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Foreword

Coordinating Minister for Political, Legal and Security of the Republic of Indonesia as Head of National Coordination Committee for the Prevention and Combating Money Laundering (TPPU Committee)

Assalamu'alaikum warahmatullahi wabarakatuh,

We express thanks and appreciation for the preparation and publication of the book "Non-Profit Organization (NPO) Domestic Review." This book is an implementation of the National Strategy on Preventing and Combating Money Laundering and Financing of Terrorism Year 2007 - 2011, designed by the National Coordinating Committee for the Prevention and Combating Money Laundering (AML Committee).

Thought for preparing book reviews appear Domestic NPO during AML Committee meeting on 25 March 2009 at the office of Coordinating Minister for Political, Legal and Security Affairs. Publishing this book is based on the considerations are still not optimal handling of NPO in Indonesia, which is reflected in the large number of existing NPO has not been matched by adequate regulation and supervision. This evidence is strengthened by the results of the assessment team evaluator Asia Pacific Group on Money Laundering (APG) of the FATF 40 +9 Recommendation in the framework of the development of anti-money laundering regime and terrorist financing in Indonesia in 2008. Encouragement is also thought by the Counter Terrorism Executive Directorate (CTEO) UN Security Council team, which considered that Indonesia is still weak in the regulation and supervision of NPO. Based on these conditions, the current perceived need for a comprehensive treatment for NPO to avoid the possibility of unknowingly used as a target and means of money laundering and terrorism financing, so it can better focus on the function starts to partnerships in the public welfare.

With this book, expected to show improvement recommendations that can later be used by all stakeholders in designing appropriate steps in dealing with NPO.

Domestic NPO compiled Review is not the end product of a process, but rather the beginning of the effort to organize and handling a more comprehensive NPO. At this also my hope that all government agencies and other stakeholders to work together and increase the commitment to do the coaching NPO with more adequate.

Thanks are due to the United Kingdom Charity Commission which has provided technical assistance in the preparation and publication of NPO Domestic Review. Thanks and highest appreciation, I have to say also to all government agencies and INPO who participated in the preparation of this book.

May God Almighty give mercy and guidance to us all. Amen.

Jakarta, 22 June 2010

**Coordinating Minister
for Political, Legal and Security Affairs
of the Republic of Indonesia
as Chairman of the TPPU Committee**

Acknowledgment

This Report of *Domestic Study on Non-Profit Organization* (NPO) constitutes the result of cooperation between government agencies and NPOs which have joined the Local Assessment Team (LAT). Center for Reporting and Analysis of Financial Transaction (PPATK) plays its role as the Secretariat of LAT. This report is aimed to develop good governance of NPO sector in Indonesia.

This study makes use of analysis tools provided by *The International Program – The Charity Commission for England and Wales*. This tool of study called *NPO Sector Assessment Tool* is aimed to help identify the risks that may affect NPO sector in a country, and study how effective the existing regulations are in mitigating such risks.

This study is divided into four stages: (1) *Survey of NPO Sector*, which is aimed to obtain a profile of the sector and risks that affect this sector; (2) *Regulatory Frame Assessment* which assesses the effectiveness of the entire NPO regulations; (3) *Analysis and Recommendation* in which strategic key issues and recommendations are formulated; (4) *Final Report* that presents the complete result of the study, executive summary, and the recommendation.

This program has been realized thank to the cooperation of PPATK and *The Charity Commission for England and Wales*. We should be grateful to Bapak Yunus Husein (Chairman of PPATK), Bapak Andhika Chrisnayudhanto (Directorate of KIPS, the Ministry of Foreign Affairs) and Bapak Djoko Kurnijanto (Directorate of Cooperation among Agencies - PPATK) for their support in the implementation of this program. We thank for the assistance and guidance given by *The Charity Commission* for England and Wales, especially Mr. Benjamin R. Evans, and Mr. Nigel Tarling and Mr. Emile Van Dubois of *World Bank*.

We thank for hard cooperation of members of LAT in conducting this research. We are grateful to members of LAT of government agencies, namely the Ministry of Law and Human Rights, the Ministry of Home Affairs, the Ministry of Social Affairs, the Ministry of Religious Affairs, the Ministry of Foreign Affairs, State Secretariat, Densus 88 (Special Detachment 88) and PPATK. We are grateful to NPOs that become members of LAT, namely: Dompot Dhuafa, Transparency International (TI), National Secretariat of Indonesian Forum for Budget Transparency (Seknas FITRA), the Central Management Board (PP) of Muhammadiyah, and Indonesian Center for Law and Policy Studies (PSHK), and Indonesia's National Council for Social Welfare (DNIKS).

Various government agencies and NPOs also have given support of data and information for this survey. We should be grateful to the Ministry of Trade and Industry, the Ministry of Manpower and Transmigration, Directorate General of Tax, and the National Board of Disaster Handling. We should also be grateful to several NPOs that have spared the time to fill out the forms of survey and have dialog with us: Yappika, Center for Research on Intergroup Relation and Conflict (CERIC - Fisip UI), Institution for Research, Education, and Economic and Social Information (LP3ES), FITRA Medan, Information and Communication Forum of Non-Government Organizations (FIK-Ornop) of South Sulawesi, Coordinating Board of Social Welfare Activities (BK3S) of Surabaya, *Rumah Zakat Indonesia Bandung*, Indonesian Disaster Management Communities (MPBI), Indonesian Confederation of

Welfare Labor Unions (KSBSI) in Jakarta, National Worker Union (SPN) in Jakarta, and *Board of tithe collectors Region* (BAZDA) (Regional Tithe Collector) Surakarta.

We thank to Ben Evans of Charity Commission for England and Wales that has helped us prepare this Report from the beginning until the end. We thank to fellows at the Secretariat of LAT for coordinating the research, editing the draft of the report, and other administrative technical support. Thanks to Ibu Ira Novita of Indonesia In-country Support of Charity Commission for England and Wales, who carried out her Duty as the coordinating chairman for the Secretariat of LAT and also to the fellows of Portal Information of NGO (Pingo), namely Bapak Esrom Aritonang, who has worked as assistant to this survey and Ibu Indriani Permata as financial and administration assistant.

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To anyone we skip to mention, please forgive us. Thanks to all of us who have worked to make this report successful.

Jakarta, June 2010

Tri Priyo

Chairman of Local Assessment Team
Indonesia NPO Domestic Review Program
Director of Cooperation among Agencies
Center for Reporting and Analysis of Financial Transaction

Executive Summary

Main Overview on NPO Sector:

In the carrying out of this study, there are twenty one thousand Non-Profit Organizations– also known as NPO – registered in Indonesia. The existence of the NPO sector is regulated by the Government of Indonesia (**GoI**) pursuant to 26 laws and regulations consist of 15 laws, 4 government regulations, and 7 Ministerial Decree. The implementation of such laws and regulations is conducted by 10 government institutions consist of 8 ministries and 2 ministerial-level institutions. Based on the observation for the last ten years, the trend on the implementation of the related laws and regulations and the supervision of the sector is increasing. The effort on the issuance of laws and regulations related to NPO has been an evidence on such trend.

The result of this study shows that the existence of NPO in a large amount has not been followed with the laws and regulations. This is shown in the complexities in the prevailing laws and regulations related to NPO. One of the indicators is the haziness in the distribution of duties and authorization among the ministries, whether in the case of registration nor supervision. Another indicator is the absence of the effort to map the prevailing laws and regulations comprehensively in order to identify the weak point arisen out of the complexity. The effort in mapping the laws and regulations will be the foundation on the drafting of the laws so that a comprehensive regulations which is *cross sectoral* is achieved.

Based on the data provided by the Ministry of Law and Human Right, in the year of 2009 there are 21.699 NPO having legal status officially listed. A large amount of the listed NPO, wick is 21.301, having yayasan as their legal status (98%). The rest, which is 368 NPO has “perkumpulan” as their legal status. Besides the data provided above there are estimated thousands of NPO, generally located in the districts, has not been registered and do not have any legal status.

Another problem occurred while carrying out the study is the lack of management and procurement of the basic information and NPO data. The procurement is conducted separately by each of related ministries. The data compilation of NPO is still printed and in the final phase of updated version in the electronic format (eg.internet online, website), so that the data can be easily accessed by the public.

Other interesting finding is that there are several Non-Governmental Organizations (**NGO**) that compiling the NPO database electronically, and can be accessed online through the internet, but generally consist of NPO data related to NGOs.

The result of the study also shows that the government’s effort to develop inter-agency coordination related to NPO supervision, including imposing the sanction to those who breaches prevailing laws and regulations, has not been optimized yet. Thus in number of laws and regulations it is strictly stated that NPO is obligated to provide financial report regularly, there are still quite a few NPO complies to the laws and regulations.

The fact is a large amount of NPOs do not comply to the prevailing laws and regulations as part of the public accountability principal. On the other hand, the government ministries have not conducted a proactive supervision related to the obligation to file the financial report.

As the result of the non-compliance regarding the obligation to file a financial report regularly, the supervision on the source of fund of the NPOs cannot be conducted at its best.

Based on a brief study, the total amount of expenses of NPOs in Indonesia is estimated in the amount of billions Rupiah, and it is indicated reaches trillion Rupiah.

The NGOs is in general still relying on the fund from the foreign donors. Nevertheless, public fund raising is also increasing and well-developed.

As a country with the largest of Moslem inhabitant in the world, charity fund raising and *zakat* has become the most potential practice performed in Indonesia.

A number of NPOs focused in charity fund raising and zakat are eventually succeeded raising fund to reach the amount of billion Rupiah each year with the relatively good management of public reporting.

Mass media, in particular private-owned television and printed media are also actively raising fund for charity purpose and managed to collect billion Rupiah. However accountability and transparency of fund raising conducted by mass media has become a debatable issue in numerous seminars and media. The fund raising conducted by mass media still is required to be strictly regulated related to its mechanism and also restriction.

There is 131 foreign NPOs listed in the Ministry of Foreign Affair. However, it is presumably a large amount of unlisted foreign NPOs conducting activities in Indonesia. Supervision and partnership with foreign NPO still is required to be developed as an effort to develop accountability and transparency, as well as increasing the reward to the supremacy and independency of the Indonesia society.

General overview on NPO Regulator:

The right to freedom of opinion and assemble in Indonesia is protected by the constitution as stated in the Article 28 of the 1945 Constitution of the Republic of Indonesia. There are three laws regulating the legal status of NPO, i.e. the Law No.16 of 2001 regarding Yayasan and the Law No.28 of 2004 regarding the amendment of Law No.16 of 2001, Staatblad 1870 regarding Perkumpulan, and the Law the Law No.8 of 1985 regarding Social Organization. Comprehensively there are 15 laws, 4 Government Regulation, and 7 ministerial decrees related to NPO.

Based on the prevailing laws and regulations, NPO is not a tax object. The result of the study indicate a complexity of laws and relations regarding NPO in Indonesia. In the total amount of 26 laws and regulations, there are 3 main regulations, i.e. the Law No.16 of 2001 and the Law No.24 of 2008 regarding Yayasan, the Law No.8 of 1985 regarding Social Organization, and Staatblad 1870 regarding Perkumpulan. Each of the law has its own origin. Staatblad is regulated in the Dutch colony, the Law on Organisasi Kemasyarakatan is enacted in the New Order period, and the Law on Yayasan is enacted in the Reformation age.

The Law on Yayasan in particular regulates a non-membership NPOs, while Staatblad focused on mass-based NPO. Both laws are implemented by the Ministry of Law and Human Rights.

As to the Law of Social Organization is implemented by the Ministry of Home Affairs and regulate practically each type of NPOs. On the other hand, an international NPO is regulated by the Ministry of Foreign Affairs in coordination with other governmental institutions.

Realizing to the complexity, at the moment the government is striving for the amendment of the Law on Social Organization and also the Staatblad. However the Local Assessment Team (**LAT**) recommends that a comprehensive mapping in each of the prevailing laws and regulations related to NPO and the institutions regulating NPOS is required to be conducted. The purpose of the mapping

is to achieve an effective and synergized regulation(s) related to NPO in the future. The result of the study indicates that the establishment of NPO and the freedom to conduct activities has already fulfilled and protected by the laws and regulations. The NPOs and the government institutions is of the opinions that at present the establishment of NPO is no longer facing a crucial obstacle. Numbers of circle in the society believe that the establishment of NPO is excessively simple that is feared that numbers of NPOs will increase without an adequate decent process of registration and supervision. The NPOs and the government are both realizing that supervision and imposition of sanction are not running effectively. At the present time, the function of data-collection, supervision, and the mechanism of sanction has to be increased by each of the ministries and also inter-ministries. In the New Order period (1975-1998), the freedom of opinion had the tendency to be restricted. However as of the Reformation age beginning in 1998, the freedom of opinion prevails. In the Reformation age the numbers of NPO is rapidly developed. This is also apply to the amendment of the Law on Yayasan.

In the earlier period, Yayasan is often used by the high-ranked officials for politics and business interest. The effort to amend the Law on Yayasan is one of the strategic steps in developing a healthy NPO in Indonesia. The regulations having criticized by the civilians is the Law No.8 of 1985 regarding Social Organization. The law is enacted in the New Order period as an instrument to supervise civil organization including NPO. In the Reformation age, numbers of dialogue and seminars delivers critics querying the relevance of the Law. The implementation of the Law on Social Organization has been conducted by the Ministry of Home Affairs who is now striving for the amendment of the law. Opinions and critics from the civilians is required to be taking into considerations by the government. The implication of the Law on Social Organization require a full attention from the government.

