

Non Government Organization and the Authority State of Forcing

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Abstract In the midst of the tide tendencies of globalization, rapidly developing the idea of civil society as a control device to state power, much done by Non Government Organization (NGO). This idea rests on the assumption that the state is not the sole agent in enforcing human dignity. Human dignity in its essence is to glorify mankind in accordance with its nature. The contraction of State relations with civil society associations often referred to as NGOS is due to differences in viewpoints and human dignity. One side of the country sees from the macro aspect that sometimes makes the community a development object. Being on the other hand of NGOS sees the problem in micro. Based on the normative juridical method of research, with the research specifications that are subject to the problem of the Ideal relationship between the NGO and the state, then, refer to it in the sentence description based on the data of the secondary legal material Primary, secondary and tertiary. By using the theory about the nature of the country that forces, then the harmonization of NGO and state relations should base the Indonesian philosophy of Pancasila, where the philosophy always emphasizes the balance of relationships, the balance of rights and obligation, and always in the process of deliberation for every decision making, while observing the value of justice, humanity and the almighty Godhead. Authority forcing owned by the state should not contradict the values of Pancasila, so also the NGO in carrying out its functions should not also contradict Pancasila.

Keywords: NGO, authority, force

I. INTRODUCTION

Amid the tidal tide of the globalization tendency, the rapid development of civil society as a means of control of State power. This idea rests on the assumption that the state is not the sole agent in enforcing human dignity. Human dignity in its essence is to glorify mankind in accordance with its nature, which there is no difference of treat, having equal rights between man and man, and the similarity of law and government. The absence of discrimination is important, because therein lies the appreciation of human dignity. Efforts that can be done to enforce human dignity are always sought and done by civil society groups that see human beings in one country is merely an object not subject to the development process. As an object certainly not positioned as a party with dignity, but only the purpose of the process of enforcement of dignity, which is certainly very different if in the process of enforcement of such dignity, man was made the subject, which will be directly involved In the enforcement process.

History of the enforcement of human dignity in Indonesia, structured to begin before Indonesia is independent. The struggle to escape from the Dutch

colonization made the young intellectual group at the time, changed the way the struggle was done by fighting against the invaders, then in 1908 began to change the way of struggle, by forming and has a civil society group that has a vision to elevate the dignity and human dignials known as Budi Utomo. The emergence of Budi Utomo followed by the birth of civil society groups, in the form of associations that are social, religious and even political culture. The development and struggle of civil society gatherings were subsequently able to tear down the dominance of Dutch colonizers and then Japan, until finally proclaimed Indonesia on 17 August 1945. The appreciation of human dignity and respect is evident in the opening of the CONSTITUTION 1945 especially the 1st paragraph stating that independence is the right of all nations, then the colonization should be abolished because it is not in accordance with the people and the Perijustice.

The presence of the country certainly has a purpose which is the sublime agreement of the founders of the nation, who gave birth to new domination after the birth of the unitary State of the Republic of Indonesia, the country becomes strong against civil society, when the state The purpose of creating it. The question arises, when the country in realizing its mother saw the problem of the macro aspect alone, which sometimes aside small groups that exist in the community. There is a sense of development that is done by the country, more felt to be the community. The purpose of construction on a large scale, more than the small issue of the community. Moreover, in the era of new order, there are many issues arising of the problem of disregard and neglect of the dignity of society that hit development. The cases of the construction of Gajahmungkur reservoir, for example, cause the use of the population from its environment, because it has to move to another place, the case of the development of Kedongombo Reservoir, and still many other cases related to the dignity Human.

The contraction of State relations with civil society associations often referred to as NGOS is due to differences in viewpoints and human dignity. One side of the country sees from the macro aspect that sometimes makes the community a development object. Being on the other hand of NGOS sees the problem in micro. Here is the tangent point between country and NGO, which must be sought after solution. Starting from the problem above, this article wants to find an acceptable solution for NGOS and also countries, in carrying out the purpose of the establishment. This conceptual writing tries to find the relationship format between the NGO and the state that has forcing properties.

