# LEGAL CERTAINTY REGARDING THE IMPOSITION OF CRIMINAL EXTORTION SANCTIONS INVOLVING COMMUNITY ORGANIZATIONS (ORMAS)

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**Abstract**

*The purpose of this study is to examine the legal certainty afforded to community organizations that commit extortion, as well as to analyze and propose criminal punishments against community organizations that commit extortion. The method utilized in this study is normative legal research, which is conducted in order to elicit the relevant data for the topic. The data used are secondary data and tertiary legal materials. The data analysis was conducted utilizing a qualitative method of legal analysis. According to the findings of this study, the government must be resolute in enforcing the law against a person who is a member and/or administrator of a community organization and who intentionally and directly or indirectly violates the provisions, including extortion, violence, and disturbing the peace and order. destroying public and social facilities, committing acts of hostility against ethnicity, religion, race, or class; engaging in separatist activities that jeopardize the Unitary State of the Republic of Indonesia's sovereignty; and adhering to, developing, and spreading teachings or understandings contrary to Pancasila. To ensure legal certainty for a person acting in conformity with existing legal provisions, Community Organizations are not an exception; on the contrary, Community Organizations lack legal certainty. Articles of extortion and threats as defined in Article 368 paragraph (1) of the Criminal Code (KUHP) criminal sanctions imposed on individual Ormas who commit the extortion crime specified in Article 368 of the Criminal Code still do not satisfy the community's sense of justice because the threats are only 9 (nine) years in prison, with no fines or other additional penalties to the organization concerned.*

Keywords: *Legal Certainty, Criminal Sanctions for Extortion, Community Organizations*

## 1. INTRODUCTION

Indonesia is a country based on law (*rechtsstaat*) only after the revision to the 1945 Constitution is clearly declared in Article 1 and Article 3. Indonesia is a country based on law only after the amendment to the 1945 Constitution is expressly stated in Article 1 and Article 3. According to D. Mutiaras, the rule of law is as follows:

According to Fadjar, a country whose organization is as thoroughly regulated by law as feasible, so that the powers of the instruments of government are based on the rule of law. People should not act freely in accordance with everything that is against the law. The state of law is one that is controlled by laws rather than people (state that not governed by men, but laws). As a result, in a legal state, the people's rights are fully ensured by the state and against the state, by conforming to and obeying all government regulations and state laws (Fadjar, 2016)

Responding to the concept of a rule of law above, it means that every action of the people and power holders must be based on and based on the law. Law also covers various

fields, namely the existence of criminal law, civil, administrative, state administration, and others. Related to this, Adami Chazawi stated that criminal law is divided into two aspects, one of which is material criminal law which is also called abstract criminal law or law in silence whose main source is the Criminal Code (also referred to as KUHP) (Chazawi, 2018).

The government must ensure the existence of law enforcement and the achievement of legal objectives. In law enforcement there are three elements that are always considered, namely justice, benefit or use (*doelmatigheid*), and legal certainty (Yamin, 1959). Compliance with order is a key necessity for an ordered society; achieving justice is another purpose of law. It must reflect legal clarity in order to promote order and interaction between humans in society (Soekanto, 1979).

There will be peace and order in the community if there is legal certainty since the law serves as the "commander" and the pulse of state and social life, so the law has a strategic and dominant role in law enforcement (Soekanto, 1979), but it does not rule out the possibility that everyone is free to express opinions and gather. This right has become a human right and is stated in the 1945 Constitution Article 28a, namely “Freedom of association and assembly, expressing thoughts orally and in writing and so on are stipulated by law”. This freedom is not an arbitrary freedom, there are legal rules that limit it to be done to protect other human rights (Prajudi, 1995). Community Organizations (or also referred to as *Ormas*) are a form of gathering and expressing opinions.

A community organization is a group of people who get together to work together for the betterment of the community and the country as a whole, based on the principles of Pancasila, which is the foundation of the Republic of Indonesia's Unitary State. Community members can participate in national development through this community organization, which serves as a means to attain national goals within the framework of the Unitary State of the Republic of Indonesia, which is beneficial to the community (Eryanto, 2010).

Community Organizations are non-governmental institutions whose existence is indispensable in a democratic country. Community Organization is one of the forums for channeling the opinions and thoughts of members of the community, citizens of the Republic of Indonesia, in increasing their active participation in realizing a just and prosperous society. A community organization is defined by the government as a group of people that work together to achieve similar aims and objectives in order to contribute to the development of the Unitary State of the Republic of Indonesia based on Pancasila. Although Law No. 16 of 2017 on Amendments to Law No. 17 of 2013 on Community Organizations no longer stipulates that the establishment of Pancasila as the sole principle for Community Organizations does not conflict with Pancasila, this still stipulates that the principles present in Community Organizations do not conflict with Pancasila.

