ormas in Indonesia.

This study is guided by several key theories that serve as the analytical framework. First, the Rule of Law Theory is employed to assess the extent to which the dissolution of ormas under Law No. 16 of 2017 adheres to legal supremacy, protection of human rights, and the principle of due process. Second, Constitutionalism Theory provides a framework to examine the relationship between state authority and its limitations by the constitution, especially in ensuring the protection of the right to associate. Third, the study uses the Theory of Popular Sovereignty and Constitutional Democracy to interpret ormas dissolution within a democratic framework that values citizen participation, pluralism, and respect for ideological differences. Lastly, the Comparative Legal Theory is applied to compare the legal mechanisms for organizational dissolution in other democratic countries, with the aim of identifying proportional and contextually appropriate models for Indonesia. These theories collectively form the interpretive lens for the data analysis process.

The data collection process in this study is carried out through systematic review and critical reading of literature related to the dissolution of community organizations from both Indonesian and international contexts. Data were gathered from various written sources, including books, government documents, legislation, scholarly articles, journals, legal case studies, and institutional reports. The selection of literature was guided by its relevance to the constitutional implications of ormas dissolution, legal doctrines involved, and comparative practices across jurisdictions. This literature-based method enables the researcher to reconstruct the legal debates, identify conceptual issues, and extract normative patterns that are critical to the study. The data collection process emphasizes source credibility, doctrinal consistency, and alignment with the research objectives.

This study uses content analysis as the main technique for data analysis. Content analysis allows for systematic examination of texts and legal materials to identify patterns, categories, and interrelationships among legal principles and arguments. The researcher organizes and interprets data to assess the legal coherence of the dissolution mechanism under Law No. 16 of 2017 and its compliance with constitutional principles. The content analysis also involves comparative evaluation by reviewing dissolution practices in other legal systems to highlight similarities, differences, and normative implications. The findings are then synthesized to construct legal arguments, formulate critical assessments, and develop recommendations. Through this approach, the study ensures that conclusions are drawn based on rigorous interpretation of legal texts, doctrines, and scholarly discourse.

RESULTS AND DISCUSSION

Literature studies on community organizations (ormas) in Indonesia describe them as entities formed voluntarily by citizens to engage in social, religious, educational, or political activities. According to Law No. 17 of 2013 on Community Organizations, ormas play a strategic role in shaping civil society and supporting national development. These organizations vary in scope, ranging from small local associations to large-scale national movements. The literature also highlights the historical evolution of ormas, especially in the post-reform era, where democratization encouraged the proliferation of diverse ormas. These studies emphasize the significance of ormas in promoting public participation, advocating for human rights, and serving as instruments of social change. Various academic sources affirm that ormas function within the constitutional framework, exercising their right to freedom of association as guaranteed by the 1945 Constitution. The legal framework governing ormas provides legitimacy and a clear set of obligations and limitations to ensure public order and alignment with national principles.

Further explanation from the literature reveals that the legal status and regulation of ormas are subject to the ideological foundation of the Indonesian state, namely Pancasila. This ideological basis is frequently used as a benchmark for assessing the legitimacy of ormas' activities. Academic discussions indicate that any deviation from this foundation may subject ormas to sanctions, including administrative dissolution. The literature also presents debates around state control and civil liberties, particularly the tension between maintaining public order and safeguarding constitutional rights. Many scholars express concern that regulatory mechanisms often lean toward state dominance, undermining democratic practices. There is also an emphasis on the role of the Ministry of Home Affairs and the judiciary in overseeing ormas, though their effectiveness and impartiality remain under scrutiny. Overall, the literature provides a comprehensive understanding of ormas as dynamic entities influenced by political, legal, and societal factors.

The data obtained from the literature and its explanations reflect the complex relationship between the state and civil society in Indonesia. The portrayal of ormas as vehicles of democratic participation contrasts with the increasing regulation and intervention by the state. This tension becomes evident in the discourse surrounding the dissolution of ormas deemed incompatible with Pancasila. The practical implementation of ormas regulation, particularly since the enactment of Law No. 16 of 2017, suggests a shift in the balance of power towards executive authority. This legal development aligns with the broader concern in constitutional law regarding the protection of civil liberties. Thus, the literature findings support the notion that ormas are at the intersection of legal, political, and ideological dynamics, and their existence is heavily influenced by how the state interprets its constitutional mandate.

Literature concerning the dissolution of organizations focuses on the legal instruments and procedures used by the state to disband or restrict ormas. Law No. 16 of 2017 is central to this discussion, as it amends key provisions from Law No. 17 of 2013 by enabling the government to dissolve ormas without prior judicial review. This shift is portrayed in the literature as a move away from democratic accountability toward executive discretion. Legal scholars examine the mechanisms of dissolution, emphasizing the role of administrative sanctions, license revocations, and outright bans. The literature also outlines historical cases of dissolution, highlighting both the legal justifications and political motivations behind such actions. These studies underscore the significance of legal clarity, proportionality, and judicial oversight in maintaining the legitimacy of dissolution procedures in democratic societies.