The implication of the existence of the Law on Social Organization is a procedure of registration divided into 3 steps which is basically can be divided into 2 steps only. The first step is a requirement to achieve a legal status from the Minister of Law and Human Right. The next step is to register to the Minister of Home Affairs to obtain Registered Letter (*Surat Keterangan Terdaftar or SKT*). And the last step is to register to the relevant ministries. For instance if the NPO is running in the field of social services, then the registration is filed to the Ministry of Social Affairs. If the NPO is focused on religion, then the registration is filed to the Ministry of Religious Affairs, and so on.

The function of supervision is under each of the ministries. For instance religious-type NPO is supervised by the Ministry of Religious Affairs, a social-service NPO is supervised by the Ministry of Social Affairs, labour union NPO is supervised by the Ministry of Manpower and Transmigration, and so on.

The second step is deemed irrelevant as the role of the Ministry of Home Affairs is less specific on certain type of NPO, but it is tend to include each type of NPOs. On the other hand, the supervision role of NPO based on its types has been implemented by each of related ministries as stated above. Having the fact, it is of important to design a brief procedural and a manageable inter-agency coordination, whether the duty, role, or the function.

NPO has initiated to develop self-regulation method in the form of code of ethics of NPO sector. Numbers of large NPO or NPO networking has composed and implemented a code of ethics produced out of a deliberation. The development of the code of ethics is in order to enhance the accountability and transparency of the NPO itself. However the effort on the development of the code of ethics has experienced a stagnation in the last couple of years. NPO also is required to develop a code of conduct to increase its accountability.

The partnership between the government and NPO related to the regulation is required to be strengthened in order to enhance the accountability and transparency of NPO. In the era of reformation and openness, the reaction of NPO, in particular the NGOs tend to oppose to a new regulation as it is deemed will limit the freedom of NPO. As an overview is the Ministerial Decree of the Ministry of Home Affairs No.38 of 2008 regarding "The Acceptance and Grant of Society Organization Aid From and to Foreign Party" is facing rejection and hard critics from the large NGOs in Indonesia. Having the fact, partnership and open dialogue is continually increased so that the regulation can be well accepted by each of the stakeholder.

The Strength of Sector and Regulatory Framework:

The NPO Sector in Indonesia is rapidly developed both quantity and quality, in particular as of the Reformation Age in 1989. NPO is operated nearly in each stages i.e. national, province, regency, up to the isolated village. NPO is also operated in each sector, in particular in the economic, social, politics, religion, culture, and consist of crucial issues such as poverty, gender, women, corruption, agriculture, labor, fisherman, local government, human rights and many others. NPO is strategically an alternative organization as government's partner in dealing with numerous social issues and the development of the country.

NPO is acting as a watchdog in criticizing the government's work. NPO is actively taking role in increasing public participation in various sectors, as well as encourage the establishment and implementation of pro-poor policy.

Though there is a complexity and has not yet been conducted a comprehensive mapping simultaneously by each of the ministries, the prevailing laws and regulations is effective in protecting the freedom of the establishment of NPO. The procedure of NPO's establishment is relatively easy as the requirements are generally can be met by the NPOs. However the NPOs do not comply to many of the obligations stated in the regulations related re-register, public financial report, obtaining a license in fundraising —this is due to the weak mechanism in supervision and sanction from the government. The fact indicates that the bargaining position of the NPO is relatively strong to the government.

Identified Main Risk and Strategic:

Main Risk of NPO Sector

Based on the study and discussion occurred in various visits to government ministries and NPO, LAT finds at least seven main risks on NPO's misuse:

1. NPO can be misused in supporting financing and persuasive efforts in terrorism.
2. NPO can be used as a tool to perform money laundering.
3. NPO can be used as a tool of other criminal act such as corruption, smuggling, fraud, violence and embezzlement.
4. Foreign NPO conducting fundraising
5. NPO is being misused to finance and persuasive efforts of separatist act that threaten the country's disintegration.
6. The challenge to keep local NPO, because of the dependency to foreign source of fund and the lack of capability in manage the operational of NPO.
7. The use of NPO which does not match with its objectives, such as the inconsistency of activities conducted depending on the issues and fund. If there are many of natural disaster occurs, the NPO is handling natural disasters despite of its lack capability, and other unprofessional act.

NPO Sector Strategic

Analysis of risk of misuse of the NPO sector show that at least there are various obstacles and barriers among government agencies in scrutinizing the NPO sector. By considering these risks, LAT formulate that there are 8 NPO sector strategic issues that need serious attention. The following is a summary of the main formula NPO Sector Strategic Issues:

1. There is the complexity of NPO regulation that resulted in synergies between the legislation less effectively interwoven..

At the time of the study carried out there are about 27 laws that regulate or have a connection with the NPO. One effect of the number of such legislation is the emergence of complexity that weakened the synergy between legislation and implementation. To overcome these problems, the government is conducting studies to amend the legislation that are considered incompatible with current conditions. Nevertheless, the policy amend the legislation did not appear to be preceded by a comprehensive mapping process to determine the complexity of inter-aspects of legislation such. A number of crucial aspects, such as coordination and division of roles and responsibilities between government agencies, especially in the implementation of NPO oversight has not been explored in depth. Mapping of the legislation should be done prior to amending the legislation, given the mapping process to clarify the complexity of the legislation that exists. Thus the amendment process, or the formation of legislation the new, will respond exactly the complexity that has been identified. The result of these amendments is expected to be the solution to the problems that exist and do not add to the complexity that exist today.

2. Registration and Validation of NPO corporation has not been arranged well in cross-ministerial level.

This study estimates that there are probably thousands of NPO who have not registered or has not completed its legal entity status. Contributing factor is the cost of making the deed which is costly to the notary and registration fees added to the ministry, cross-registration procedures for ministries has not been well coordinated, and the NPO is still minimal understanding of the benefits and procedure for registration. On the other hand, the Government is still not heavily socialization regarding application procedures for legal entities NPO and registration procedures to the various other ministries.

3. Monitoring & evaluation of the NPO as a system of monitoring and sanctions has not been implemented effectively.

Relevant ministries have not maximizing strategy to monitor and evaluate the NPO. The Ministry has not been effective in calling NPO for renewing registration and notification activities and funding. The impact of the weak monitoring and evaluation has made a variety of abuses by the NPO might happen, for example the use of NPO is not in accordance with the purpose of its establishment; NPO misused to support the financing of terrorism; NPO serve as a means of money laundering or other criminal acts, such as corruption, smuggling, fraud, violence, and embezzlement; NPO misused to finance separatist activities that threaten national disintegration. This happens because the NPO tend to ignore the various obligations contained in the legislation because of government oversight is still weak and not reinforce the sanctions mechanism.

4. NPO oversight from abroad in Indonesia is not working effectively so that it appears a number of violations that potentially interfere with national interests.

NPO from abroad is relatively free to operate in the territory of Indonesia. Freedom is in some cases been misused for harmful purposes Indonesian nation, such as data collection on natural resources on behalf of nonprofit research, supporting the separatist activities and

to enter areas of conflict or natural disaster sites without permission, raising domestic funds, foreign institutions to channel funds to institute its own overseas counterparts in Indonesia under the guise of humanitarian assistance or disaster, and various cases of implementation that does not comply with the Memorandum of Understanding (MoU) with the ministry as partners.

5. NPO data and information management as well as updates do not yet have an integrated database system at the ministry.

The Ministry has not applied information technology in information processing and database NPO. NPO data management and up-date has not supported an integrated database system. NPO data management is still fragmentary in their respective ministries where there are no pooling of data management function to process and analyze all the data compilation NPO. NPO data availability in the central ministries and provincial level are still in the form of printed directories. The Ministry does not have a computer database that is connected to the Internet so the public can access such information.

6. Information to the public as information disclosure to the public is still minimal and the NPO conducted by the government itself.

Various important information regarding such socialization NPO legislation, NPO data, financial statements in the media, fundraising information and activities have not been actively informed by the government and NPO to the public. Along with the publication of Law Number 14 Year 2008 on the Openness of Public Information, an effort to increase transparency and accountability of this NPO needs to be socialized. Members of NPO largely assume that accountability is submitted to donor agencies only. Only large NPO that has begun to use public audit and publish its financial statements through annual reports, websites, and other mass media.

7. NPO protection as a strategy to minimize the abuse still has not been actively developed by the government and NPO.

Indonesian NPO is still vulnerable to various practices of abuse, especially in the financial sector. Indonesian NPO pendanaannya relatively high dependence on foreign donors, especially among NGOs. Protection and social worker associations that play a role NPO fighting protection of the rights of social workers are also not well developed in Indonesia. The protection of social workers NPO when plunging into the field is also not yet developed. NPO also need to get protection in the form of tax cuts. In addition to the development of protection, a number of awards (reward) and incentives also need to be given by government.

8. Partnership between government and the NPO has not been widely disseminated.

The era of reform has been growing and expanding public participation in development. The position of the government no longer regarded the greater community, but their relationship has been defined as a partnership. Efforts to foster this partnership was initiated by the government and NPO. The spirit of this partnership that needs to depankan as a paradigm of good governance in developing NPO and government agencies. However, the development of this partnership needs to be improved, especially to foster self-regulation initiatives among NPO through the manufacture code of ethics and code of conduct. This partnership also could have reduced socialized into various NPO and government agencies at the local level.

Overall Assessment:

General Conclusion on the assessment on regulatory framework is only partially effective. The result of the LAT's assessment indicates that the consolidated assessment of regulatory framework is rated **Partially Effective**. The Government group is on the opinion that the Regulatory Framework is **Largely Effective**, however the NPO group believes that it is only **Partially Effective**. The combination between government and NPO group also of the opinion that the regulatory framework is **Partially Effective**. There is a discrepancy between the government group and NPO group.

If we look into the 6 purposes of regulatory framework, the result shows that the establishment and protection of NPO is **Largely Effective** with the description that NPO registration is relatively easy, however the management of NPO data is still *partly effective*. This is due to the fact that NPO data has not yet been managed in a form of database nor be well-updated. The main critic is that the procedural steps in NPO registration is still required to be enhanced among the government institution.

The main finding is in the field of identification and investigation of concerns that is rated **Partially Effective**, and there are numbers of ineffective factors, in particular because the supervision, sanction and reward from the government as the supervisory body is not yet effective.

The protection of NPO and Risk Mitigation can be deemed **partially effective** because the NPO can pursue through court of justice if the internal affairs wish to be settled. Numbers of NPO has implemented code of ethics and strict sanctions to its staffs who breaches the regulation. Nevertheless, due to the unstrict supervision and sanction from the government, NPO is still fragile to several of misuse conducted by the internal NPO itself.

Recommendation:

The main recommendation is composed based on strategic issues of NPO sector which is designed to be harmonized between one and another. The implementation of the recommendation requires cooperation and coordination inter-ministries as well as involves the NPO participations, academics, and civilians in general. The brief summary of the recommendation is as follows:

- 1. The mapping of Indonesian NPO regulation is required to be conducted comprehensively to overcome the complexity of the regulation.** The government is required to prepare a comprehensive NPO regulation mapping which involves each of the related ministry, law expert, and NPO. The result of the mapping is expected to provide an overview on the complexity of the prevailing laws and regulations and also to provide a strategy to overcome the problem. The mapping will also expect to be an input to numbers of draft law which are being filed. From the mapping we can design a distribution of role and inter-ministries coordination to implement the supervision of NPO.
- 2. Simplifying Registration and Authorization of a Legal Status.** The government is required to develop a simple and effective procedure on NPO registration, so that the distribution of duties and roles related to data-collection and supervision can be well-established among the ministries. The government has to conduct socialization to the local government. The registration and supervision of foreign NPO is conducted through inter-ministries cooperation which is coordinated by the Ministry of Foreign Affairs.
- 3. The development of supervision system and sanction by implementing a regularly monitoring and evaluation.** Supervision is required to be performed effectively by implementing a strict sanction. The supervision is conducted through a development of a

regularly monitoring and evaluation, whether inside or inter-ministries, and can be actively implemented by the local government. The supervision is required to be effectively performed so that NPO is encouraged to perform its obligations stated in the prevailing laws and regulations.

- 4. The increase of affectivity on the supervision of foreign NPO in Indonesia** The government is required to enhance the management of supervision along with the sanctions and to be supported with the drafting of new regulations so that foreign NPO operated in Indonesia increases its reward and recognition to the authority and independency of Indonesian people. In order to implement the supervision there should be a good coordination between related ministries and the local government.
- 5. The development of Management Information System of NPO Data** The management of NPO data is required to be advanced to become an integrated database accessible by each of the ministries (central and local), NPO and public. The database should be supported by the implementation of an adequate Information Technology and also internet and website accessible by public. Each of the ministries should obtain its own online database which is integrated to a NPO Central of Information managed by polling data management. The government is required to appoint a ministry or government institution having responsibility to manage the polling data and to supervise the update of data of each of the ministry.
- 6. Public-advising is required to be enhanced to increase the transparency of NPO information and its public accountability.** Each of the NPO needs to be encouraged to inform the profile of its institution, also its activities and financial report to the public as one of the effort to support public accountability. This obligation is actually stated in the prevailing laws and regulations, however there is only a small amount of NPO comply to the laws and regulations. This public-advising is relevant with the issuance of the Law on Openness of Public Information. The government is also required to openly provide the information managed to the NPO and public.
- 7. The increase of protection for NPO as a strategy to minimize the misuse of NPO and to increase its accountability.** The effort in the strengthen of accountability and transparency of NPO should be followed with the increase of NPO protection, in particular by still keeping the freedom to be involved in an organization, increasing the independence of NPO from the dependency from the foreign source of fund which one of the efforts is to increase the capability of an NPO in raising fund domestically, developing a protection to NPO social workers, and granting of reward to the well-achieved good practises, tax incentives, and other incentives.
- 8. The development of partnership between the government, public, and NPO.** Public participation is one of the effective ways to increase good governance between the government and NPO. Thus the government together with the public and mass media are required to actively encourage supervising NPO. The government is also required to develop numbers of partnership program with the NPOs, whether in central government or local government. The objective of the development of this partnership is to encourage the democratization process of internal NPO through a self-regulation method, one of which is conducted by the strengthening of NPO code of ethics and code of conduct.