Each group has the same goals as the Community Organization in terms of their particular disciplines. In this case, the Community Organization may share one or more of the specific characteristics mentioned in this Article, namely the similarity of aspirations, desires, needs, interests, activities, and objectives to participate in efforts to realize the Unitary State of the Republic of Indonesia's Pancasila-based goals. In fact, although members of Community Organizations frequently commit crimes that disrupt public order and harm the community. The criminal act of Law No. 8 of 1985 concerning Community Organizations, as amended by Law No. 16 of 2017 concerning Amendments to Law No. 17 of 2013 concerning Community Organizations, contains no criminal provisions

or rules specifically regulating ganging, persecution, destruction, extortion, and other criminal acts. Even though, this does not mean that Indonesia's positive law is devoid of criminal provisions or rules.

Conviction is impossible without being found guilty of a crime that is illegal in the eyes of the law. A crime may only be punished based on the strength of the criminal provisions of law that existed before to the act, as stated in Article 1 of the Criminal Code. There will be no crime until the criminal provisions of the Act exist first, as stated in the article's requirements known as "*nullum delictum sine praevia lege poenali*" (Soesilo, 1995).

As a result of the above, a person can be found guilty of criminal negligence or intentional misconduct. Violations/errors are one of the key conditions in addition to the illegality of the act, and must be met in order for a legal person to be sentenced to a criminal offense (Wirajaya & Martana, 2013).

Accountability is founded on errors. Error is the maker's mental state and the inner relationship between the maker's acts and his mental state. If someone makes a mistake, they can be held accountable. The state of the mind of a person who performs an action is generally referred to as the capacity for responsibility, whereas the inner connection between the maker and his actions is purposeful, negligent, and forgiving of excuses (Wirajaya & Martana, 2013).

According to Law Number 16 of 2017, which amends Law Number 17 of 2013 on Community Organizations, the government may impose administrative sanctions ranging from written warnings to the revocation of registered certificates or the revocation of legal entity status until the Community Organization is finally dissolved.

Extortion crimes performed by Community Organizations include the following: Jekson Napitupulu carried out the extortion case in Medan based on the Medan District Court Decision Number: 2424/Pid.B/2019/PN.Mdn was convicted of extortion with violence against the Technical Implementation Unit (UPT) of Padang Sidempuan City and the Technical Implementation Unit (UPT) of Gunung Tua, in violation of Article 368 paragraph (1) of the Criminal Code (KUHP), and sentenced to 4 (four) months in prison.

As illustrated by this case, the birth of diverse mass groups in Indonesia has resulted in a slew of legal polemics waged by members of these organizations, which frequently have a detrimental effect on the broader community. This is diametrically opposed to Indonesia's fundamental ideals, notably those outlined in Pancasila. Until now, specific regulation governing members of mass organizations who commit criminal acts on behalf of the organizations to which they belong is extremely limited, making it difficult to hold members of these organizations accountable, which is a requirement under criminal law, specifically the principle of equality before the law. As a result, law enforcers must closely monitor these actions, even if the mass organizations have legal standing and are legal under the law.

A minimum criminal threat will be applied to non-criminal perpetrators of extortion in the Community Organizations Law, because the above-mentioned prison sentence is being implemented at such a low level that it has no effect on deterring Community Organizations from engaging in such activity (lex specialist).

Because of the low level of criminal sanctions against civil society organizations as perpetrators of criminal acts, the application of appropriate sanctions against Community Organizations is accomplished through the use of a combined legal system, which is a combination of cumulative and alternative forms or subsidiars aimed at providing a deterrent

effect on Community Organizations , and as a result, the sanctions are more severe than they would otherwise be. Prison for a maximum of 8 years and extra sanctions such as compensation, restitution, and revocation of permits for Community Organizations can all be applied, with the latter being revoked and the former blocked.

In this context, unethical members of a Community Organization frequently engage in anarchic behavior in order to extort funds that are not related to their functions and objectives. Such behavior that is contradictory to the good principles ingrained in the public's legal consciousness becomes a legal crime (Utrecht, 1989), because a Community Organization in this scenario has a separate vision and mission, and thus frequently has goals that contradict positive law. Meanwhile, they are unaware that their acts are inconsistent with the aim and function of a Community Organization, as defined in Article 6 of Law No. 16 of 2017 amending Law No. 17 of 2013 on Community Organizations.

As a result of the foregoing context, the purpose of this study is to examine the form of legal certainty for community organizations which engage in the criminal activity of extortion. It also seeks to investigate and formulate criminal sanctions applicable to community organizations engaged in the criminal activity of extortion.