II. RESEARCH METHOD

This conceptual writing uses a normative juridical approach, which attempts to analyse regulatory legislation related to NGOs. Based on the primary, secondary and tertiary legal materials, which are presented with qualitative data analysis, will result in a qualitative narrative.

III. FINDINGS AND DISCUSSION

1. NGO in Indonesia

The Defenisi "International NGO" (INGO) was first awarded in resolution 288 (X) of ECOSOC on 27 February 1950: "Any international organization not established on the basis of an international treaty". World Bank, the NGO has been a "private organization that conducts activities to relieve suffering, eradicate poverty, nurture the environment, provide basic social services or conduct community development activities". In an important document of the World Bank, Working With NGOs, mentioned, "in a broader context, the term NGO can be interpreted as all non-profit organizations that are unrelated to the government. NGOS are generally value-based organizations that depend on, either in part or in total, charitable assistance (charitable donations) and volunteer Services (voluntary service). Even since over the last 2 decades the NGO sector has been increasingly professionalized, but the principles of altruism (the importance of others) and volunteering (voluntarism) are still a key feature.[1]

World Bank divides the NGO into two groups, namely: **operational and advocacy.**]]NGO operational The main objective is the design and implementation of development projects. This group drives resources in the form of finance, material or volunteer power, to run their projects and programmes. This process generally requires a complex organization. This operational NGO can still be divided into 3 large groups:

- a. **Communitybased organization** – serving a specific population in a narrow geographic area;
- b. **National organization** – operating in a developing country, and
- c. **International organizations** – which are essentially headquartered in developed countries and run operations in more than one developing country.

The use of the term NGO in Indonesia as a smoothing of the term ORNOP/NGO for the first time originated from a seminar held by the Bina Village Secretariat in Ungaran, Central Java, 1978. By Bambang Ismawan [2], Each country has its own designation to name NGOS among others in India used the designation Voluntary Agency (Volag), UK and some African countries used the term Non-Provit Organization, in the

Philippines used the term Non-Community Organization, in the United States used the term Non-Governmental Organization. The use of the various designations is based on the character of the desired role suppression, and is also influenced by the state system adopted. The role of NGOS as an organization that has a flexible freedom of movement, in its development has resulted in various opinions among Indonesian state officials. The first opinion is that the NGO in Indonesia is an organization that loves to make a fuss by supporting activities that require government to be more democratic, better recognize human rights, and pay more attention to Environmental sustainability in the building. This opinion is still the biggest part of the opinion of government officials both at the national level and in the region. The second opinion sees that an NGO is an organization that can be "used" to achieve planned development objectives. In this context came the "partnership" between the law and the NGO. Since the reforms are rolled out by the students, the presence of the NGO is "mushroom growing in the rainy season", because every development project implemented by the Government must involve the NGO.[3]

According to **Emil Salim** [4] Special features that NGO has as a community organization are:

1. Free to find members, select and determine the leadership and the care
2. Not a mass organization
3. Membership is limited, can be based on the same interests, hobbies, professions, or orientations
4. Organizational Development
5. Nonprofit Motif
6. Not part or extension of government arm or apparatus, not dependent on construction apparatus
7. Willing to work on the prevailing government system and free to move in the existing government constraints space
8. Can be linked to the development program and or regional development
9. It is possible to work together and have a cooperation forum
10. Receiving the Pancasila Azas

This opinion of Emil Salim is certainly the act of showing the NGO in Indonesia in general, because not all the NGO shaped community organization, but there are the form of foundations and even associations[5]

The opinion of Emil Salim This is certainly the act of showing the NGO in Indonesia in general, because not all the NGO shaped community organization, but there are the form of foundations and even associations. NGO or NGO in Indonesia can be group in 2 groups, namely From the decomposition above, it is obvious that the role of NGOS is closely related to the people of circulating issues that put the NGO into the center or the center of the changes, advocacy until social movements in the middle of society in general [5].

- a) Action-oriented Program. This type arises from a sense of concern on various issues born in society such as issues concerning human rights,

environment, transparency of budget, corruption, justice and labor advocacy, Gender Equality (feminism), Peace and others. Examples of these NGOS include: WALHI, Green Peace, FITRA, KONTRAS and others.