Government Institution responsible to implement the recommendation:

Government Institutions expected to be responsible in implementing this recommendation is the ministry taking role as oversight agencies:

- The Ministry of Law and Human Rights
- The Ministry of Home Affairs
- The Ministry of Religious Affairs
- The Ministry of Social Affairs
- The Ministry of Trade
- The Ministry of Manpower and Transmigration
- The Ministry of Foreign Affairs
- The Ministry of Environment
- The Ministry of Health
- The Ministry of National Education
- The Ministry of Cooperatives, Small and Medium Enterprises

Other Strategic Government Institution involved in the implementation, i.e.:

- The National Disaster Management Body
- The Directorate General of Taxation
- The Indonesian Financial Transaction Report and Analysis Centre

In contrary opinion

None

Introduction

The effort made by the Indonesian government to conduct Domestic Study on Non-Profit Organization (NPO) constitutes a strategic step in supporting the creation of effective laws and regulations. The interest in these issues of legislation and regulation is based on several reasons, among other things: the unexpected growth NPO sector; the improvement of sophistication of the sector; growth of Multi-national NPO; more complex relation with the government as partner, service provider, critic and rival, as well as the progress of global effort concerning anti money laundering and terrorism funding as described in Special Recommendation VIII issued by Financial Action Task Forces (FATF-SR VIII).

Recommendation of FATF-SR VIII is directed to all governments that become members of FATT, and the related memorandum of understanding requires the government to:

- Study the sufficiency and feasibility of laws and regulation relating to NPO;
- Identify characters of NPO sector in the country;
- Apply steps to prevent:
 - The existence of terrorist organization that disguises it as an NPO;
 - The possibility of preventing the steps of asset freezing; and
 - NPO fund from being transferred to a terrorist organization.

In the Decree of Coordinating Minister for Political, Legal and Security Sector of the Republic of Indonesia Number: KEP - 343/Menko/Polhumkam/09/2009 regarding National Strategy for Preventing and Fighting against Crime of Money laundering and Terrorism Funding the government has formulated nine national strategies (*stratnas*) in the framework of preventing and fighting against the crime of money laundering (TPPU). The effort of reviewing NPO regulations in Indonesia through this Domestic Study on Non-Profit Organization (NPO) has something to do with *stratnas* Number Nine which specifies the need to “Handle Non Profit Organization (NPO) Sector comprehensively”.

Such National Strategies Number Nine is aimed to better improve the role of and contribution made by NPO as government’s partner in the development process in Indonesia by emphasizing good governance (transparency and accountability) and to eliminate NPO that is used as facility and infrastructure for money laundering and terrorism funding, and other objectives that endanger the safety of the community, nation and the state. This strategy also has something to do with the National Strategies Number Three concerning database management electronically and connectivity of the database owned by several relevant agencies; and National Strategies Number Six concerning improvement of community’s participation through public campaign.

Effective laws and regulations are significant factors to maximize positive contribution of NPO sector. Effective laws and regulations are by nature enabling, providing a space to the sector and enabling it to work at maximum potentiality. Effective laws and regulations creates NPO sector that is feasible, accountable and independent with a series of approved norms and attitudes. Laws and

regulations also formalize the relation among the government, the community, and NPO sector by presenting a series of explicit regulation as well as improving information on their respective identity.

On the other hand, ineffective laws and regulations will only limit the progress of NPO sector. At Workshop on Non Profit Organization Sector held in Bogor on November 17-18, 2008 and attended by the stakeholders relating to NPO, a number of weaknesses in the handling of NPO sector in Indonesia we identified. Such weaknesses include: (a) non existing of equal perception on diversity of NPO sector in Indonesia, (b) laws and regulations on NPO sector that are overlapping, such as, foundation, community organization, social organization, religious organization, and so on; (c) weak coordination at the central as well regional levels; (d) weak control and monitoring over the flow of fund which has the risk of money laundering and terrorism funding; and (e) non existing of comprehensive mapping for NPO sector operating in Indonesia.

Such progress and factor give support to the Indonesian government to identify the risks against NPO sector. *The Charity Commission for England and Wales* provides a set of *NPO Sector Assessment Tool* to identify such risks. This tool is utilized to identify risks that affect NPO sector in a country and study how effective the existing laws and regulations in the sector are – both laws and regulations of the government as state regulation and sector regulation as the effort to regulate itself – in reducing such risks.

Stages of Study and the Objectives

The implementation of this Domestic Study on Non-Profit Organization (NPO) and its reporting is conducted from June 2009 until June 2010. This review is divided into four stages of activities and objectives:

- **First Part: Sector Survey.** This survey is aimed to prepare the sector profile and the risks that affect the same. This survey provides a framework to identify and record key information on NPO. This survey also identifies the area where there is no information and which requires a follow up. The information collected will help the implementation of assessment and the next process of study.
- **Second Part: Assessment to Regulatory Framework.** This is the assessment to the effectiveness of regulatory framework existing at present. This assessment will divide regulation into six objectives, each of which has indicator. The said objectives will subsequently be tested based on seven standards of effective regulations.
- **Third Part: Analysis and Recommendation.** This is aimed to analyze and consider strategic issues that affect the effectiveness of the sector and regulatory framework. This part requires the making of recommendation as a remedial action.
- **Fourth Part: Final Report.** This constitutes the writing of the assessment result supplemented with other data such as source of information, executive summary, and recommendation.

Implementation of Study: Local Assessment Team (LAT)

In order to implement this activity entirely, we establish a *Local Assessment Team* (LAT) which consists of the relevant government agencies and NPOs. LAT obtains technical assistance from the Secretariat of LAT, which is coordinated by Center for Reporting and Analysis of Financial Transaction (PPATK). LAT's membership is as follows:

LAT of Government agencies:

- The Ministry of Law and Human Rights (Kemenkumham);
- The Ministry of Home Affairs;
- The Ministry of Social Affairs (Kemensos);
- The Ministry of Religious Affairs;
- The Ministry of Foreign Affairs (Kemenlu);
- State Secretariat (Sekneg); and
- Center for Reporting and Analysis of Financial Transaction (PPATK);

LAT of NPOs:

- Dompot Dhuafa;
- Transparency International (TI);
- National Secretariat of Indonesian Forum for Budget Transparency (Seknas FITRA);
- The Central Management Board (PP) of Muhammadiyah;
- Indonesian Center for Law and Policy Studies (PSHK); and
- Dewan Nasional Indonesia untuk Kesejahteraan Sosial (DNIKS).

Reporting of Result of the Study and Signature

This report constitutes the result of Domestic Study on Non-Profit Organization (NPO) conducted by LAT. All results of this report were approved and signed by members of LAT on June 3, 2010.

Research Process and Limitation

A general description of Non-Profit Organization sector shows that this sector keeps on developing all over the world by showing significant social, cultural, economic, and political values for a country and nation. A country that has feasible NPO sector will make this sector able to have important role that goes side by side with government in realpermitg the objectives of development and improving the quality of life of the community.

NPO sector is governed by civil norms such as sense of respect, mutual relation, tolerance, including basing its various activities on community empowerment. The norms and values that are developed into code of ethic will certainly encourage dialog and openness of discourse, citizen participation, and partnership with the government. NPO also becomes an alternative forum that can play role to identify, reveal, and find solution for any power that damages the potentialities of community's autonomy.

Feasible NPO sector requires a framework of effective laws and regulations in order to maximize positive contribution of NPO to the civil society. Good effectiveness is by nature empowering, giving a space, and enabling NPO to work at maximum potentiality. Effective laws and regulations provide protection to the accountability and transparency of NPO sector. Laws and regulations also formalize the relation among the government, community and NPO sector through the creation of express regulations and improving openness of information from the respective parties.

A country that maintains effective laws and regulations on NPO will certainly obtain the benefit from improvement of governance of this sector. This is the reason that the domestic study on the sector of non-profit organization needs to be conducted in Indonesia. The analysis tool utilized is *NPO Sector Assessment Tool* that is designed by *The Charity Commission for England and Wales*. This study tries to identify the risks that affect NPO sector in a country and to assess the effectiveness of the existing laws and regulations in the sector – both government's laws and regulations as state regulations and the sector's regulations as the effort to govern itself – in reducing such risks. This study has ever been conducted in the Philippines, which was also facilitated by The Charity Commission for England and Wales.

The implementer of this study is the Local Assessment Team (LAT) consisting of government elements and NPOs. To facilitate LAT, a LAT Secretariat is established, which is coordinated by PPATK. NPO Sector Assessment Tool provides method of survey and means of analysis to NPO sector divided into four stages:

- **First Stage: Survey of NPO Sector**

As the first stage, survey of NPO sector is applied by gathering information to find out the number and characters of NPO and the main risks that affect the same. This is conducted to produce a general view of NPO profile and also the key information.

The First Part is conducted using four steps as follows:

**Table 0.1:
Stage of Sector Survey**

Step	Activity	Explanation
1	Agreeing on Scope of Survey	LAT approves the scope of survey and determines which organizations defined as NPOs.
2	Planning and Priority Making	LAT prepares survey implementation plan covering resource allocation, methods and forms for gathering prioritized information, work schedule, and analysis.
3	Survey Implementation	Survey is conducted and prioritized information and risks found are set out in survey forms provided.
4	Report	Result of survey is presented and discussed by LAT. LAT members give notes and comments on the result obtained. LAT subsequently prepares a report of result of survey.

This survey-based data / document and visits by kekementarian related (oversight agencies) and the NPO which already has a database of NPO.

Four priority information collected are:

- The number of registered NPO in Indonesia, Profile NPO Based Activities, Beneficiaries Profile Profile NPO NPO Profile Based Membership Size Based on Geographic
- Based on Legal Status of NPO Profile
- NPO Funds Total Revenue, Total Revenue from Overseas Fund, and Fund Profile People Funds, Types of Income, Expenditure Profile, Total Revenue 'Invisible'
- Vulnerability, Nature of Abuse, Goals Abuse, Abuse Causes, Perceptions Against Abuse

The study uses data collected by reviewing some journal books, literature and statistical information available from relevant ministries and other publications. The survey also took a small sample of the NPO is registered in Kemendagri, Kemensos Kemenlu..

To provide flexibility in data collection, information collected is divided into three different priority levels. The first priority (National Legal and Dana, both from domestic and from abroad) is the most important information, and for that has been allocated 70% of the resources and time available to obtain the required data. The second priority, the information includes data about NPO activities, beneficiaries, source of income and expenditure. Information with the lowest priority is the third priority, namely vulnerability and abuse. In accordance with the tools adopted from the UKCC, the process of data collection system of belief (confidence) for all data that is processed in this report. List of references for this report can be found in Appendix.

After LAT has prepared a report on this survey, the second stage commences namely regulatory framework assessment.

- **Second Stage: *Regulatory Framework Assessment***

This stage is aimed to assess the effectiveness of the entire legal framework covering, laws and regulations, system, process and activities that are designed to govern NPO. Legal framework assessed covers six specific objectives, namely: (1) *to establish NPO*; (2) *to identify NPO*; (3) *to*

identify concerns; (4) to investhreete concerns; (5) to protect NPO; and (6) to reduce risks. Every objective is designed to achieve specific results. There are seven indicators that are made as assessment tool for every objective, namely (1) *Well Communicated*, (2) *Fair*, (3) *Proportional*, (4) *Empowering*, (5) *Context*, (6) *feasible and realistic*, and (7) *efficient* (see introduction in Chapter II).

This second stage is conducted in six steps as follows:

Table 0.2:
Stages of Regulatory Framework Assessment

Step	Activity	Explanation
1	Identification of laws and regulations	LAT identifies all laws and regulations that bring impact on NPO and constitute part of regulatory framework.
2	Initial Analysis	LAT identifies and records articles of each regulation that bring impact based on the indicator of the objective.
3	Document Study	Assessment to the effectiveness based on each indicator using the effectiveness rating.
4	Validation	Assessment document is submitted to the government agency that has the role as the supervising agency to obtain comment and validation, and also submitted to several NPOs.
5	Field Study	Site visit to delve into validation by visiting several regional governments and local NPOs.
6	Validation Workshop	The assessment result based on six objectives and seven assessment indicators is discussed and validated by LAT through a workshop and the report of which is prepared.

Some 27 regulations were assessed, which consist of 15 laws, five Government Regulations, and seven Ministerial Regulations / Decree of Minister of Laws and Regulations implemented by ten government agencies consisting of eight ministries and two non-department government agencies. LAT has visited the ten agencies, domiciled in the central and regional government as well as local-NPO.

The six objectives of the regulation is tested one by one based on seven indicators of effectiveness. Assessor group is divided into 3, namely: assessor group from the circle of government, assessor group from the circle of NPOs, and combined group of government and NPOs. The result of this research will subsequently be entered into the Effectiveness Rating, which is divided into 4 scales and colors of assessment: *Effective* (green), *Predominantly Effective* (yellow), *Partially Effective* (Orange), and *Not Effective* (Red). The explanation on the rating and its result can be seen in Chapter III.

Final assessment of the effectiveness of laws and regulations was conducted through Validation Workshop in Bogor on April 21-23, 2010. After the report of this stage has been completed, LAT continued doing the stage of Analysis and Recommendation.

- **Third Stage: *Analysis and Recommendation***

This stage is aimed to identify the strength and weakness of regulatory framework as the basis for developing and prioritizing the recommendation. The effectiveness of any laws and regulations is affected by various factors, in which in this third stage effort is made to formulate the main factors that contribute to the effectiveness of regulatory. After understanding the main factors as the risks, a recommendation to handle such risks is proposed.