## 2. THEORETICAL BASIS

### 2.1. Legal Certainty

A legal certainty is intended to imply that there is certainty because of the law itself; for example, the law determines the existence of a defunct organization, and with the passage of time, a person will obtain or lose legal rights. In other words, the law can provide with certainty that a person who has an expired institution would receive some rights or that a person who has an expired institution will lose certain rights (Kalo, 2007). Legal certainty is a promise that the law will be followed, that persons who are entitled to their rights will be able to exercise those rights, and that rulings will be carried out (Arrasjid, 2008).

### 2.2. Criminal Sanction

Criminal sanctions are grief or suffering inflicted on someone who has been found guilty of committing an act that is prohibited by law. It is intended that by having criminal sanctions in place, people would refrain from committing crimes in the future (M. Ali, 2015). Criminal sanction is a general understanding, as a sanction that suffers or misery is intentionally inflicted on someone (Andi, 1993).

### 2.3. Criminal Actors

Perpetrators of criminal acts are those who commit an act which by law (existing regulations) is explicitly referred to as an act that is prohibited and can be punished. Moeljatno (2002) and Roeslan Saleh stated “that criminal liability is defined asas a continuation of the objective reproach that exists in the criminal act and subjectively fulfills the requirements to be convicted for the act” (Amrani & Ali, 2015).

### 2.4. Extortion

The word "extortion" in Indonesian comes from the root word "extortion" which can mean "asking for money or goods by threat or coercion". Extortion as regulated in Chapter

XXIII of the Criminal Code actually consists of two types of criminal acts, namely extortion (*affersing*) and criminal acts of threat (*afdreiging*). Both types of crime have the same nature, namely an act that aims to extort other people.

### 2.5. Community Organizations (*Ormas*)

Community-organizations, or also known as Ormas, are groups of people who have come together to work toward a common purpose, such as achieving the aims of the Unitary State of the Republic of Indonesia based on Pancasila. These groups form on their own initiative and are entirely self-organized.

### 2.6. Legal Certainty Theory

The theory of legal certainty was born from the development of the basic value of legal certainty. Legal certainty is "*Scherkeit des Rechts selbst*" (certainty about the law itself) (Farid, 2007). Ronald Dworkin said that: "We live in and by law..., How can the law command when the law books are silent or unclear or ambiguous" (A. Ali, 2009). Hence, in a situation where there are unclear regulations, it will cause the law to not be able to regulate it properly.

Gustav Radbruch conveyed about three basic values (*Grundwerten*), namely: Justice (*Gerechtigkeit*), expediency (*Zweckmaeszigkeit*) and legal certainty (*Rechtssicherkeit*), which are not always harmonious with each other, but face each other, conflict and tension (s*pannungsverhaeltnis*) (A. Ali, 2009).

Every state administration policy must adhere to the notion of legal certainty, which places a high value on legislation, compliance, and fairness. According to Radbruch, a state of law must maintain the idea of legal certainty in order to produce order or stability (A. Ali, 2009).

### 2.7. Criminal Theory

There are three main groups of theories to justify the imposition of a criminal, namely: (Prodjodikoro, 2015)

1) Absolute Theory (*Vergeldings Theorien*)

   According to Muladi and Barda Nawawi Arief, "crime is an absolute consequence that must exist in retaliation against those who commit crimes; thus, the premise for justifying a crime is the crime's presence or occurrence" (Muladi & Arief, 1984).

2) Relative Theory (*Doel Theorien*)

   A crime does not have to be followed by another crime, according to this view. To provide a clearer picture of this relative theory, Muladi and Barda Nawawi Arief stated, "Criminal is not just to take revenge or retaliation to people who have committed a crime but have certain useful purposes, thus this theory is often referred to as Utilitarian Theory, and hence the basis for justifying the existence of a crime according to this theory lies in its purpose, the punishment is not "*quia peccatum est*" (because people make crimes) but "*Ne Peccetur*" (so that people don't commit crimes)." (Muladi & Arief, 1984)

3) Combined Theory (*Verenigings Theorien*)

This theory is a fusion of absolute theory and relative theory, and it brings together the points of retaliation and defense of the legal order of society, which are inextricably linked to one another and cannot be ignored separately. A combined theory is divided into three types based on the emphasis or dominant angle that is used in the fusion of the two theories into a combined theory, which are as follows: a combined theory that emphasizes the element of retaliation, a combined theory that emphasizes the defense of orderly society, and a combined theory that maintains a balance between retaliation and orderly defense of the public.

### 2.8. Criminal Sanctions

As stated by JE Jonkers, "Criminal sanctions are concerned with the penalty meted out for the crime committed, whereas action sanctions are concerned with the societal consequences of the crime committed" (Jonkers et al., 1987). According to Andi Hamzah, "Criminal sanctions are geared toward the idea of imposition of consequences on those who commit an act, whereas action sanctions are oriented toward the idea of guarding the community" (Hamzah, 1985).