- b) Functioning as a donor agency. It is usually devoted to channeling funds to NGO-NGOS or Third World NGOs or developing countries. These funds may be derived from non-governmental ventures, Donators, commercial ventures, cooperation with various related parties such as the private even government though. Examples: OXFAM (English, NOVIB (Netherlands), CIDA (Canada), Ford Foundation (United States) and others.

The strengths and weaknesses of NGOS in general and in Indonesia in particular as such in this table: [6]

Strengths	Weakness
<p>Because the nature and quality of each NGO vary widely, it is very difficult to generalize this sector as a whole. However, in spite of these variations, some of the strengths of the NGO sector are as follows:</p> <ol style="list-style-type: none"> 1. Strong grassroots network; 2. The ability to innovate and adapt, flexible in adapting the local situation and respond to local needs and therefore able to develop projects that are involved and also sectoral projects; 3. Ability to identify the people who need the most and create help that suits your needs. 4. Participatory methodology and tools; 5. Long-term commitments and emphasis on sustainability; 6. Cost effectiveness; 7. Ability to communicate to all levels from nearby neighbors to the highest level of government. 	<ol style="list-style-type: none"> 1. Financial limitation (low-level sustainability) 2. Institutional/institutional capacity limitation; 3. The defendant/lack of internal communication of organization and/or coordination; 4. Intervention in small scale; 5. Lack of understanding of the broader socio-economic context;

According to **Anind Devila** [7] Most NGOS start from "caring" for one person or several people. They then

convince many more people in the region or sphere of a particular religious or "ideology". This group of people became a group of concern. This group works shoulder shoulder with a high spirit. Group Status and forms are not so questioned. What is more disputed is the effectiveness of work, the spirit of sacrifice, and the cooperation. The life of the group relies heavily on the ability of leaders/makers of initiatives to nurture and direct the task force that has been designed in the form of real activity. Leaders become the center of life, so the relationship between leaders and members is paternalistic and collegiality.

The nature of the relationship between the leader and the members of the Task Force, at the beginning of development, is a flexible form, because various barriers in the form of procedures, systems, and detailed working mechanisms are not required. But, not long after, if the presence of a group of concern was received and appreciated by the community, then the Task Force unit should be immediate and start planning activities better, organize the organization, conduct a division of work, establish procedures and work mechanisms, develop staff, and determine the status and form of the organization.

NGO characters in Indonesia are highly influenced by the global NGO movement due to technological advances. Based on data from Bappenas the number of NGOS in Indonesia is as many as 6567 organizations, while NGO yang formed and registered to the Ministry of Law and Human rights "The number of NGOS in Indonesia continues to grow, until now reaches 390,293 organizations, " The increase in the number of NGOs is expected to play a role in the development of the nation. Throughout history, NGOS in Indonesia have an important role/. [8]

The NGO categorizing in Indonesia based on the time according to Suharko can be group into [9]:

a) in the New Order period

In the new order period, beginning in 1970, namely when the characters involved in the formation of the New Order government feel that the need for assistance is needed for poor people when dealing with the government. The establishment of an NGO is intended as a critical stance for founders of government development strategies that give priority to economic growth. The priorities of this development limit the involvement of community participation, even sometimes the community is sacrificed to achieve the goals of the development. The subsequent dynamics took place in the 1980, where when the revenues of oil and gas sectors began to diminish, the government began to provide participation and even many ideas that were given by NGOS in the implementation process. Development. In the 1990 ERA – an NGO's movements and struggles in Indonesia were more emphasized on the issues of democracy, human rights because the nation's authorities increasingly stronger, especially at that time social conflicts were increasingly open between Governments with Community, when environmental issues began to be ignored in order to

pursue development targets.

b) **Post New Order**

Due to the issue of corruption, collusion and nepotism is very strong, and encouraged the economic crisis, finally in the year 1997 the New Order government that is over 30 years old is fallen upon the struggle made by students. With the growth of the New Order government, Indonesia was in a more open political level by providing widest space for the community to participate included in the development of democracy by establishing a party Political. It is evidenced the political party of the participants of the 1999 election year 48 political parties. With the number of political parties, many of the people who originally were in the NGO then became part of the political party. The issue of struggle that was originally poverty, the environment then moved on human rights issues, democratization, gender, poverty. And certainly transparency. In this era, the development of NGOs was very different compared to the year 1970.