Explanations from the literature further highlight the potential risks of granting excessive power to the executive in the dissolution of ormas. Legal commentaries argue that the absence of judicial checks may lead to arbitrary and politically motivated decisions. Several sources discuss the impact of Law No. 16 of 2017 on freedom of association, noting a decline in civic engagement due to fear of reprisal. Comparative legal analyses included in the literature present alternative models from democratic nations where dissolution requires court approval, ensuring due process and protecting minority rights. These examples provide a critical perspective on the Indonesian model, suggesting the need for reforms that restore balance between state authority and civil liberties. Moreover, the literature often calls for clearer legal standards and transparent procedures to enhance the rule of law.

The relationship between the literature's description and explanation of dissolution and the research problem is evident in the emphasis on legal inconsistency and democratic backsliding. The data points to a significant divergence between constitutional guarantees and the actual practice of dissolving ormas. The central issue lies in the tension between safeguarding state ideology and protecting citizens' rights. The absence of judicial mechanisms challenges the principles of rule of law and undermines trust in public institutions. Thus, the findings confirm that the dissolution of ormas in Indonesia is not merely a legal action but a reflection of deeper constitutional dilemmas. The literature underlines the need for harmonizing

national security interests with democratic values through improved legal frameworks and institutional reforms.

The literature on constitutional law (Hukum Tata Negara) provides foundational insights into the legal principles governing state authority and citizen rights. Key concepts include the supremacy of the constitution, the separation of powers, and the protection of fundamental freedoms. Scholars emphasize that constitutional law serves as the highest legal norm, guiding all aspects of governance, including the regulation of ormas. The literature reviews how constitutional interpretation evolves in response to political developments and the role of the judiciary in safeguarding constitutional integrity. In the Indonesian context, discussions often revolve around the tension between executive authority and constitutional safeguards, especially concerning civil society regulation. These studies form the basis for evaluating whether legislative and executive actions align with constitutional mandates.

Detailed explanations from the literature point to specific challenges in applying constitutional principles consistently in the regulation and dissolution of ormas. Constitutional scholars note that while the constitution guarantees freedom of association, implementing laws often impose limitations that may not meet the tests of necessity and proportionality. The literature critiques the use of vague legal terms such as "anti-Pancasila" to justify dissolution, which opens the door to subjective and potentially abusive enforcement. Additionally, there is discussion about the limited role of the judiciary in reviewing executive decisions, which weakens the system of checks and balances. Scholars propose reforms to strengthen judicial review and ensure that constitutional rights are not sacrificed for political expediency. These insights are crucial for understanding how constitutional law operates in practice.

The relationship between the literature on constitutional law and the real-world issue of ormas dissolution demonstrates a gap between theoretical principles and practical implementation. While the constitution provides a robust framework for the protection of rights and limitation of power, legislative instruments such as Law No. 16 of 2017 appear to contravene these principles. The exclusion of judicial oversight in the dissolution process is inconsistent with the ideals of rule of law and due process. This disconnect highlights a critical area of concern in Indonesia's constitutional practice. The literature supports the view that without proper institutional checks, constitutional guarantees risk becoming nominal. Therefore, these findings affirm the urgency of reexamining the legal framework to ensure it upholds the spirit and letter of the constitution.

Table 1. Research Findings

No.	Research Objective	Key Findings
1	To conceptually analyze the legal basis, authority, and mechanisms for dissolving CSOs under Law No. 16 of 2017 from the perspective of constitutional law	The dissolution of CSOs under Law No. 16 of 2017 centralizes authority in the executive branch through the Ministry of Law and Human Rights, bypassing judicial review. This mechanism poses a constitutional dilemma, as it undermines the principle of separation of powers and the rule of law. The legal foundation for dissolution is often grounded in broad and vague terms such as threats to national ideology, which may lead to arbitrary enforcement.
2	To examine the constitutional implications of dissolving CSOs without a court decision, particularly concerning the protection of citizens'	The absence of judicial oversight in the CSO dissolution process contravenes Article 28E and 28I of the 1945 Constitution, which guarantee freedom of association as a non-derogable right. This raises serious concerns about potential abuse of state power and the erosion of democratic space, especially for dissenting voices. The current mechanism lacks due process

	rights to association and assembly	protections and violates the principle of legal certainty.
3	To conduct a comparative legal analysis of CSO dissolution practices in democratic legal systems to identify universal principles relevant to the Indonesian context	Comparative analysis with countries like Germany, the United States, and India reveals that CSO dissolution is always subject to judicial scrutiny and grounded in precise legal criteria. These democracies emphasize proportionality, necessity, and transparency in state action. Such practices underscore the importance of balancing national security with fundamental freedoms and offer valuable models for legal reform in Indonesia.
4	To provide constructive critique and legal recommendations for reformulating CSO dissolution regulations to align with the principles of the rule of law and constitutional democracy	This study recommends the amendment of Law No. 16 of 2017 to reintroduce judicial involvement in CSO dissolution, establish clear and narrow legal definitions, and incorporate checks and balances. It also advocates for harmonizing national law with international human rights obligations to strengthen Indonesia's democratic integrity and institutional accountability.