## 3. RESEARCH METHOD

In science, a research technique is a scientific activity that is focused on specific methods, systems, and thoughts that are intended to explore one or many specific legal phenomena through the analysis of those phenomena (Dimyati & Wardiono, 2004). In this study, the type of research methodology adopted was a normative juridical approach. The approach technique used in legal research is comprised of 4 (four) ways, which are the statutory approach, conceptual approach, analytical approach, as well as case approach.

The types and sources of secondary data were employed in this investigation. Secondary data is information that has been gathered from or generated from library resources. Secondary data is separated into 3 (three) categories, which are as follows:

1) Primary Legal Materials, are binding legal materials. Consist of:
   a) The Constitution of the Republic of Indonesia Amendment to - IV of 1945.
   b) Law Number 16 of 2017 Amendments to Law Number 17 of 2013 concerning Community Organizations
2) Secondary Legal Materials, are legal materials that provide explanations for primary legal materials. Which consist of:
   a) Literature that discusses the criminal responsibility of Community Organizations, the application of criminal sanctions for Community Organizations as perpetrators of the crime of extortion and efforts to overcome them.
   b) Books, research results, scientific journals, papers, documents, articles, internet sources, and other scientific writings that relevant to the topic.
3) Tertiary Legal Materials, legal materials that provide instructions or explanations for primary and secondary legal materials, which consist of:
   a) Bibliography
   b) Legal Dictionary
   c) Indonesia Dictionary

d) Law Encyclopedia
e) English-Indonesian Dictionary.

When examining the results of this research, the strategy used is to criticize, support, or provide comments, and then come to a conclusion about the results of the research using their own views and the help of a literature review.

## 4. RESULT AND DISCUSSION

### 4.1. Legal Certainty of Community Organizations Perpetrators of the Crime of Extortion

Article 1 and Article 3 of the 1945 Constitution explicitly refer to Indonesia as a country based on the new law (*rechtstaat*) after the revision of the 1945 Constitution. Justice, advantage, and usefulness are always taken into account when enforcing the law. In a society where government legislation is followed, these three aspects are essential. The independence of this Republic is inextricably linked to the activity of community groups (or also known as Ormas) (Yamin, 1959).

Society will be more ordered with legal certainty. Legal certainty, as one of law's objectives, can be considered a component of efforts to achieve justice. Legal certainty in its truest sense is the application or enforcement of the law against an action regardless of who commits it. With legal certainty, anyone can forecast the outcome of specific legal actions. Certainty is required to implement the principle of nondiscrimination before the law. Because the law is the "commander" and the pulse of life in the state and society, it plays a strategic and dominant role in law enforcement (Hatta, 2009), but not excludes everyone from exercising their right to free expression and assembly. This right has been elevated to the status of a human right and is enshrined in Article 28E of the 1945 Constitution, which states: “Freedom of association and assembly, expression of opinions verbally and in writing, and shall be enshrined in legislation”. This is not an unrestricted right; there are legal constraints on what can be done in order to protect another human right.

According to Law Number 2 of 2017, Community Organizations are a way to gather and communicate thoughts. Ormas are Community Organizations that are founded and developed freely by the community based on common ambitions, wishes, needs, interests, activities, and goals to participate in development in order to accomplish the Republic of Indonesia's Pancasila-based goals. Community organizations, or Ormas, is a phrase used in Indonesia to refer to non-political forms of community-based groups. The original term was "Mass Organizations," which was abbreviated as "Ormas." Since the publication of Permendagri number 33 in 2012, the word "Mass Organization" has been replaced with "Community Organization".

Organizing in the community is a way for people in the community to express their concern and participation in nation building, which takes the form of a variety of community programs and activities, each with its own vision and mission that may include expressing opinions about various government policies as well as offering criticisms and counter-concepts (Kania Winayanti, 2011).

In a democracy, non-governmental organizations such as community organizations are essential. In order to foster a more just and prosperous society, the Republic of Indonesia's

inhabitants turn to community organizations for a conduit for the expression of their ideas and opinions. As defined by the government, Community Organizations are non-profit entities created and run by members of a community to meet common needs and aspirations while also promoting the establishment of the Unitary State of Indonesia based on Pancasila (Amarullah, 1985). Pancasila is no longer the only concept for community organizations in the explanation of Law 17 of 2013, although the values that exist in community organizations do not contradict with Pancasila.

Currently, many Community Organizations have strayed from their roles and functions as organizations committed to Pancasila principles, putting the Government under pressure to carry out law enforcement, including the disbandment, of anyone who is a member or administrator of an Ormas who intentionally and directly or indirectly violates the provisions, including extortion, violence, disturbing the peace and public order, or causing damage to public facilities (Sri, 2019). Thus, the public, through the Government and the DPR, is encouraged to revise Law 17 of 2013 on Community Organizations in order to include criminal sanctions against Community Organizations that commit criminal acts and to enable law enforcement against Community Organizations that commit criminal acts (MD Ali, 1997).