This third stage consists of four steps as follows:

**Table 0.3:
Stage of Analysis and Recommendation**

Step	Activity	Explanation
1	Identification of strengths and weaknesses in the system	LAT identifies the weaknesses and strengths of regulatory framework.
2	Identification of Key Issues and Risks	Identifying the factors that affect the key issues and risks.
3	Prioritized Key Issues and Risks	Prioritized key issues and risks identified into matrix of risks.
4	Proposed Recommendation	Formulation of recommendation by considering the priority produced by matrix of risks.

This stage successfully formulated eight risks and strategic issues that have been analyzed into matrix of risks based on measurement of probability and impact (the problem they caused). It is necessary to understand matrix of risks since it is the key to recommendation formulation. The higher the probability and impact is, the recommendation formulated requires an action. However, if the probability and impact is low, such risk issue may be ignored or sufficiently monitored.

These four steps were taken through workshop in Bogor on April 21-23, 2010 (together with the completion of the second stage). The fourth or final stage is reporting.

- **Fourth Stage: Final Report**

Final reporting constitutes the obligation of LAT to present the main findings in the sector survey and assessment of regulatory framework to the government and the public. This report combines all of the results accompanied with executive summary, analysis, recommendation, and conclusion. Final reporting will be published and resubmitted to the government agency as well as NPOs.

The stage of Final Reporting consists of four steps as follows:

**Table 0.4:
Stage of Final Report**

Step	Activity	Explanation
1	Agreeing on Report Format	LAT agrees upon and edits information covered in the Final Report and its format.
2	Completion and Signature	LAT examines the entire Final Report. The last version approved is then affixed with signatures of LAT members.
3	Executive Summary	LAT discusses and agrees upon the Executive Summary.

4	Publication and Distribution	Publication of Final Report as well as distribution to the stakeholders.
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This editing of the entire Final Report was conducted by LAT through Workshop on June 2-3, 2010 in Bogor, West Java. This report has been published in the form of books and distributed to the stakeholders.

Abbreviation List

AD/ART	: Articles of Association and By-Laws
Bais	: Strategic Intelligence Agency
BAZ	: Board of Tithe Collectors
BAZDA	: Board Of Tithe Collectors Region
BAZNAS	: National Board of Tithe Collectors
BIN	: State Intelligence Agency
BK3S	: Coordinating Board of Social Welfare Activities
BNPB	: National Agency for Disaster Handling
BPKN	: National Consumer Protection Agency
BPSK	: Consumer Dispute Settlement Agency
BWI	: Agency Endowments Indonesia
CERIC-Fisip UI	: Center for Research on Intergroup Relation and Conflict, Faculty of Social and Political Sciences, University of Indonesia
CIFOR	: Center for International Forestry Research
CSR	: Corporate Social Responsibilities (CSR)
Ditjen Pajak	: Directorate General of Tax
DNIKS	: Indonesia's National Council for Social Welfare
FIK ORNOP	: Information and Communication Forum of Non Government
HKI	: Organizations Helen Keller International
IDRC	: International Development Research Centre
ILO	: International Labour Organization (ILO)
Kejagung	: General Attorney
Kemenag	: Ministry of Religion
Kemenakertrans	: Ministry of Manpower and Transmigration
Kemendag	: Ministry of Trade
Kemendagri	: Ministry of Home Affairs
Kemenkumham	: Ministry of Law and Human Rights
Kemenlu	: Ministry of Foreign Affairs
Kemensos	: Ministry of Social Affairs
Korpri	: Republic of Indonesia Civil Servants Corps
KSBSI	: Indonesian Confederation of Welfare Labor Unions
KSBSI	: Confederation of Labor Union Throughout Indonesia
KSPI	: Confederation of Worker Union Indonesia
KSPSI	: Confederation of Worker Union Throughout Indonesia
LAT	: Local Assessment Team
LAZ	: Tithe Collectors Institution
LP3ES	: Institution for Research, Education, and Economic and Social
LPKSM	: Information
LSM	: Non-Government Consumer Protection Agency
MoU	: Non-Governmental Organization
MPBI	: Memorandum of Understanding
NGO	: Indonesian Disaster Management Communities
NPO	: Non Governmental Organization
NPWP	: Non-Profit Organization
NU	: Tax Payer's ID Number

PBB	: Nahdlatul Ulama
PCI	: United Nations
Permendagri	: Project Concern International
PINGO	: Regulation of Minister of Home Affairs
POLRI	: Portal Information of NGO
PP Muhammadiyah	: The Indonesian Police
PP	: Central Management Board of Muhammadiyah
PPATK	: Government Regulations
PPNS	: Center for Reporting and Analysis of Financial Transaction
Pramuka	: Civil Servant Investigators
PSHK	: Scouts
RUU	: Indonesian Center for Law and Policy Studies
SDM	: Draft of Law
Seknas FITRA	: Human Resources
Sekneg	: National Secretariat of Indonesian Forum for Budget Transparency
SKT	: State Secretariat
SPN	: Certificate of Registration
TDLPK	: National Worker Union
TI	: Certificate of Registration of Consumer Protection Agency
TKWNA	: Transparency International
TNI	: Foreign Labor
UU	: Indonesian National Army Laws

Chapter I: Sector Survey: Profile of Non-Profit Organizations in Indonesia

A. Survey of Sector NPO

A.1 Data Scopes of Survey Sector

This survey sector is the first step from Non-Profit Organization (NPO) Domestic Review with the objective to obtain general representation or profile of NPOs and the risks that influence them. The survey provides framework for identifying important information concerning this sector, which is expected it would be helpful for the next assessment process in relation to regulatory framework. Thus, this survey is intended to gather information of all NPOs in Indonesia in details and to establish comparison. This survey is limited to portray the general representation on NPOs.

The data gathering method for the survey is conducted through visits to government institutions and non-profit organizations for interviewing and requesting available data. Data registration is carried out through survey form that has been provided. This survey determines four priorities of information and 17 scopes that need to be gathered, please see the following table:

**Table 1.1:
Priorities and Scopes of Information for NPO Sector Survey**

Information Priorities	Scopes of Reviewed Information
NPO Profile	<ol style="list-style-type: none"> 1. Number of NPOs registered in Indonesia 2. Profile of NPOs based on Activity 3. Profile of Beneficiaries 4. Profile of NPO Based on Size of Membership 5. Profile of NPO Based on Geographic Aspect
NPO Legal Profile	<ol style="list-style-type: none"> 6. Profile of NPO Based on Legal Status
NPO Financing: Income and Expenditure	<ol style="list-style-type: none"> 7. Total Fund Income of NPO 8. Total Fund Income from Abroad 9. Profile of fund and Fund Donors 10. Type of Income 11. Expenditure Profile 12. Total of 'Invisible' Income
Vulnerabilities of NPO Sector	<ol style="list-style-type: none"> 13. Vulnerabilities 14. Character of Misuse 15. Purpose of Misuse 16. Cause of Misuse 17. Perception against Misuse

A.2 Limitation of NPO Understanding

Before conducting survey, first the members of LAT have agreed the general understanding of NPO. Limitation of NPO understanding in this survey is as follow:

- **An organization.** NPO has a formality, which indicates an organizational structure and the existence of common purpose. Formal is not always means the legal structure is existed, but clearly this does not include groups that are established in ad hoc or not organized. NPOs are different from a fund-raising group that was made mainly for short-term financing purpose and dismissed afterwards.
- **Non-government, has the autonomy to govern itself.** NPO is self-governing and independent. NPO is not part from the government nor governed by the government or any other agencies that are not NPO.
- **Established and managed freely by a group of people.** NPO consists of more than one person and it is established voluntarily. An establishment and membership by force will only disrupt its independency and autonomy.
- **Made for advantageous purposes as part of the community.** The purpose of an NPO must give benefits for the public. Those benefits can be partial for some part of community by establishing sub-section that can be recognized (for instance certain group of age, ethnic or religion, inhabitant in some area, or for those who have certain needs). Access to those benefits can be limited for members whose membership is widely opened for anyone in a group as explained above.
- **Non-political party.** Political party is indeed not part the government, however it is often intended to be part from the government and therefore it cannot be considered as NPO. Nevertheless, it does not mean disqualification for NPO that involves in a restricted political campaign related to their public benefit purposes.
- **Does not give profit to its members/directors/asset holders.** NPO does not produce money through fund raising, donation, or even running a business. Other important this is about how the fund is used. Fund cannot be used for personal benefit of those who control it. In contrary, all of the funds are used only for the purposes that have been determined by NPO.

This sector survey is performed by LAT Members by visiting government institutions and NPOs. The gathered information is also expected to be with numerical explanation (quantitative), but it is not being provided, therefore LAT members can make notes or explanation. The result from on-field visit was discussed in LAT meeting to get verification and clarification. This survey result has been presented and discussed by all of LAT members in the meeting held on 27 October 2009 and 06 January 2010.

A.3 Institutions used as Survey Data Source

The Following list is institutions that were used as information source in sector survey. Besides visiting government institutions that are related to NPO, the team also visited NPOs that have developed their database that is supposed can provide important information regarding NPO.

The survey also received information from foreign country, which is The Charity Commission for England and Wales. Please see the table below:

Table 1.2:
NPO Data Source from Government Institutions and NPOs

Visited Institutions	Time of Visit
Government Institutions	
1. Ministry of Home Affairs (Directorate of Social Organization Facilities, Directorate General of National Unity)	6 October 2009
2. Ministry of Foreign Affairs (Directorate of Social Culture and International Organizations, Directorate General of Multilateral Affairs)	30 September 2009
3. Ministry of Religion (Bureau of Legal and Foreign Cooperation, Secretariat General)	2 October 2009
4. Ministry of Law and Human Rights (Directorate of Civil Affairs, Directorate General of Public Law Administration)	5 October 2009
5. Ministry of Trade (Directorate of Consumer Protection, Directorate General of Domestic Trade)	26 February 2009
6. Ministry of Social Affairs (Directorate of Social Welfare Development, Directorate General of Social Welfare)	7 October 2009
7. Ministry of Manpower and Transmigration (Directorate of Manpower Supervision)	27 November 2009
8. National Agency for Disaster Handling (BNPB)	1 October 2009
Non-Profit Organization (NPO)	
9. Institution for Research, Education, and Economic and Social Information (LP3ES)	16 September 2009
10. SMERU Research Institution	14 September 2009
11. Centre for Research on Inter-group Relations and Conflict Resolution – University of Indonesia (CERIC - UI)	15 September 2009
12. YAPPIKA	11 September 2009
Data from Foreign Country	
13. Charity Commission for England and Wales	Document Research

B. Result of Indonesian NPOs Sector Survey

B.1 Profile of NPOs

1. Number of Indonesian NPOs

The official number from the Government about the number of NPO is 21.569 NPOs. This number is based on the sum of NPOs that have been registered in the Ministry of Law and Human Rights. The data from the Ministry of Law and Human Rights is used as standard because it has already had Incorporation Deed from Notary. Therefore, in order to get formal legality from the state, an NPO must submit a request for registering its organization to the Ministry of Law and Human Rights and subsequently it will acquire certification that is mentioned in the Ministerial Decision Letter concerning Certificate of Incorporation.

However, not all NPOs that already have incorporation deed from the notary proceed to submitting request for registering its corporation to the Ministry of Law and Human Rights. The government does not compel the registration. Therefore, without having proof of registration from the Ministry of Law and Human Rights, an NPO can still register its organization to the Ministry of Home Affairs, the Ministry of Trade, the Ministry of Foreign Affairs, the Ministry of Manpower and Transmigration, etc, and this is not a mandatory. Particular for the Ministry of Social Affairs, currently for NPO with the status as Foundation but has not been registered as corporation to the Ministry of Law and Human Rights, the NPO cannot register its operational license to the Ministry of Social Affairs. The main reason for an NPO to register to the government is for validating its document of incorporation for facilitating its cooperation with benefactors, for instance for establishing cooperation with certain ministry that distributes funds, with donor institutions, or for raising funds from the public.

Explanation about registration to the related ministries is that if an NPO is going to operate in social affairs then it should register to the Ministry of Social Affairs, if an NPO operates in mass organization affairs then it should register to the Ministry of Home Affairs, if an NPO operates in religious affairs then it should register to the Ministry of Religion, and if an NPO is from abroad or so-called Foreign NPO then it should register to the Ministry of Foreign Affairs. Each ministry shall conduct nurturing to NPOs that have registered and establish cooperation for manifesting certain programs.

Thousands of NPOs have not registered to the related ministries

The Ministries and NPOs were used as information source assuming that there are still thousands of NPOs that only have notarial need and have not registered to the related ministries. The mentioned NPOs are those that are situated in local regions. So far, the Central Government has not been able to estimate the official number.

Management of NPOs Data has not been integrated to the Database

Result from the survey indicates that there are two important sources for obtaining numerical data on NPOs, they are the data owned by the ministries and the data published by NPOs in terms of database and directory book. Data from the related ministries includes broader types of NPO, namely type of mass organization with religious, social, profession, and foreign NPO characteristics.