Transparency, increasingly professional law enforcement, human rights recognition, is now the struggle of all components of the nation including NGOs.

2. **Nature forcing state**

The nature of the force of this country is one of three traits possessed by the state, in addition to its monopoly properties and its encompassing traits to all. According to Miriam Budiardjo, in his book "*Dasar-dasar Ilmu Politik*" argues that the nature of the state as follows [10]:

a) **the nature of forcing state**

The forcing nature is intended to be obeyed. By forcing the implementation in the community is achieved and the occurrence of Anarkhi prevented. This includes having the power to legally wear physical violence. The devices used are; Police, soldiers, and judicial bodies. In a homogeneous society and there is a strong national consensus of common goals, the nature of forcing becomes less prominent. Conversely in the newly established state, while its people are heterogeneous and its national consensus bonds are not so strong, the coercion of nature is very prominent.

b) **State monopoly properties**

The state has monopoly properties in setting common goals of society. All matters pertaining to the lives of many people are monopolized by the state. Examples of monopoly properties of State; Countries may prohibit certain schools of belief or political groups that are deemed to be contrary to state understanding.

c) **The All-encompassing, all-embracing nature**

State has a thorough nature which means it covers all. All statutory regulations, such as the obligation to pay taxes, apply to all persons without exception. This is because a citizen is not a self-willingness (involuntary membership),

which differs from other associations and organisations whose membership is voluntary.

Furthermore, that is meant by the forcing nature here is that the legislation is obeyed/adhered to. By means of the force, the order in society can be realized and will not cause anarkhi. The pushy nature here also includes having legal power to commit physical violence.

Further is the nature of the force here is that the legislation complied / followed. Through the way that forces the order within the community can be realized and will not lead to anarchy. The nature of force here also includes legally have the power to physical violence. [11] To do that countries use devices such as the judiciary, the army and police. The nature of this force would not be so prominent if society is homogeneous and there is a national consensus on common goals is strong. On the contrary nature of the force will be very prominent if the newly established state and its people are heterogeneous and bonding consensus on common goals is not so strong. However, in practice in democratic countries do not force the nature of preferred, but preferred is assured (persuasion). The nature of force which is owned by the State, that is associated with the opinion of **Philip M Hadjon** [12]. The recognition that Indonesia is a country based on the law, with the consequences also of the recognition of the dignity and respect of people, the cycloat compel that there should be no obligations made by anyone against anyone. In the concuttings of the development of the legal system in Indonesia is always influenced by the political configuration, which by **Moh. Mahfud MD** states that political configuration is interpreted as the arrangement or constellation of political forces that are dichotomy divided into two diametrically conflicting concepts, i.e. democratic political configuration and authoritarian political configuration. Furthermore, the configuration of democratic politics is the arrangement of political systems that open (opportunity) for the participation of the people in full to actively determine the general wisdom, while the authoritarian political configuration is the arrangement of a political system that allows the state to be very active role and to take on almost all initiatives in the making of State wisdom.

Political configuration will affect legal products. Legal products that are responsive are legal products that reflect a sense of fairness and meet the expectations of society. This legal product is different from the conservative/orthopaedic/elitist legal product which is a legal product whose content is more reflective of the social vision of the political elite, more reflects the wishes of the Government, so it is more positivity-instrumentalia, namely to be the instrument of implementation of ideology and state programs. [13]

Post-Reformation in Indonesia, in the process of drafting the law as stipulated in Law No. 12 of 2011, provides participation space to the public, ranging from the planning process to the discussion process. It can be seen the principles in the process of drafting legislation, one of which is the principle of openness. The principle of

openness contains the consequence that each process of forming legislation requires to provide information to the community, including it gives room to the public to be involved.