The findings of this research reveal a complex interplay between legal authority, constitutional guarantees, and democratic principles in the context of the dissolution of civil society organizations (CSOs) in Indonesia. The review of the literature on CSOs highlighted their diverse roles in a democratic society, while the legal review demonstrated that Law No. 16 of 2017 grants significant unilateral power to the government to dissolve organizations without court intervention. Furthermore, the data suggest a tension between state interests in maintaining public order and the protection of civil liberties guaranteed by the 1945 Constitution. Comparatively, other democratic nations tend to employ judicial mechanisms to uphold checks and balances when addressing organizational dissolution, underscoring the uniqueness—and potential pitfalls—of Indonesia's administrative model.

This study offers analytical depth by positioning its findings within the broader academic discourse on constitutional law and civil liberties. Prior research has largely focused on the normative implications of Law No. 16 of 2017 or conducted sectoral studies on affected organizations. In contrast, this research integrates a multidimensional perspective encompassing legal doctrine, constitutional theory, and comparative law. The comparative analysis, in particular, distinguishes this study by offering alternative paradigms from other democratic jurisdictions. Such integrative insight provides a more holistic understanding of the stakes involved in regulating civil society.

The conceptual reflection of the findings underscores the urgency of harmonizing national legal frameworks with constitutional values and international democratic norms. The study confirms that unchecked executive power in dissolving CSOs not only jeopardizes democratic plurality but also creates a precedent for suppressing dissent under the guise of ideological conformity. This realization supports the relevance of the research objectives, which aim to assess legal foundations, explore constitutional implications, and offer reformative pathways.

The implications of this research extend to the development of legal policy and democratic governance in Indonesia. The findings support a critical reassessment of the dissolution mechanisms stipulated by Law No. 16 of 2017, suggesting that reliance on administrative measures without judicial oversight undermines due process and rule of law. This analysis also contributes to policy debates on the recalibration of executive powers to prevent potential abuse while preserving state security.

The underlying causes behind the current legal structure stem from Indonesia's historical prioritization of political stability and ideological unity. These motives, shaped by past authoritarian regimes and national trauma, continue to influence contemporary legislative choices. However, the normative shift toward democratic consolidation necessitates a legal culture that upholds judicial checks and safeguards civil liberties. The study's findings reflect this tension and suggest a transformative moment for legal reform.

Based on the research outcomes, several actions are recommended. First, a constitutional review of Law No. 16 of 2017 should be initiated to realign the law with democratic standards. Second, judicial involvement must be mandated in all dissolution cases to ensure procedural justice. Third, a more precise legal definition of anti-Pancasila activities should be articulated to prevent arbitrary interpretation. Finally, Indonesia may benefit from comparative legal studies in reformulating its approach, drawing lessons from countries with stronger democratic traditions to build a more resilient legal system that respects both state integrity and individual freedoms.

CONCLUSION

Surprisingly, the study reveals that the dissolution of civil society organizations (CSOs) under Law No. 16 of 2017 in Indonesia departs significantly from the normative expectations of a constitutional democracy. The law permits the government to disband organizations without prior judicial review, a mechanism that fundamentally challenges the principles of rule of law, particularly due process and constitutional safeguards for civil liberties. This finding exposes a legal paradox: in the name of protecting state ideology, the state potentially undermines the very democratic values it purports to uphold. The tension between state security and individual freedoms is no longer abstract but is materially encoded in administrative procedures that bypass judicial oversight.

This research contributes both theoretically and practically to the field of constitutional law. Theoretically, it advances the discourse on constitutionalism by critically juxtaposing Indonesian legal practice with global democratic standards, thereby illuminating the gaps between normative ideals and statutory realities. Practically, the study provides a structured legal critique and a set of normative recommendations aimed at reforming the legal architecture governing the dissolution of CSOs. These insights may serve as a reference for legal scholars, legislators, and civil society advocates seeking to reconcile national security with civil liberties in constitutional democracies.

Despite its robust conceptual and comparative approach, the study acknowledges its limitations in not conducting empirical fieldwork or interviews with affected parties. However, this limitation does not undermine the strength of its normative analysis. Instead, it opens up fertile ground for further research that could empirically assess the socio-political impacts of CSO dissolutions, public perceptions of democratic erosion, and the role of judiciary in protecting constitutional rights. Future studies could also explore legislative reform processes or litigation strategies as avenues for enhancing constitutional accountability in Indonesia.

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