This whole time, NPO data collection is still conducted by each ministry. In reality, it is difficult to acquire accurate number of NPOs because the data management is carried out separately and has not been integrated to certain database. The following table represents data obtained from the survey:

**Table 1.3:
Government Institutions that Manage NPOs Data**

Name of Government	Management Role on NPO Data	Type of NPO Data
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Institutions		
Ministry of Home Affairs	Registering, collecting data, and overseeing NPOs with mass organization type. The number of managed data is 16.098 NPOs.	Central Directory Book and per Provinces; book format is not standardized; data has not been developed into computer database.
Ministry of Foreign Affairs	Registering, collecting data, and overseeing foreign NPOs. There are 131 registered foreign NPOs.	Printed documents and computer file.
Ministry of Religion	Registering, collecting data, and overseeing NPOs with religious mass organization type. Number of managed data is 2425 NPOs.	Directory Book and computer file.
Ministry of Law and Human Rights	Registering and collecting data on NPOs to get enactment of legal entity status. Numbers of NPOs that have registered and acquire legal entity status are 21.569 NPOs.	Directory is under construction process.
Ministry of Trade	Collecting data and supervising Self-Supporting Consumer Protection Institution (LPKSM). Official number that is registered is 183 LPKSM.	Printed Directory Book.
Ministry of Social Affairs	Giving operational license and nurturing NPOs with social activity type. Numbers of this type NPOs managed until 2008 is 31.474.	Printed document and computer file.
Ministry of Manpower and Transmigration	Giving operational license and nurturing NPOs with labor union type. Number of managed data is 11.786 unions.	Directory Book is under printing process.
BNPB	Collecting data on NPOs that operate in disaster management sector. The number is 62 NPOs.	Directory Book

Note: each ministry manages its own data, so it is likely that data on certain NPO in one ministry can also be found in other ministry, in other words the statistical data is redundant. Therefore, this data cannot be calculated. The official number of NPOs is 21.569 NPOs (Ministry of Law and Human Rights, 2009).

Regarding data from NPO, although the data is limited to data on non-government organizations, nevertheless NPO survey conducted by non-government organization remains important to be presented because they have initiated to manage the NPOs data until it is in directory/database format (*see table*) and some data can even be accessed through internet. However, NPOs data provided by the government has not been able to be accessed through internet and has not been in computer database.

**Table 1.4:
Non-government Organizations that Manage NPOs Data**

NGO Name	Reason for Managing NPOs Data	Format of NPOs Data
LP3ES	NPO database-building project. Number of managed data is 470 NPOs.	Internet database and Directory Book. Data is no longer up-date. Can be accessed on the internet.
SMERU	NPO database-building project. Number of managed data is 2.643 NPOs.	Internet database and Directory Book. Data is no longer up-date. Can be accessed on the internet.
CERIC - UI	Specifically collecting data on NGOs that run in human rights affairs. Number of managed data is 301 NPOs.	Database and Directory Book. Data is still up-date and can be accessed on the internet.

Note: Each NGO also manages its own data, so it is likely the directory data of NPOs is redundant. Therefore, this data cannot be calculated.

A foreign institution that is also surveying on NPOs in Indonesia is The Charity Commission for England and Wales, in a database format. The number of data managed by the institution in 550 NPOs, and the data is also update.

2. Profile of NPO Based on its Activity

LAT Secretariat has tried to make two classification regarding NPO's activity: the first table is made up of data assortment from visiting result; and the second table is made by using sample data from the Ministry of Home Affairs. From the assortment data, it is seen that the dominant NPOs are in social services field and almost 90% do it. The second largest activity is in profession field, namely organization activities such as the labor union, farmer, etc, that keep growing in numbers since the reform era until now.

The second table that uses data sample from the Ministry of Home Affairs illustrates that the largest activity from NPOs is in the economic improvement field (22%), citizenship and democracy education (14%), and promoting human rights (10%). These characteristics are noticed because since the reform era, all sorts of NPOs are starting to be active in the service related to social-political sector. The following are the first and second table:

**Table 1.5:
Classification of NPO's Activity***

No	Type of NPO's Activity	Jumlah
1.	Culture and Art	1
2.	Education and Research	83
3.	Health	10
4.	Social Service	32.474
5.	Environment	34
6.	Community Development	131
7.	Law, Advocacy, and Politic	60

8.	Philanthropy and Voluntarism	4
9.	Gender and Development	24
10.	Religious Affairs	5
11.	Profession Association	278
12.	Faith in God Almighty	8
Total		33112

* Compilation by LAT Secretariat

Classification of NPO's Activity*

No	Type of NPO's Activity	Estimated Number	Percentage
1.	Promotion on Human Rights	32	10.03%
2.	Social	28	8.78%
3.	Citizenship Education	9	2.82%
4.	Advocacy/lobby	2	0.63%
5.	Democratization	42	13.17%
6.	Environment	12	3.76%
7.	Anti Corruption	14	4.39%
8.	Tourism Development	1	0.31%
9.	Citizenship Education	47	14.73%
10.	Farming	1	0.31%
11.	Health	12	3.76%
12.	Economic Improvement	71	22.26%
13.	Art and Culture	20	6.27%
14.	Religious Preaching	21	6.58%
15.	Sport	1	0.31%
16.	Transportation Development Issue	6	1.88%
	Total	319	100.00%

*Sample Data from the Ministry of Home Affairs

The above two tables illustrate that the role of NPOs is getting significant in the reform era, particularly in the fields of economic alleviation, Human Rights Advocacy, and political education for the public. This finding shows that NPOs are trying to be part in the growing process of democratization and economic improvement for the public. Nonetheless, to find out more comprehensive data and profile depiction from those activities, it will need more thoroughly research.

3. Profile of Beneficiaries

The survey in general discovers that all NPOs stated that the final beneficiaries are the society or community. If we pay close attention to the funds flow from the donors (individual or institution) until it reaches to the people, the role played by NPOs are generally as an intermediary, fund raiser, and/or fund distributor (operational) to the society, especially for local NPOs that receive benefits from the funds channeled by domestic and foreign donors.

Survey noticed that beneficiaries could be differed according to the NPO operational pattern. If NPO (foreign or national) is acting as donor, then the first beneficiary will be local NPO that submit its proposal. The role of local NPO will be as project implementing agency, which subsequently distributes the aids to the last beneficiaries namely the marginalized community, such as poor people, disaster victims, orphans, and unfortunate students, etc. government agencies can also be beneficiary through capacity building program for good governance funded by the foreign NPOs.

Difficulty in survey is that impossible to give appraisal on who really accept the greatest benefit (along with the percentage), because the available data is incomplete and there has not been any research that can be used as reference to be illustrated in this report.

The following explanation on survey result concerning beneficiaries only represents the profiles of beneficiaries from NPO and elucidation regarding types of benefit that can be obtained. Please see table below:

Table 1.6
Profile Types of Beneficiaries from NPO

Beneficiaries	Remarks
Individual	Individual receives benefits from NPO program in the form of scholarship, aids for orphans, medical assistance, etc
NPO	Beneficiary in terms of aids distributor from donors are NPOs such as Non-Government Organization, labor/worker union, association, etc.
Member	Generally, professional institution provides benefit for its members
Foreign	Foreign NPOs that operate in Indonesia look for fund from bigger donors or international organizations like the World Bank, International Monetary Fund (IMF), etc.
Others	Some NPOs or donors give direct benefit for the development of regional autonomy, local government, regional parliamentary (DPRD), etc.

4. Profile of NPO Based on Membership Size

This survey discovers that data searching on members of NPOs can only be implemented to association-type NPOs with mass organization characteristic based on mass membership. Survey result illustrates that NPOs with the largest memberships are mass organization based on religion (Islam) such as the Nahdlatul Ulama (NU) and Muhammadiyah. The number of members who support NU is estimated approximately 40 million people (www.nu.or.id). Meanwhile the number of Muhammadiyah members is claimed to be 20 million people. NPOs that are based on thousands of mass are the labors/workers union, farmers' union, fishermen union, and it is estimated there are still thousands of NPOs that only have few hundred people as their supporting mass.

This survey demonstrates that generally not all NPOs in Indonesia are based on membership. Legally, the legal entity of NPOs can be categorized into two types, namely foundation and association. Generally, foundation such as Non-Government Organizations (NGOs) is not based on membership. NPOs that are based on memberships are usually association, for example trade union and assembly. From the collected data, it is known that not all NPOs with association-type register the number of their members. The summary of survey result can be seen in the following table:

Table 1.7
Classification of NPO based on Membership

Non-Membership NPO	Membership-based NPO	
	Individual Member	Organization Member
NPOs with Non-membership base are featured as foundations; for example social organization, orphanage, etc.	NPOs with membership base generally are manifested as association; for example mass organization, religious organization like the Nahdlatul Ulama (NU) and Muhammadiyah, labor union, farmers union, fishermen union, and student assembly.	The number is relatively small, but there are some NPOs based on organization members, for instance there are some NGOs whose members are also from NGOs.

Data of membership-based NPOs whose members have been registered at the ministry is the labors/workers union. Up to this moment, the Ministry of Manpower and Transmigration has recorded 90 federations of labor union with 3.338.597 members and 3 confederations of workers union, namely:

- Confederation of Worker Union throughout Indonesia (KSPSI). This confederation was founded by 16 federations of worker union and consist of 6122 working units and 1.657.244 members.
- Confederation of Workers Union of Indonesia (KSPI). This confederation was established by 8 federations of labor union and consists of 1121 working units and 797.874 members.
- Confederation of Labor Union throughout Indonesia (KSBSI). This confederation was established by 8 federations of labor union and consists of 1307 working units and 227.806 members.

5. Profile of NPO Based on Geographic Aspect

Result from the survey discovers that only 11.468 NPOs that can be recorded based on their location. From that data, nearly 50 percent of NPOs are located in Java Island, which is the most populated area in Indonesia. The Island with least number of NPOs is Maluku and Papua Island. Meanwhile, the provinces with the most NPOs are DKI Jakarta and East Java.

In majority, NPOs' offices are situated in the city. There are also NPOs that consist of central, branch, and sub-branch, for instance NPOs with association type such as the Nahdlatul Ulama (NU) and Muhammadiyah that have central, branch, and sub-branch office starting at the capital level in Jakarta, until at the level of province, regency, sub-district, and village. The other associations that have central and branch office are federation and confederation of labor/worker union. The following is a table of NPOs spreading based on main islands and provinces:

Table 1.8:
NPOs Spreading based on the Islands in Indonesia

NO.	Province where NPO Domiciles	Number	Percentage (%)
1.	Java Island	5,307	46.28
2.	Sumatera Island	2,876	25.08
3.	Sulawesi Island	1,216	10.60
4.	Kalimantan Island	887	7.73
5.	Bali and Nusa Tenggara Islands	713	6.22
6.	Papua Island	313	2.73
7.	Maluku Island and its surroundings	156	1.36
	Total	11,468	100

Table 1.9:
NPOs Spreading Based on Provinces in Indonesia

NO.	Province where NPO Domiciles	Number	Percentage (%)
Sumatera Island			
•	Nanggroe Aceh Darussalam (NAD)	783	6.83 %
•	North Sumatera	306	2.67 %
•	West Sumatera	456	3.98 %
•	Bengkulu	102	0.89 %
•	Riau	139	1.21 %
•	Riau Islands (Kepri)	36	0.31 %
•	Jambi	214	1.87 %
•	South Sumatera	41	0.36 %
•	Bangka Belitung (Babel)	53	0.46 %
•	Lampung	746	6.51 %
Java Island			
•	DKI Jakarta	2551	22.24
•	Banten	80	0.70
•	West Java	542	4.73
•	Central Java	830	7.24
•	DI. Yogyakarta	206	1.80
•	East Java	1098	9.57

Kalimantan Island			
•	West Kalimantan	293	2.55
•	Central Kalimantan	407	3.55
•	South Kalimantan	157	1.37
•	East Kalimantan	30	0.26
Sulawesi Island			
•	West Sulawesi	85	0.74
•	North Sulawesi	123	1.07
•	Central Sulawesi	146	1.27
•	South Sulawesi	453	3.95
•	South East Sulawesi	338	2.95
•	Gorontalo	71	0.62
Bali & Nusa Tenggara			
•	Bali	248	2.16
•	West Nusa Tenggara	215	1.87
•	East Nusa Tenggara	250	2.18
Maluku Island and its Surroundings			
•	Maluku	109	0.95
•	North Maluku	47	0.41
Papua Island			
•	Papua	252	2.20
•	West Papua	61	0.53

B.2 Legal Form of NPO

6. Profile of NPO Based on Legal Entity

There are three types of NPOs as Legal Entity: foundation, association, and non-legal entity.

- **Foundation** is a type of legal entity of NPOs where the founder is individual or legal entity. The difference with association is that foundation does not have member, and the highest authority is held by caretaker. Foundation is governed by Law Number 16 of 2001 concerning Foundation and Law Number 28 of 2004 concerning the amendment on Law Number 16 of 2001 concerning Foundation.
- **Association** is a type of legal entity in which NPOs founders people in (one person may not), who have agreed to establish an association. The difference with a foundation is that association has members, and the highest authority is in members meeting. Association is governed in the Staatsblad 1870 Number 64 *Rechtspersoonlijkheid Van Vereenigingen* (Associations as Legal Entity)
- **Non-Legal Entity**, it is possible for an NPO generally categorized as small-scale, only operates in a limited area and does not operate in other regions.

The most interested type of NPO is foundation because the majority of established legal NPOs have chosen this type. As the ministry that is responsible for registering legal NPO,

the Ministry of Law and Human Rights stated that the number of NPOs in Indonesia is 21.569 NPOs with details 21.301 NPOs (around 98%) are foundation and the rest or around 268 NPOs (2%) are association (data as of September 2009). Please see table below for more detail:

**Table 1.10:
Legal Form of NPOs**

No	Type of Legal Entity	Number	Percent	Type of NPO
1.	Foundation	21.301	99 %	Orphanage, Tithe, Social Organization, NGO, etc.
2.	Association	268	1 %	Religious community, labor/worker unions, student assembly, farmer union, etc.
3.	Non-Legal Entity		-	Congregation group, hobby group, etc.

The survey also found that the Ministry of Home Affairs classifies the organizations nurtured by them into: Foundation, Association, Mass Organization, Assembly, NGOs, and Community Gathering. However, in general the laws and regulations in Indonesia only cover two types of legal entity: foundation and association. As another example, generally, NGOs take the form of foundation, but there some that prefer to be an association.