Public involvement in the drafting of legislation becomes evidence that the laws compiled for responsive characters are not conservative. Normative provisions have given participation space to the public, but in practice there are still practices that leave the public in the preparation of legislation, which brings about the rejection of civil society, the example of LAW About the KPK, the criminal CODE and several other statutory regulations, which in the end sued the public in the Constitutional Court. Public awareness for participation in the preparation of legislation, more engaged by the NGO who has a concerned on a particular business in Indonesia. This NGO's encouragement became evidence that the NGO became the balancing force of the forced nature Owned by the country. The forced nature of the state can not be used indefinitely, because in addition to the Constitution also the presence of civil society represented by the NGO. Thereby, the legislation that is made on the nature of forcing the state-owned, Substance is a result of compromise with the community as the holder of sovereignty. The material legislation as part of the sub system of the existing legal system. **Lawrence M. Freeman** presents 4 (four) legal system functions consisting of:

- a. As part of the social control system, which regulates human behavior;
- b. As a means of resolving disputes (dispute settlements);
- c. The legal system has functions as a social engineering function;
- d. Legal as social maintenance, which is a function that emphasizes the role of the law as a maintenance "status quo ", which does not want a change. [14]}

Friedman furthermore there are three elements of the legal system namely structure, substance and legal culture. Structures concerning the institutions that are competent to create and implement legislation, substance concerning the material or form of legislation, while the culture of the law related to the attitude of persons to the law, concerning value, Their thoughts and ideas and hopes. [14]

While the fundamental in the legal system is the independence of the law which means that the law must obtain a legitimation which is the desire or values that are alive and growing in the legal community that accommodates the wishes of the people of society will be the law to fulfill the sense of justice.

Indonesia's legal sense of justice must contain values of fairness, benefit and certainty based on legal values sourced from the values of Pancasila, which always prioritize the public interest above the interests of the or individual. The public interest means the interest that is a common agreement when the country is established as such in the 4th paragraph preamble of the

UndangUndangDasar1945. The preamble of the UndangUndangDasar1945 is a fundamental development of national law that leads to ideals The appropriate legal state with the values and principles of the constitutional democratic State. [14]

According to Jony Emerson quoted by Edi Pranoto [15] In order to provide guidance for the determinant of the development policy of national law order in order to always comply with the Indonesian legal minds, it is necessary to be presented a formulation of the legal mind (Rechtdede) of the Indonesian nation by The points of mind in the opening of the UUD 1945 and the values contained in all the SilaPancasila harmoniously and as a whole unity. In general, the basic values of Indonesian legal minds can be formulated as follows:

- a. The national law is built by considering rational criteria, and upholding the spiritual, ethical and moral values to nurture the noble human character and uphold the moral ideals of the people. It was concluded from Sila the almighty Godhead and the fourth point of the opening of the UUD 1945.
- b. National law is built on the principle of honour and human dignity by providing a guarantee of citizen rights and social rights in a harmonious, harmonious and balanced manner. In addition, national law should be able to prevent the emergence of injustice in society. Inferred from a fair and civilized humanity and a second point of mind in society.
- c. National law protects the nation of Indonesia's independence, all the blood in Indonesia and Indonesia's independence, united, sovereign, fair and prosperous, strengthen unity and unity of the nation is only one national law that Serve to national interests. Inferred from the Indonesian unity and the mind of the opening UUD 1945.
- d. The national law is formed in accordance with the principle of sovereign people means with the approval of the people through the representation of representatives, so that national law in accordance with the aspirations of the people so as to be the means to develop awareness , responsibilities and the participation in the development and fostering the dynamics of life of the nation in an orderly and orderly atmosphere.

Based on the state philosophy Pancasila, then Philip M Hadjon [15] formulating elements the state of Pancasila law as follows:

- a. The harmony of the relationship between the Government and the people based on the principle of harmony;
- b. The propotional functional relationship between state power;
- c. The principle of dispute resolution in deliberation and the judiciary is the last means;
- d. Balance of rights and obligations.