Without legal certainty for Community Organizations, there are no standard provisions in carrying out the functions and roles of Community Organizations in society, which is contradictory to what is required to ensure legal certainty for individuals. Because of this, Gustav Radbruch is correct in claiming that the law's primary goal should be to ensure that the public is protected from harms. Legal certainty is an important part of community life. Lawful certainty refers to the application of life's order, which in its implementation is unaffected by the subjective conditions in people's lives and cannot be altered by them (Susanto, 2014).

Extortion crimes performed by Community Organizations include the following: Jekson Napitupulu carried out the extortion case in Medan based on the Medan District Court Decision Number: 2424/Pid.B/2019/PN.Mdn was convicted of extortion with violence against the Technical Implementation Unit (UPT) of Padang Sidempuan City and the Technical Implementation Unit (UPT) of Gunung Tua, as defined in Article 368 paragraph (1) of the Indonesian Criminal Code (KUHP), and sentenced to 4 (four) months in prison.

As illustrated by this case, the development of diverse mass groups in Indonesia has resulted in a slew of legal polemics committed by members of these organizations, which frequently have a detrimental effect on the broader community. This is diametrically opposed to Indonesia's fundamental ideals, notably those outlined in Pancasila. Lately, specific regulation governing members of mass organizations who commit criminal acts on behalf of the organizations to which they belong is extremely limited, making it difficult to hold members of these organizations accountable, which is a requirement under criminal law, specifically the principle of equality before the law. As a necessity, law enforcers must closely monitor these actions, even if the mass organizations have legal standing and are permitted under the law.

With the implementation of the above-mentioned prison sentence is very low so it cannot provide a deterrent effect on Community Organizations who are perpetrators of the crime of extortion, for that with the Law on Community Organizations it is hoped that it can

include articles regarding Community Organizations who are not criminal by applying threats. minimum punishment as applied to a special law (*lex specialist*).

With the existence of the foregoing issue, the question of legal certainty for CSOs engaged in law enforcement can only be resolved normatively, rather than sociologically. When a rule is drafted and disseminated with confidence because it governs clearly and logically, this is referred to as normative legal certainty. Certainty in the sense that it does not raise questions (many interpretations) and rationality in the sense that it establishes a system of norms with other norms such that they do not clash or produce norm conflicts are two characteristics of a clear and logical statement. Norm conflicts that arise as a result of rule uncertainty can manifest themselves in three ways: norm contestation, norm reduction, as well as norm distortion (Arizone, 2008).

Due to the insufficient criminal sanctions against members of Community Organizations who commit criminal acts that are only regulated by the Criminal Code (KUHP), the Ormas Law has been revised to include criminal sanctions, namely through the implementation of the Ormas Law's legal system combination, which is a combination of cumulative forms with alternatives or substitutes. To have a deterrent impact on community organizations, punishments may include both a maximum sentence of 8 years in prison and extra measures such as compensation, restitution, and dissolution of the community organization.

Gustav Radbruch suggested 4 (four) key propositions on the meaning of legal certainty, namely: - First, that law is positive, in the sense that positive law is legislation. Without a strict rule of law, and with reference to Law No. 16 of 2017 concerning Community Organizations, ormas individuals can act and violate the law at whim, disregarding the strict rule of law or adhering merely to the Criminal Code's rules of law.

- Second, that the law is founded on facts, implying that it is grounded in reality. - Third, as facts must be expressed plainly to minimize ambiguity and to facilitate implementation. - Fourth, positive law should not be readily amended, which means that if Law No. 16 of 2017 on Community Organizations does not regulate rigorously and contains legal loopholes, the Law will be rapidly amended without regard for the impact on society. Gustav Radbruch contended that legal certainty is synonymous with certainty about the law. Legal certainty is an outcome of the law, or more precisely, of legislation. According to Gustav Radbruch, positive laws guiding human interests in society must always be followed, even if they are unjust. Additionally, legal certainty refers to a certain condition (circumstance), provisions, or laws that safeguard the public against acts that violate the law (*Wederrechtelijk*). The legislation must be unambiguous and equitable. Certainly, as a guideline for behavior and justice, since the code of conduct must support a reasonable rule. Simply because a law is just and certain to be applied, it can perform its role. Thus, legal certainty is a normative question (Rato, 2010).