The reason why society tend to choose foundation as type of their organization because this form is much easier to be accepted during the era of New Order that restricted the establishment of association because it was strongly associated with political character. Therefore, NGOs that were critical towards the Government preferred to be a foundation because it was much simpler for them to take care of the registration to the Government, since their organization character was assumed to be social service.

B.3 Financing of NPO: Income and Expenditure

7. Total Income of NPO's Fund

The Government has not supervised the fund circulation of NPOs, although the prevailing regulations have mandated for NPOs to report their annual finance routinely to the public and the government. On the other hand, there has not been any efforts to implement sanction for NPOs that neglect its obligation. In addition, there is not any data regarding the income received by NPOs.

Regulation concerning the NPOs fund report to the public has received relatively well attention since 1998, especially since the amendment on Law concerning Foundation that mentions the obligation for foundation to publicize its financial report. In the Law, for a

foundation that manage fund more than 500 million rupiah is obliged to publicize its financial report through mass media. Nevertheless, the supervision from the government has not been effectively implemented.

Encountered by such limited data, the anticipation that can be done is by presenting data that is taken from various sources, and mostly from the internet. LAT Secretariat discovers that the funds circulations among NPOs are relatively large. If there is an in-depth research, it will probably be discovered amount of funds close to trillions of rupiah.

The Presented data below only an illustration that the funds circulated around NPOs are relatively large. Please see table below:

**Table 1.11:
Preliminary Data on Amount of Funds Managed by NPOs**

Source of Dana	Institution	Amount	Remarks
Indonesian Government	Ministry of Social Affairs	Rp. 185.615.400.000	From the State Budget
Other Countries Government	United States	US\$ 300.000	For earthquake in Tasikmalaya
		US\$ 250.000	
	Australia	Rp 3,7 trillion	For earthquake in West Sumatra
		AUS\$ 2,5 million	For disaster
	AUS\$ 3,8 million		
Foreign Donors	IDRC	CAN\$ 2,8 million	For forestry research in Indonesia
	PCI	CAN\$ 31.905.580	
	People Hope – Japan	JapYen 100 – 150 million	
	HKI	US\$ 10.313 million	
	CIFOR	US\$ 21.2 million	For forestry research in Indonesia
	Swisscontact	CHF 11 million	
	Winrock	US\$ 3.954 million	For forestry research and development in Indonesia
Printed Mass Media and Television	Trans TV	Rp. 34.000.000.000	Data that has been collected for 2 weeks
	Metro TV	Rp. 25.639.573.629	
	Kompas	Rp. 8.601.685.068	
	Republika	Rp. 3.140.063.525	
	TV One	Rp. 38.001.000.000	
Domestic Donor	YAPPIKA	Rp. 11.500.000.000	For 5 years program

Models of Fund Flow from Fund Sources to the Community

Survey discovers some models of fund flow to communities, which can be grouped into eight allocation models. Analyzing from those models, there is hardly an oversight to the funds flow. Here are the eight models of the aforementioned funds flow:

Table 1.12:
Models of Fund Flow from Fund Sources to the Public

	Benefactor	Intermediary Agency 1	Intermediary Agency 2	Intermediary Agency 3	Beneficiary
Model 1	Indonesian Government →	Indonesian NPO			Society
Model 2	Foreign Government	Indonesian Government	Indonesian Government →		Society
Model 3	Foreign Government	Foreign NPO →	Indonesian Government →	NPO Indonesia →	Society
Model 4	Foreign Government	Indonesian NPO	Local NPO →		Society
Model 5	Foreign NPO →	Indonesian NPO	Local NPO →		Society
Model 6	Society (individual) →	Indonesian NPO	Local NPO		Society
Model 7	Society (individual) →	Media Massa			Society
Model 8	Corporation (CSR) →	Corporate NPO			Society

8. Total Income from Abroad

This survey also deals with problems in acquiring exact number regarding funds movement among NPOs because the data is not available at the government institutions. Even though the regulation has stipulated the obligation to file report when an NPO receives aid from abroad (both from foreign NPOs and foreign government), however this has not been done by some NPOs. Data concerning foreign funds allocation is not reported to the government, both by NPOs as the beneficiary, and by foreign NPOs or foreign government.

Nevertheless, from several examples on the amount of funds explained on abovementioned table or from funds flow model, then it is seen that generally Indonesian NPOs, especially NGOs, mostly are still exist because they are dependant to foreign financing. NPOs can directly receive the funds through inter-banks wire transfer. The government does not oblige reporting or requiring information on the purpose of financing.

9. Donors Profile and Benefactors

Survey result illustrates that supervisory institution has not had sufficient data on the profile of donors. However, survey result finds out that NPOs with NGO-type commonly acquire funds from abroad, from both foreign NPOs and foreign governments. Meanwhile, NPOs with the type of membership organization generally acquire funds from its members or certain kind of business managed by the organization, considering that the survey discovered some NPOs which have developed commercial business—although they do not state firmly regarding their commercial business. The following table illustrates type of donors and benefactors for NPOs:

Table 1.13:
Profile of Donors and Benefactors

Donor Profile	Remarks
Government	The Government becomes the source of funding that derives from the National Budget (APBN) and Regional Budget (APBD), although the funds derived from abroad
Private Philanthropy	Private company implements Corporate (CSR) as the source of funds for NPOs established through cooperation program. Some NPOs have raised public funds such as tithe, donation, etc.
Self-Income	Survey shows that some NPOs have developed all sorts of businesses ranging from school, hospital, training center, consultation service, etc.
Foreign Financing	Domestic NPOs acquire the funds from foreign donors, international agencies under the United Nations (UN), and other international agencies.
Others	The other type of donor outside the aforementioned types is a binding individual donation.

10. Types of Income

In the same manner as the profile of donors and benefactors, the available data on types of income is also insufficient, including information regarding the proportion of income types. During the implementation survey, the obtained data was only qualitative that generally the income of NPOs are coming people's donation. The following table illustrates the types of NPOs' income:

Table 1.14:
Profile of NPOs' Income

Income Profile	Remarks
Donation	The donation given to NPOs in the form of foreign and domestic

	donations, whether from the Government, individuals, NPOs and other agencies, and it is used for specific or general program.
Investment	Investment managed as source of income for NPOs are mutual fund, fixed deposit in the form of endowment funds, or time deposit.
Contract	The income is obtained by NPOs through Memorandum of Understanding (MoU) and Cooperation Contract based on submitted proposal.
Income/ Commerce	Source of income from NPOs can also comes from managing commercial activities such as: school, university, hospital, and other business units.
Other	Other types of income outside the abovementioned four types are <i>wakaf</i> (property donated for religious or community use), grant, and heritage.

11. Profile of Expenditure

During the conduct of survey, it can be identified two main expenditures of NPOs namely program funding and institution operational. However, information on the proportion of expenditure is still difficult to get. This is because NPOs are more prioritizing to submit their report to the donors. The following table describes the profile of expenditure:

**Table 1.15:
Profile of NPOs' Expenditure**

Profile of Expenditure	Remarks
Donation	The distribution of aids is directly given to beneficiary, which is given in cash (scholarship), for purchasing equipments, food and clothing aids (for victims of natural disasters, deprived community suffer from malnutrition), etc.
Cash	Daily operational costs such as staff honorarium, cost for office operational (for instance office rent, electricity, telephone, internet, etc), cost for field operational, transportation, etc.
Direct / Service Provider	Cost for paying consultant service, for example renting external evaluator, paying fee for trainer or informant, paying the service of financial auditor, printing cost for books, posters, brochures, leaflet, etc.
Loan	Allocation of soft loan with small interest, and there is also revolving fund.
Contract	Financing of programs or activities that have been agreed.

Others	The other kind of expense that does not include in aforementioned expenditures is honorarium or reimbursement for transportation cost used by staff. Temporary donation that is sometimes asked by local community who live near NPO's office, often when there is a ceremonial event such as the Indonesian Independence Day, or other communal activities.
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12. Total of Invisible Income

It is still difficult to collect data on invisible income because that kind of income/aid is not easy to be quantified. The examples of that type of income are donation of volunteer, training and course.

B.4 Vulnerabilities of NPO Sector

13. Vulnerabilities

The vulnerabilities issue discovered during the survey can be categorized into three aspects: (1) legal vulnerability, (2) financial vulnerability, and human resources and organization vulnerabilities.

- **Legal Vulnerability.** Many NPOs that have not had complete legal documents of incorporation. So far, there has not been any efforts to record NPOs that have not completed the document. The identified vulnerabilities are as follow:
 1. **There are NPOs that have not completed the founding documents.** Based on observation, a LAT estimate there are thousands of NPOs that only have incorporation deed from the notary, but has not continued to register its organization as legal entity.
 2. **Inadequate monitoring.** There has not been adequate monitoring from related ministries against NPOs that have neglected the legal provisions, for instance registration and obligation to submit annual financial statements in accordance to Law concerning Foundations.

- **Financial vulnerability.** There are still many NPOs that depend on funds from other parties, both from abroad and government. The identified vulnerabilities are as follow:
 1. **NPOs still depend on foreign donors.** Generally, NPOs rely on foreign aids and consequently make them follow the mainstream policy determined by the donor. If foreign donor to prioritize on funding in environment field, then NPOs will submit their proposal in environment field; in the contrary, if the donor change its policy to focus more on financing in disaster field, then NPOs tend to change to disaster field. Dependant

2. **Limitation on NPOs capacity to collect public funds in domestically.** Commonly, NPOs still find difficulty in raising fund in domestic. This is caused by the lack of strategy and technique in raising funds.
 3. **Many NPOs do not have Tax Payer Registration Number.** The absence of Tax Payer Registration Number can cause NPOs stumble on difficulty in gaining the funds, considering the Tax Payet Registration Number is one of the terms of assistance by donors to give its aids. Furthermore, NPOs assume there is no real incentive for them to have a Tax Payer Registration Number.
 4. **Many NPOs do not have bank account on behalf of themselves.** Although large NPOs generally already have a bank account under their on name, but generally small NPOs still use bank account on behalf of their board or director. This can lead the potential of financial abuse if the NPO's board is dishonest and not transparent.
 5. **Many NPOs are not transparent to the public in financial sector and program implementation.** Many NPOs have not published their financial report and program implementation routinely. This is because NPOs are prioritizing more on delivering the report to their donors.
- **Human Resources and Organization Capacity Vulnerabilities.** Many NPOs have not had human resource and organization capacity that can develop a qualified NPO. The identified vulnerabilities are as follow:
 1. **Weak leadership.** Leadership among NPOs is still weak because many of NPOs leaders that do not have appropriate competence as a leader. In addition, there are also NPOs leaders that work as "one man show" because of their inabilityto direct the boards and members. This can cause the staffs, administrator, and other members act passively and lack of initiative to perform corrective action if there is abuse of power done by their leader. Misdemeanor
 2. **Transgression in program implementation.** Inadequate organization capacity from an NPO can cause program implementation does is not in accordance with its bylaw or determined planning.
 3. **Low Remuneration for human resources of NPO.** There are still many NPOs that do not give adequate compensation to their boards that consequently bring problem to the NPOs in finding high-quality human resources. The condition can cause loss of management to their organizations. This can affect NPOs capacity in conducting their activities.

14. Characters of Mistreatment

Survey result demonstrates some cases of fund mistreatment in program implementation.

The types of program mistreatment are as follow:

- **Using program funds for financing or other needs.** The result of survey illustrates the inappropriate allocation of funds, in which the fund that should be employed for certain program, however in reality it was used to finance other different program or other needs. Therefore, the fund allocation is not suitable with the proposed program.
- **The employment of double fund resources (double donors) for financing single program.** A program that has been financed by a donor is deliberately submitted to

other donor—without the acknowledged from the first donor. Thus, the fund program from the second donor is kept by the NPO and used for other needs, but in the report for each donor as if the program was financed by a single donor.

- **Problems in purchasing goods and services.** The survey results shows that fund allocation in terms of purchasing goods and services, are as follow: (1) fund program is used for purchasing used equipment, but it is reported as new equipment; (2) foreign donor prioritizes in buying goods from its own country although the price is more expensive than the price in Indonesia; (3) foreign donor requires the utilization of foreign consultant appointed by them although it will cost more expensive payment compared to domestic consultant—even their expertise level is relatively similar.
- **The employment of fund for personal interest.** The program funds are used or manipulated by NPO's leader/board for their personal needs.

15. Purpose of Mistreatment

Survey result shows that commonly the aforementioned funds mistreatment is based on personal or organization interest.

- **For personal interest.** The type of mistreatment committed by individuals or leader/caretaker of NPO is intended for enriching themselves.
- **For organization interest.** Implementation program is as thrift as possible with the purpose so that organization can have reserved funds. When program has ended and the NPO has not had new donor, then the reserved funds can be used for the operation sustainability of the organization.
 1. **Operational cost and human resource honorarium.** The reserved fund is used to finance operational cost, communication, transportation, and staff honorarium. This thrift for organization interest is commonly recognized by the board and staffs.
 2. **Avoiding supervision and public criticism.** NPOs do not report its funds transparently because it is trying to avoid criticism from the public and the government. There are still many NPOs that are not being opened when reporting the collected funds; both to the beneficiary and to the government.
 3. **Avoiding government supervision.** NPOs do not report their program funds to the government because they assume that NPOs do not need to be supervised by the government. NPOs think that supervision set upon them only brings difficulties.

16. Causes of Mistreatment

From all of mistreatment discovered during the survey, there are two major causes of mistreatment, which derive from internal and external of organization.

- **Internal factors of organization.** Mistreatment can happen because an NPO does not have established supervision and leadership system.
 1. **The capacity of financial management.** The cause of mistreatment can happen since the system of financial management and implementing staff is still weak. The weakness can be seen from the implementation of accounting system that does not meet with good financial standard; the lack of knowledge in computer skill and accounting software.