Legal politics in the process of drafting legislation is needed to determine the direction and purpose and will to be achieved. Leon Duguit in theory states the keeping of a

natural legal order, which is free from the mischief and lust of power. The nature of the law was intended that the law arises from the needs and interactions of the community itself. In such circumstances, the intervention of state interference is not expected, and is even strictly restricted. By providing the freedom of the community in shaping the legislation, the products are produced of course as they expect, so that the values that develop can still be maintained and developed naturally, according to Community needs itself, and that is the manifestation of social solidarity that has *masysrakat*. Further explained that social solidarity will awaken two flavors, namely social necessity and sense of justice. [16]

Social necessity will make a belief in the form of the need for shared guidelines in accordance with the needs of the community work that many social classes are involved in the economic process both production and distribution. The sense of fairness will show sensitivity on how to divide the burden and reward of the proportional.

Talkot Parsons actually argued it would not appear if it had not touched the role of law as an institution of integration in the system. This means that the integration of communities in the State order becomes very important for achieving state objectives. At this level, the role of the Normative order (law) is the most important element of the integration of a system. [16] In the political dimension of Talkot Parsons, the law has a special task to ensure integration in a system of both society, family and the state. Strengthening of law integration function for sub-sub system in the state, becomes political issue Fundamental and important laws. There is a fundamental policy on the strengthening of the law is necessary for the fate of society in the State, because without the integration of law, there will be a thorough conflict in society. Legal politics of Talkot Parsons if attributed to the purpose of the establishment of government in Indonesia is to protect all the spilled blood of Indonesia. This means that the created law must be able to integrate all the tribes, races, cultures in Indonesia from Sabang to Meraoke, from Miangas to Rote, meaning the entire territory Republic of Indonesia.

3. NGO and State Relations Formats

In the theory of social contracts, the presence of the state because of the agreement made by the Community to achieve the agreed goal, from only as the night guard, until the goal of achieving mutual welfare. By agreement with the objectives to be achieved give the state authority to govern the community, including the NGO. In the process of organizing the state, the legal protection for the community is important because the agreement of the founders of the nation uses Pancasila as the ideology and basic of the state, which became the philosophy and the view of the nation's life. Pancasila as the philosophy and the view of the life of the nation of Indonesia, then indigo-the value contained in Pancasila will always be used as a guideline in the organizing of government. That is to say that the dignity and well-being recognized in Indonesia is a gift from God Almighty.

Building relations between NGOs and governments that occurred during this time influenced the life of the *Kepemimpinan* character that influence on the implementation of democracy in Indonesia. In the New Order era, NGOs became a part that must be wary and even supervised through various facilities and infrastructures, so that the NGO in Indonesia is not much and careful in running the struggle. In that era the political process was merely a process of procedure as if there was a elections, but it is true that the winner is known. The politic process is merely a means of legitimacy of ruler power. Civil society is suppressed, even civil organizations that are opposed to the government will inevitably seek its mistakes. State domination is so strong.

At the end of the new Order era, its state of civil society, however, was so strong, even a movement pioneered by students was able to overthrow the ruling New Order government for 32 years. Strong civil society including NGOs against the position of State, to prove that the state is weak.

The relationship between the state and the NGO should base the Indonesian philosophy of Pancasila, where the philosophy always emphasizes the balance of relationships, balance of rights and obligations, and always in the process of deliberation in consensus for each The value of justice, humanity and the almighty Godhead. Because the true relationship between the state and the NGO is a complementary relationship where the country needs NGOs, and so does the NGO requires the state. To discuss every problem without any suspicion of mutual attitude and always based on determination to improve the dignity and respect of human beings without thirst to ignore the *harkat* and human dignity, it becomes a very important point points. The difference in how to reach the goal, not an issue if based on a national commitment that is built based on the values of Pancasila.

IV. CONCLUSION

The presence of the NGO is to keep the human dignity and respect, then all efforts are done by various methods of approach used, which sometimes as if face face with the state in which it is represented by the government. The relationship between NGOs and governments is more often contraction due to differences in facing and resolving human dignity, NGO sees from the micro side while the country is in macro scale, the difference in how to achieve Purpose, not an issue if based on a national commitment that is built based on the values of Pancasila.

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