### 4.2. Application of Criminal Sanctions for Community Organizations as Perpetrators of the Crime of Extortion

Regulations govern every action and program of a community organization in order to achieve the state's aims of community groups acting as role models for the community. As a result of this rule, each member of the mass organization has rights and obligations in carrying out their responsibilities as a good citizen and member of the state. However, many

community organizations operate in violation of the regulations that govern them. There are numerous members of the mass organization in the form of groups that have objectives that differ from the organization's true objectives, and each of them seeks out additional members to accomplish those objectives in the members' own interests.

Community Organizations ("Ormas") are mentioned in Article 1 point 1 of Law Number 16 of 2017 concerning Stipulation of Government Regulation in Lieu of Law Number 2 of 2017 concerning Amendments to Law Number 17 of 2013 concerning Community Organizations which states:

"*Community Organizations, hereinafter referred to as Ormas, are organizations established and formed by the community voluntarily based on common aspirations, desires, needs, interests, activities, and objectives to participate in development in order to achieve the goals of the Unitary State of the Republic of Indonesia based on Pancasila and the Constitution of the State of the Republic of Indonesia. Republic of Indonesia in 1945."*

The purpose of establishing a Community Organization based on Article 5 of the Ormas Law as amended by **C**onstitutional Court Decision Number: 82/PUU-XI/2013, regarding the Review of Law Number 17 of 2013 concerning Community Organizations Against the 1945 Constitution of the Republic of Indonesia explained that the Ormas aims to:

1. Increase community participation and empowerment;
2. Provide services to the community;
3. Maintain religious values and beliefs in God almighty;
4. Preserve and maintain norms, values, morals, ethics, and culture that live in society;
5. Conserving natural resources and the environment;
6. Develop social solidarity, mutual cooperation, and tolerance in social life;
7. Safeguard, maintain, and strengthen the unity and integrity of the nation; and/or
8. Realize the country's goals.

Rights and Obligations that must be obeyed by Community Organizations based on Law Number 16 of 2017 concerning Amendments to Law Number 17 of 2013 concerning Community Organizations, namely:

1. Community Organizations have the right:
    a. Organize and manage the organization's household independently and openly;
    b. Obtain intellectual property rights for the names and symbols of mass organizations in accordance with the provisions of laws and regulations;
    c. Fight for the ideals and goals of the organization;
    d. Carry out activities to achieve organizational goals;
    e. Obtain legal protection against the existence and activities of the organization; and
    f. Cooperating with the Government, Regional Government, private sector, other mass organizations, and other parties in the context of organizational development and sustainability.
2. Community Organizations have the following obligations:
    a. Conduct actions in conformity with the organization's objectives;

b. Maintain the unity and integrity of the nation and the integrity of the Unitary State of the Republic of Indonesia;
c. Maintain religious, cultural, moral, ethical, and moral norms and provide benefits to society;
d. Maintain public order and create peace in society;
e. Perform financial management in a transparent and accountable manner; and
f. Participate in the achievement of State goals.

Things that are prohibited from being carried out by Ormas are regulated in Article 59Law Number 16 of 2017 concerning Amendments to Law Number 17 of 2013 concerning Community Organizations as follows:

1. Organizations are prohibited from:
   a. Using the same name, emblem, flag, or attributes as the name, emblem, flag, or attributes of a government institution;
   b. Using without permission the names, symbols, flags of other countries or international institutions/agencies as the names, symbols or flags of mass organizations; and/or
   c. Using a name, symbol, flag, or graphic sign that has similarities in principle or in its entirety to the name, symbol, flag, or graphic sign of another mass organization or political party.
2. Organizations are prohibited from:
   a. Receive from or give to any party donations in any form that is contrary to the provisions of laws and regulations; and/or
   b. Raising funds for political parties.
3. Organizations are prohibited from:
   a. Performing acts of hostility towards ethnicity, religion, race, or class;
   b. Doing abuse, blasphemy, or blasphemy against the religion professed in Indonesia;
   c. Perform acts of violence, disturb public peace and order, or damage public facilities and social facilities; and/or
   d. Carry out activities that are the duties and authorities of law enforcement in accordance with the provisions of laws and regulations.
4. Organizations are prohibited from:
   a. Using the name, symbol, flag, or symbol of an organization that has similarities in principle or in its entirety to the name, emblem, flag, or symbol of a separatist movement organization or prohibited organization;
   b. Carry out separatist activities that threaten the sovereignty of the Unitary State of the Republic of Indonesia; and/or
   c. Adhering to, developing, and spreading teachings or understandings that are contrary to Pancasila.

Sanctions for mass organizations committing prohibited acts, based on Article 60 of Law Number 16 of 2017 concerning Amendments to Law Number 17 of 2013 concerning Community Organizations explains that Ormas that violate the obligations of the Ormas as

described above, and/or violate the prohibitions in Article 59 paragraphs (1) and (2) can be sentenced administrative sanctions, in the form of:

1. Written warning;
2. Termination of activities; and/or
3. Revocation of registered certificate or revocation of legal entity status.