2. **Bank account of organization is still in the name of individual.** NPOs whose account are still on behalf of individual pose a weakness in which the funds maintained in the account can be misused by the individual.
 3. **Weakness in supervision and transparency capacities.** NPOs have not implemented supervision and financial transparency system; and do not undertake audit from a public accountant. Audit by a public accountant is not performed because the cost is relatively expensive. NPOs prefer to conduct internal audit by themselves. There are times when fund misuse is not being processed further; instead, it is covered up to maintain the credibility of organization to their donors. It may also happen because of supervision and monitoring from donors in financial sector is not vigilant. Fund misuse in the local level (implementing location) can happen because of weak monitoring and supervision from the parent NPO.
- **External factors of organization.** Mistreatment can occur because of the following external factors:
 1. **Donors do not implement tight financial supervision.** Misuse of fund can happen if donors simply oversee the realization of the program, but lack of control in financial monitoring.
 2. **Lack of oversight from the government ministries.** NPOs generally have a tendency to refuse if the government tries to implement policies to monitor and supervise NPOs. On the other side, the government, which acts as supervisory body, seems to be less optimal in performing its supervisory function.

17. Perceptions towards mistreatment

In the survey, the perceptions mentioned are based in opinion, anecdote, and comment on mistreatment, as follow:

- **Concerns that the government would have too much control against NPOs.** The government efforts to make policy for enhancing public accountability among NPOs have been perceived as an attempt to control NPOs freedom. Denial is generally echoed by NPOs manifested as NGOs.
- **Suspicion on transparency and accountability.** NPOs that received aids from abroad usually are being too transparent in publicizing their funds program. Anyone who requests the information is suspected to have negative motives behind it. This suspicion restricts the public and government to obtain information on received funds and the accountability of its expenditures.
- **Accountability is only for big donors and NPOs.** There is a perception that accountability and transparency are only needed for report to the donors or only valid for large-funded NPOs. A large NPO reveals its perception that accountability and transparency have not been an important issue for small NPOs.
- **The Government is considered not necessary to demand funds report from NPOs.** Many NPOs do not report to the government concerning the fund they received from foreign and domestic donors. NPOs consider that they do not have to report to the government because NPOs perceive the government will only bring difficulty to them.

- ***Aids from abroad are relatively much easier to enter to Indonesia.***
With the reason to distribute aids, foreign NPOs can immediately operate in Indonesia without experiencing significant barriers, and can easily work with a local NPO. Since the Tsunami in Aceh at the end of 2004, more and more foreign NPOs entered Indonesia on behalf of "emergency response assistance."

Chapter II:

Assessment to the Effectiveness of Regulatory Framework NPO Sector in Indonesia

A. Objectives and Method of Assessment

Regulatory framework describes the totality of laws and regulations, system, process and activity that are designed in regulating NPO sector in a country. The existence of laws and regulations constitutes the basis for effective regulation framework. This assessment of regulatory framework is aimed to identify which laws and regulations that form regulatory framework, study their effectiveness based on document study and its application, and identify the gaps or weaknesses.

In this assessment, regulatory framework divided into six objectives together with 22 indicators. Every objective is designed to achieve a certain target.

- **Objective 1: To establish NPOs**, *i.e.*, to assess whether or not the existing regulations have been able to guarantee the rights of every citizen to assemble and have organization with purpose to obtain common/mutual benefit without any restriction.
- **Objective 2: To identify NPOs**, *i.e.*, to assess whether or not any information on institution and legal entity of NPOs has been available for the stakeholders and accessible by the public.
- **Objective 3: To identify Concerns**, *i.e.*, to identify whether or not the stakeholders have access to the information needed, detect the potentiality of abuse, and whether the information is open for the stakeholders.
- **Objective 4: To investreete concerns**, *i.e.*, to identify whether or not there is competent party responsible to investreete concerns, whether or not the competent party is able to investreete the case, and identify other serious issues.
- **Objective 5: To protect NPOs**, *i.e.*, to identify whether or not there is a competent party whose responsibility includes protecting NPOs against the risks of abuse, limiting the risks of further abuse, and concerning the application of penalty or punishment.
- **Objective 6: To Mitigate Risk**, *i.e.*, concerning the giving of advice on compliance with laws and regulations, whether involving NPO sector in designing and application of regulation framework, promoting the best practices, and identifying and adapting to new risks.

These six objectives have their own indicators, which total to 22 indicators. The following is the explanation about the objectives and indicator.

**Table 2.1:
Objectives and Indicators of NPO Regulatory**

Objective	Indicator
1. To establish NPOs	1. Citizens have the right to pursue mutual objectives based on law. 2. NPOs constitute the object of several levels of legal supervision in accordance with the size, nature and risks.
2. To identify NPOs	3. The stakeholders that require information have access to such information. 4. Such information is available and enables the stakeholders to identify NPOs. 5. Such information is accurate. 6. Information on all NPOs that need to be known by the stakeholders is available.
3. To identify Concerns	7. The stakeholders that require information have access to such information. 8. Such information enables detection to potential abuse. 9. Such information is accurate. 10. Information on all NPOs that need to be known by the stakeholders is available.
4. To investhreete Concerns	11. There is a competent party that is responsible to investhreete concerns. 12. Such competent party is able to identify the cases they need to investhreete. 13. Such competent party has the ability to investhreete. 14. Such competent party is able to identify serious issues.
5. To protect NPOs	15. There is a competent party whose responsibility covers protection to NPOs against the risks of abuse. 16. Such competent party is able to limit the risks of further abuse. 17. Those who are responsible for abuse receive penalty or punishment.
6. To mitigate Risks	18. Providing advice on compliance with laws and regulations. 19. Involving the sector in designing and application of regulation framework. 20. Defining and promoting the best practices. 21. Understanding NPO sector. 22. Identifying and adapting to new risks.

In order to measure the effectiveness of regulatory framework based on the six objectives and their indicators, we stipulate a Standard of Effectiveness together their indicators as the criteria of assessment. There are seven standards of effectiveness used, which are described as follows:

1. **Standard of Effectiveness 1: *Well Communicated***, namely to study whether any government officials, NPOs and citizens know and understand the provisions contained in the laws and regulations.
2. **Standard of Effectiveness 2: *Fair***, namely to study whether the laws and regulations are applied fairly and considered fair by the affected parties. This standard is to ensure that there

is no one that makes effort to avoid laws and regulations because they are afraid of being treated unfairly.

3. **Standard of Effectiveness 3: Proportionate**, namely to study whether the laws and regulations are applied proportionately, so the supervisory agency only uses its power only if really necessary and obtains bigger benefit than the costs incurred.
4. **Standard of Effectiveness 4: Enabling**, namely to study whether the laws and regulations provide a space for NPO to be able to pursue their official objectives freely.
5. **Standard of Effectiveness 5: Context**, namely to study whether the laws and regulations relating to NPOs work effectively in the framework of wider laws and regulations.
6. **Standard of Effectiveness 6: Feasible and Realistic**, namely to assess whether the laws and regulations are designed and applied effectively, and guarantee that such laws and regulations are by nature practical, based on of cultural, legal, political, physical and resource restrictions.
7. **Standard of Effectiveness 7: Efficient**, namely to assess whether the laws and regulations are enforceable, according to the target, can be achieved timely at effective cost.

The seven standards of effectiveness aforesaid jointly constitute a comprehensive test to assess the effectiveness of achievement of every regulatory objectives. A number of standard indicators provided that enable the assessor team to identify how effective such standards are have been provided. The following is the explanation on the indicator of every standard of effectiveness:

**Table 2.2:
Standard of Effectiveness of Regulatory and Their Indicators**

Standard of Effectiveness	Indicator
1. Well communicated	<ol style="list-style-type: none"> 1. Clear and complete. 2. Using simple language. 3. Available for anyone that requires. 4. Easy to understand. 5. User friendly.
2. Fair	<ol style="list-style-type: none"> 6. Applied consistently and fairly. 7. Transparent and accountable. 8. Sufficiently flexible so as to enable certain exception. 9. Encouraging sense of mutual trust among parts. 10. Appeal or objection can be filed against it.
3. Proportionate	<ol style="list-style-type: none"> 11. Proportional against the issue. 12. Benefit matches the costs. 13. Targeted on the matter. 14. Decision is based on risk. 15. Administrative charge is still rational and can be handled.
4. Enabling	<ol style="list-style-type: none"> 16. Strengthening and supporting sector cooperation. 17. Providing incentive to encourage NPOs to become parts or comply with regulations. 18. No or only a few NPOs not complying.

	19. Not restricting various activities of NPOs.
5. Context	20. Appropriate with domestic as well as foreign priority. 21. Different stakeholders share and respond the information. 22. The main approach strategy is sufficiently clear and followed. 23. Integrated in legal system. 24. Answering the problems based on the authority.
6. Feasible and Realistic	25. Being able to be upheld. 26. Policy is performed and monitored. 27. All parties have capacity and resources to comply with. 28. No barrier in the performance. 29. All NPOs understand the system and process.
7. Efficient	30. System achieves the target. 31. All processes go on time. 32. Not excessively bureaucratic. 33. Process goes on in a cost efficient manner.

B. Regulatory Framework of NPO Sector

Based on the result of identification over the existing laws and regulations, regulatory framework of NPO in Indonesia is at least regulated in 26 laws and regulations, which cover 15 laws, five Government Regulations and seven Ministerial Regulations/Ministerial Decrees. Regulatory framework is conducted by supervisory agency in this matter is the relevant government ministries. Supervisory agency is a government agency in charge of the development, supervision and application of laws and the implementing regulations.

The followings are brief explanation about all laws and regulations that form such regulatory framework together with the supervisory agencies:

- **Laws (UU)**

Assessment to the effectiveness is focused more on 15 laws that form regulatory framework of NPOs. The followings are brief explanation about the 15 laws aforesaid.

1. The 1945 Constitution and the Amendment thereto. Assessment is only focused on the related article, namely Article 28E paragraph 3: Every person shall have the right of freedom of organization, association, and opinion.
2. The Civil Code (KUHP), Articles 1653-1655 that provide for a form of association or institution that is allowed to the extent not in contrary to the laws, the activity of which not being operationally restricted, the control of the management in the organization being fully independent, and its autonomy being clearly protected by law.
3. Law Number 16 Year 2001 regarding Foundation; and Law Number 28 Year 2004 regarding Amendment to Law Number 16 Year 2001 regarding Foundation. The *Supervisory Agency is the Ministry of Law and Human Rights (Kemenkumham)*.
4. Staatsblad 1870 Number 64 *Rechtspersoonlijkheid Van Vereenigingen* (Associations that have legal entity). Staatsblad is a regulation from the Dutch Colonial era. *The Supervisory Agency is the Ministry of Law and Human Rights (Kemenkumham)*.

5. Law Number 8 Year 1985 regarding Community Organization. *The Supervisory Agency is the Ministry of Home Affairs.*
6. Law Number 11 Year 2009 regarding Social Welfare in lieu of Law Number Number 6 Year 1974 regarding Main Provisions of Social Welfare. *The Supervisory Agency is the Ministry of Social Affairs (Kemensos).*
7. Law Number 9 Year 1961 regarding Collection of Money or Goods. *The Supervisory Agency is the Ministry of Social Affairs (Kemensos).*
8. Law Number 38 Year 1999 regarding Zakat (Tithe) Management. *The Supervisory Agency is the Ministry of Religious Affairs.*
9. Law Number 41 Year 2004 regarding Wakaf (Property Donation). *The Supervisory Agency is the Ministry of Religious Affairs.*
10. Law Number 21 Year 2000 regarding Workers Union/Labor Union. *The Supervisory Agency is the Ministry of Manpower and Transmigration (The Ministry of Manpower and Transmigration).*
11. Law Number 8 Year 1999 regarding Consumer Protection. *The Supervisory Agency is The Ministry of Trade.*
12. Law Number 40 Year 2007 regarding Limited Liability Company. Assessment is made only to article 74 regarding Social and Environmental Responsibilities (generally connected with *Corporate Social Responsibilities*). *The Supervisory Agency is the Ministry of Law and Human Rights (Kemenkumham).*
13. Law Number 36 Year 2008 regarding Fourth Amendment to Law Number 7 Year 1983 regarding Income Tax. *The Supervisory Agency is Directorate General of Tax – the Ministry of Finance (Kemenkeu).*
14. Law Number 24 Year 2007 regarding Disaster Handling. *The Supervisory Agency is the BNPB (the National Board of Disaster Handling).*
15. Law Number 15 Year 2002 regarding Crime of Money Laundering; and Law of the Republic of Indonesia Number 25 Year 2003 regarding Amendment to Law of the The Republic of Indonesia Number 15 Year 2002. *The Supervisory Agency is PPAK.*

- **Government Regulations (PP)**

1. Government Regulation Number 63 Year 2008 regarding Implementation of Law on Foundation. *The Supervisory Agency is the Ministry of Law and Human Rights (Kemenkumham).*
2. Government Regulation Number 18 Year 1986 regarding the Implementation of Law Number 8 Year 1985 regarding Community Organization. *The Supervisory Agency is the Ministry of Home Affairs.*
3. Government Regulation Number 29 Year 1980 regarding the Implementation of Donation Collection. *The Supervisory Agency is the Ministry of Social Affairs (Kemensos).*
4. Government Regulation Number 59 Year 2001 regarding Non-Government Consumer Protection Agency. *The Supervisory Agency is The Ministry of Trade.*
5. Government Regulation Number 42 Year 2006 regarding Wakaf (Donation of Property for Religious Purpose) Management. *The Supervisory Agency is the Ministry of Religious Affairs.*