Nevertheless, pursuant to Article 60 paragraph (2) of Law No. 16 of 2017 amending Law No. 17 of 2013 concerning Community Organizations, Ormas that violate Article 59 paragraphs (3) and (4) above may face sanctions both administrative and/or criminal. Administrative punishments against violators include the cancellation of a registered certificate or the revocation of legal entity status by the Minister responsible for law and human rights. The revocation of the registered certificate and the legal entity status will result in the disbandment of the mass organization.

Community Organization sanctions that disturb the public are regulated in Article 21 letters c and d of the Ormas Law, namely, violating the obligation to maintain religious, cultural, moral, ethical, and moral values and providing benefits to the community, as well as violating the obligation to maintain public order and create peace in society, those Community Organizations may be subject to administrative sanctions as regulated in Article 61 paragraph (1) jo. in the form of:

1. Written warning;
2. Termination of activities; and/or
3. Revocation of registered certificate or revocation of legal entity status.

Arrangements for the imposition of sanctions against "Organizations that commit acts of violence, disrupt peace and public order, or cause damage to public facilities and social facilities" as defined in Article 59 paragraph (3) c of the Ormas Law, the organization may face administrative sanctions in the form of the Minister of Home Affairs revoking registered certificates for organizations that are not legal entities or revoking legal entity registrations for legal entities.

However there are some members of the mass organization who create groups with objectives that differ from the organization's true objectives, and each seeks out other members to accomplish those objectives in the members' own interests. Thus, members of mass groups engage in anarchic behavior during demonstrations or actions that result in criminal acts such as fatal injury, destruction of the environment, and state losses.

According to Andi Hamzah, punishment or the application of punishment is an understandinggeneral, as a sanction that suffers or is deliberately inflicted on someone. While criminal is a special understanding related to criminal law (Hamzah, 1985). Definition given by Andi Hamzah gives a different understanding between punishment and crime, punishment talks about suffering sanctions while criminal talks about criminal law itself.

Application of criminal sanctionsagainst perpetrators of criminal acts in this case is in the form of sanctions which are consequences, because the elements or characteristics of the criminal are:(Huda, 2008)

1. Criminal in essence is an imposition of suffering or suffering / other unpleasant consequences.

2. The penalty was given with intentionally by a person or entity that has power (by the authorities).
3. Crime that imposed on someone who has committed a crime according to the law.

Members and/or administrators of these Ormas may also be subject to criminal sanctions as regulated in Article 82A paragraph (1) of the following Ormas Law:

*"Every person who becomes a member and/or administrator of an Ormas who intentionally and directly or indirectly violates the provisions as referred to in Article 59 paragraph (3) letter c and letter d shall be punished with imprisonment for a minimum of 6 (six) months and a maximum of 6 (six) months. 1 (one) year."*

Paragraph (2) states "*Everyone who becomes a member and/or administrator of Ormas that intentionally and directly or indirectly violate the provisions as referred to in Article 59 paragraph (3) letter a, and letter b, and paragraph (4), shall be sentenced to life imprisonment or a minimum imprisonment of 5 (five) years. and a maximum of 20 (twenty) years*."

Violation of Article 59 paragraph (3) letter a, and letter bViolation of Article 59 paragraph (3) letter a and letter b is committing and in general, the person who commits the criminal act is a member of the organization and not the community organization. And given criminal sanctions regulated in the Criminal Code in accordance with the actions he did. This is the weakness of the Ormas Law, where the Law does not explain in detail a criminal act that is often carried out by unscrupulous members of the Ormas in the community such as extortion, persecution, beatings, and other criminal acts that are not regulated in the Ormas Law.

The presence of CSOs in Indonesia is still very much needed as mandated in Law Number 16 of 2017 concerning Amendments to Law Number 17 of 2013 concerning Community Organizations. Moreover, in article 5 of the Ormas Law states that "The aims of mass organizations are, among others, to improve and empower the community, to preserve and maintain norms, values, morals, ethics and culture that live in society; maintain and strengthen the unity and integrity of the nation and realize the goals of the state". Thus, the existence of Community Organizations as government partners in achieving state goals is very much needed. However, sometimes it happens in the community that the existence of mass organizations actually disturbs the community, because of the behavior of unscrupulous organizations who commit criminal acts.

Basically, the Ormas Law states, there are two legal subjects that are regulated, namely organizations and individuals. Ormas as a subject of criminal law who commits a criminal act, can only be threatened with administrative criminal sanctions, for example suspension or revocation of permits. For individual Ormas to extort using violence or coercion, then this action can only be charged with the Criminal Code without any article in the Ormas Law explaining the action. The article on extortion and threats regulated in Article 368 paragraph (1) of the Criminal Code ("KUHP") which states:

"Anyone who, with the intention of unlawfully benefiting himself or another person, forces a person by force or threat of violence to give something, which wholly or partly belongs to that person or another person, or to make a debt or write off a debt, is threatened because extortion, with a maximum imprisonment of nine years."

R. Soesilo defines this incident as "violent of blackmail" in his book the Criminal Code (KUHP) and the Comments include Complete Article by Article (Soesilo, 1984). Blackmail is referred to: 1. To coerce other people; 2. To supply commodities that are entirely or partially owned by the individual or another person, or to incur debts or write off receivables; 3. To profit oneself or another by breaching rights; 4. To force someone into using violence or threats of violence. The term "forcing" refers to exerting pressure on someone in order to compel them to act against their will. Forcing others to give up their property is also a form of blackmail. Meanwhile, what is meant by "against the law" is that which is illegal, unjust, or contradictory to the law.

The crime of extortion is a crime committed against another person. Crime is an act or act that is prohibited and can be punished for that act or action by law. This is born because every member of society is a creature who has free will (Arif, 2014).

The criminal sanctions imposed on individual Ormas perpetrators of the crime of extortion contained in Article 368 of the Criminal Code still do not fulfill the sense of justice for the community because the threat is only 9 (nine) years in prison, where the criminal threat only concerns the person without any criminal fines or other additional crimes. involving the organization, therefore in the Ormas Law it must include articles related to Ormas who are perpetrators of the crime of extortion because this often happens in the community.

Up to this point, Indonesia's notion of punishment has remained focused around preventive and counseling perspectives, which are considered more modern, and have affected a number of criminal political policies in the country, including the formulation of criminal penalties in a legislation. This perception changes, however, when legislators have a tendency to always punish someone with a severe sentence and to impose a special minimum sentence for those who break the law's requirements. Punishment is insufficient not just for violators, but also for policymakers (government) performing their official obligations. Sanctions against Ormas Extortion culprits may face imprisonment, fines, administrative sanctions, or compensation. The imposition of these criminal consequences can instill a feeling of collective justice. In terms of defining the criminal punishments applicable to Ormas's extortion, it can be stated as follows in a new article of the Ormas Law:

“Whoever, with the intention of unlawfully benefiting himself or another person, forces a person by force or threat of violence to give something, which wholly or partly belongs to that person or another person, or to make a debt or write off a debt, shall be subject to a criminal sanction. imprisonment for a minimum of 5 (five) years or a maximum of 10 (nine) years and a minimum fine of Rp. 100,000,000.00 (one hundred million rupiah) or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah) and administrative sanctions.”

The article above is intended to serve as a deterrent to mass organizations that commit extortion, as Barda Nawawi Arief states that crime is essentially only a tool for achieving goals that are out of balance with two primary objectives, namely community protection and protection or development of individual perpetrators of criminal acts. Beginning with this balance, the concept's sentencing guidelines diverge from the notion of a mono-dualistic balance between community and individual interests, objective and subjective elements (Arief, 2010). Additionally, it is stated that sentence terms vary from 2 (two) key tenets of criminal law, namely "the principle of legality" (a social norm) and "the principle of error or

guilt" (which is the principle of humanity). It is also explained that the purpose of punishment is determined as follows:

1. Sentencing aims to:
   a. Prevent the commission of criminal acts by enforcing legal norms for the protection of society;
   b. Socialize the convicts by conducting coaching so that they become good and useful people;
   c. Resolve conflicts caused by criminal acts, restore balance, and bring a sense of peace in society; and
   d. Release the guilt of the convict.
2. Punishment is not intended to suffer and demean human dignity (Remmelink, 2003).

## 5. CONCLUSION

Based on the findings of the study, it can be determined that Community Organizations that conduct criminal activities are only susceptible to administrative criminal punishments, such as the blocking or revocation of their permits, and that they are not liable to criminal prosecution. Individual Community Organizations that engage in extortion through violence or coercion can only be tried under the Criminal Code because there is no specific provision in the Community Organizations Law that explains the nature of their actions. Articles of extortion and threats are governed by the Criminal Code's Section 368, which contains several paragraphs. In spite of the fact that the criminal sanctions imposed on individual Community Organizations who are perpetrators of the crime of extortion contained in Article 368 of the Criminal Code still do not fulfill a sense of justice for the community, because the threat is only 9 years in prison, and the criminal threat only concerns the person, without any criminal fines or other additional penalties involving the organization, it is necessary to include articles related to community organizations in the Community Organizations as Law. In terms of identifying the criminal punishments for extortion carried out by community organizations, it is possible to construct a new article in the Community Organizations Law that will address this issue in detail.

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