- **Ministerial Decrees and Ministerial Regulations**

1. Decree of Minister of Religious Affairs Number 373 Year 2003 regarding Implementation of Law Number 38 Year 1999 regarding Tithe Management. *The Supervisory Agency is the Ministry of Religious Affairs.*
2. Regulation of Minister of Home Affairs Number 38 Year 2008 regarding Receipt and Grant of Aids of Community Organization from and to Foreign Party. *The Supervisory Agency is the Ministry of Home Affairs.*
3. Instruction of Minister of Home Affairs Number 8 Year 1990 regarding Advancement of Non Government Organization. *The Supervisory Agency is the Ministry of Home Affairs.*
4. Joint Decree of Minister of Home Affairs and Minister of Social Affairs of the Republic of Indonesia Number 78 Year 1993; 39/Huk/1993 regarding Advancement of Social Organization / Non Government Organization. *The Supervisory Agency is the Ministry of Home Affairs and the Ministry of Social Affairs (Kemensos).*
5. Decree of Minister of Social Affairs Number 1/HUK/1995 regarding Collection of Donation for Victims of Disaster. *The Supervisory Agency is the Ministry of Social Affairs (Kemensos).*
6. Decree of Minister of Social Affairs Number 56/HUK/1995 regarding Implementation of Donation Collection by the Community. *The Supervisory Agency is the Ministry of Social Affairs (Kemensos).*
7. Decree of Minister of Industry and Trade Number 302/MPP/Kep/10/2001 regarding Registration of Non-Government Consumer Protection Agency. *The Supervisory Agency is the Ministry of Trade (The Ministry of Trade).*

C. Identification of Form of Legal Entity of NPOs and Registration

By virtue of the prevailing laws, there are two common forms of legal entity of NPOs in Indonesia, namely legal entity of foundation and association. Approximately 99 percent (21,301 NPOs) rather choose legal entity of foundation, and the remaining 1 percent (368 NPOs) has association as legal entity. Registration of both is conducted with the Ministry of Law and Human Rights (Kemenkumham). However, law also allows establishment of an NPO without being required to have legal entity (non-legal entity) if such NPO is small enough such as *paguyuban* (small association) or Islamic study group which very limited coverage.

- **Definition of NPO with legal entity of foundation**

Foundation constitutes a form of legal entity of NPO in which the founders are individual persons or legal entity, the terms of which can be seen in the Elucidation of Article 9. Foundation legal entity is regulated under Law Number 16 Year 2001 regarding Foundation; and Law Number 28 Year 2004 regarding Amendment to Law No. 16 Year 2001 regarding Foundation, which came into effect on October 6, 2005. Foundation legal entity constitutes a choice for any party wanting to establish an NPO that is non-membership organization.

- **Definition of NPO with legal entity of Association**

Association constitutes a form of NPO legal entity established by at least several persons or may not be established by only one person. In other words, association is a legal entity for NPO that is a membership organization. Association legal entity is regulated under the *Staatsblad 1870 Number 64 Rechtspersoonlijkheid Van Vereenigingen* (Associations with

Legal Entity). *Staatsblad* constitutes a regulation from the Dutch colonial era.

Staatsblad acknowledges two types of association, namely associations which have legal entity and those which do not have legal entity. Associations which do not have legal entity constitute ordinary associations, such as *paguyuban* (small association) or *kelompok pengajian* (Islamic study group), and hobby group, which have small scale coverage.

- **Authentication of Foundation and Association**

Authentication of foundation or association that has legal entity is submitted to the Ministry of Law and Human Rights (Kemenkumham) as the supervisory agency. However, before registering, it must first maintain a Deed of Incorporation drawn up by a notary. The Ministry of Law and Human Rights will give evidence of authentication within a period of no later than 30 days as of the date of complete receipt of the application and the requirements therefor. Document of evidence of authentication is called Ministerial Decree regarding Authentication of Legal Entity.

In process of giving the authentication, minister can request consideration from government agency that has relation with the activity of the relevant NPO. Based on such input, the Ministry of Law and Human Rights (Kemenkumham) subsequently decides whether to give or reject authentication within a period of no later than 14 days as of the date of receipt of reply to the request from the relevant agency. The Ministry of Law and Human Rights (Kemenkumham) may reject a request of authentication to the extent the request submitted does not comply with the provisions of the implementing laws and regulations. The Ministry of Law and Human Rights (Kemenkumham) must notify the same in writing together with the reason therefor to the applicant.

The requirements for application for foundation and association having legal entity to the Ministry of Law and Human Rights (Kemenkumham) are relatively the same (For complete information, please see the Section of *Sub-Chapter E1: The Ministry of Law and Human Rights*).

- **Registration at the Other Relevant Ministry**

After obtaining authentication of legal entity from The Ministry of Law and Human Rights (Kemenkumham), an NPO needs to register at the other relevant ministry. If such NPO is characterized by social activity, it must register at the Ministry of Social Affairs (Kemensos); or if such NPO religious in nature, it must register at the Ministry of Religious Affairs, and so on. If such NPO is religious in nature and at the same time conduct social services, it must register at the Ministry of Religious Affairs and the Ministry of Social Affairs (Kemensos).

NPOs are also expected to register at the Ministry of Home Affairs to obtain Certificate of Registration (SKT). While the other ministries only supervise NPOs relating to its field of supervision, -- for example, the Ministry of Social Affairs (Kemensos) only supervises NPOs dealing with social activities – the Ministry of Home Affairs supervise almost all types of NPOs. The Ministry of Home Affairs gives SKT to Social Organizations, NGOs, community organizations, and so on. This registration is based on Law Number 8 Year 1985 regarding

Community Organization. However, during the reform era, this law obtains more and more critics from the civil society which have the implication on the need to renew the role of the Ministry of Home Affairs in the regulatory framework of NPOs. The Ministry of Home Affairs itself has been making effort to amend this law.

NPOs Registration at the relevant ministry constitutes one of the forms of supervision and partnership development. However, the relevant ministry acknowledges that there are still thousands of NPOs that have not conducted registration. Government Regulation Number 18 Year 1986 regarding Implementation of Law Number 8 Year 1985 regarding Community Organization stipulates that every community organization must notify their existence in writing to the Government. However, this obligation is not well performed.

D. Identification of Types of NPOs and the Regulations

The result of identification of the types of NPOs reveals five types of NPOs that have been supported by their regulatory framework. The said five types are Social Organization, organization of workers union / labor union, community organization, tithe organization, and international non-government organizations. The followings are the explanation about the respective types of NPOs:

- **Social Organization**

The definition of Social Organization (*Orsos*) is set out in Article 1 point 7 of Law Number 11 Year 2009 regarding Social Welfare, which mentions: “A Social Welfare Institution is a Social Organization or Social Association that deals with Social Welfare, established by the community, either having legal entity or non legal entity”. This law supersedes Law Number 6 Year 1974 regarding the Main Provisions of Social Welfare.

A clearer definition of Social Organization is contained in the Joint Decree of Minister of Home Affairs and Minister of Social Affairs Number 78 Year 1993; 39/Huk/1993 regarding Advancement of Social Organizations / Non Government Organizations, in Article 1 paragraphs 1 and 2, which reads as follows:

Article 1

In this Joint Decree, by:

1. Social Organization means a Social Institution/Foundation/Association that is established by the community, whether or not having legal entity, which functions as a facility for community participation in conducting Social Welfare Service (ESW); hereinafter shortened as *Orsos*.
2. Non Government Organization means an Organization/Institution that is established by community members of Citizens of the Republic of Indonesia voluntarily at their own will and having the interest and dealing with the field of UKS stipulated by the Organization/Institution as the realization of community’s participation in the effort of improving living standard and welfare of the community, with emphasis on self-help devotion; hereinafter shortened as NGO.

There is complication in organ permit of Social Organization in Indonesia. The existence of two government agencies: general development is the responsibility of the Ministry of Home Affairs, while technical development is the responsibility of the Ministry of Social Affairs (Kemensos). This is established through the Joint Decrees of Minister of Home Affairs and Ministry of Social Welfare No. 78 Year 1993, and No 39/Huk/1993 on Development of Independent Social Organization/Community Organization. These Decrees become ineffective, especially following the enactment of Law No 32 Year 2004 regarding Regional Government. In addition, from the aspect of definition, it is not clear as to the difference between Social Organizations that have legal entity and those that do not.

Social Organizations conduct registration at the Ministry of Social Affairs (Kemensos) as its supervisory agency. After being declared registered, the management of Social Organization must submit activity report to the provincial Ministry of Social Affairs.

- **Workers/Labor Union**

Article 1 point 1 of Law Number 21 Year 2000 regarding Workers Union / Labor Union states that “Workers Union/Labor Union is an organization that is established from, by, and for workers/labor either within the company or outside the company, which is by nature independent, open, autonomous, democratic, and responsible in order to struggle for, defend and protect the rights and interests of workers/labor as well as improve the welfare of workers/labor and their families”.

At least five workers/labor unions may establish a federation of labor union. Federation has the right to establish and becomes a member of Confederation of workers/labor unions. A confederation must consist of no less than 3 (three) federations. The hierarchy of Workers Union/Labor Union organization, federation and confederation of Workers Union/Labor Union is provided for in its articles of association and/or by-laws. The provision of Article 32 of Law Number 21 Year 2000 states that: the finance and assets of Workers Union/Labor Union, federation and confederation of Workers Union/Labor Union must be separated from personal finance and assets of its management and members.

Transfer of finance and assets to any other party as well as fund investment and any other legal business may be conducted only in accordance with the rule of Workers Union/Labor Union, law federation and confederation and/or rules of the association. The executive of Workers Union/Labor Union, federation and confederation is responsible for the utilization and management of finance and assets. They are obliged to keep a record of financing and property, and submit periodic report to the members pursuant to the law and/or rule of the association.

Workers/labor organization conducts registration at the Ministry of Manpower and Transmigration (The Ministry of Manpower and Transmigration) as its supervisory agency. Workers Union/Labor Union, federation and confederation established notify in writing to the Ministry of Manpower and Transmigration (The Ministry of Manpower and Transmigration). The notice must set out the list of names of members of founders, articles of association and by-laws, and the composition and names of the management. The giving of registration evidence number that that has fulfilled the requirements no later than 21

days as of the date of receipt of notification. The Ministry of Manpower and Transmigration may suspend registration process for those that have not fulfilled the requirements by giving the reasons therefor in writing no later than 14 days as of the date of receipt of notification.

- **Community Organization**

Community organization as provided for in Law Number 8 Year 1985 regarding Community Organization is often misinterpreted as “mass organization”. The term of community organization comes into existence as manifestation of the teaching of "united organization" campaigned by the New Order Government, as a political effort to put all types of organizations with their respective interests (professional interest, social activity, function, or religious) into one format of organization and one single principle.

Based on the provision of Article 1 of Law Number 8 Year 1985, by Community Organization is an organization that is established by community members of citizens of the Republic of Indonesia voluntarily on the basis of similarity of activity, profession, function, religion, and belief in the Only One God, to participate in the development in the framework of achieving the national objectives within the medium of the Unitary State of the Republic of Indonesia that is based on Pancasila. This elucidation of Article 1 of Law Number 8 Year 1985 states that:

One of the significant characteristics of Community Organization is voluntariness in the establishment and membership. Community member of Citizen of the Republic of Indonesia is free to establish, choose, and join Community Organization desired in the life of the community, nation, and state based on similarity activity, profession, function, religion, and belief in the One Only God.

Community organization may have one or more of the specific natures as referred to in this article, namely similarity of activity, profession, function, religion, and belief in the One Only God.

Organization or association that is established voluntarily by community members of citizens of the Republic of Indonesia, the membership of which consists of Citizens of the Republic of Indonesia and foreign Citizens, is included into the definition of Community Organization as referred to in this article, and is, therefore, subject to the provisions of this law.

Organization or association that is established by the government such as *Praja Muda Karana (Pramuka)* or Boy Scouts, Republic of Indonesia Civil Servants Corps (*Korpri*), and so on, and organization or association that is established by community members of citizens of the Republic of Indonesia dealing with the field of economic such as Cooperatives, Limited Liability Company, and so on, is not included in the definition of Community Organization as referred to in this article.

However, in the framework of national development as the implementation of Pancasila, such organization or association is also obliged to make Pancasila as the only one principle and implement it in every activity.

Based on the elucidation of Article 1 aforesaid, the definition of community organization almost covers supervision over all types of NPOs – except organization or association that is established by the government such as Boy Scouts (Pramuka), Korpri, Cooperatives, and Limited Liability Company. Therefore, the Ministry of Home Affairs has wide authority to supervise NPOs. This is by contrast different from the other ministries that generally only supervise one type of NPO, for example, the Ministry of Manpower and Transmigration (The Ministry of Manpower and Transmigration) which generally supervises workers/labor unions, the Ministry of Social Affairs supervises NPOs that have the characteristic of Social Organization, the Ministry of Religious Affairs supervises NPOs that have religious type, and so on.

This Law Number 18 Year 1985 regarding Community Organization has several derivative implementing regulations, such as Government Regulation Number 18 Year 1986 regarding Implementation of Law Number 18 Year 1985 regarding Community Organization. In 2008, the government issued Regulation of Minister of Home Affairs Number 38 Year 2008 regarding Receipt and Grant of Aids of Community Organization from and to Foreign Party. Basically, this regulation confirms the provision that has existed in Government Regulation Number 18 Year 1986.

In this Reform Era, the relevance of this Law Number 8 Year 1985 regarding Community Organization has been questioned by NPOs since it is considered restricting the freedom of organization for civil society. The Ministry of Home Affairs has been making effort to amend this law. Regulation of Minister of Home Affairs (Permendagri) Number 38 Year 2008 is also criticized harshly by NPOs since it is suspected to contain political interest of the government.

Community organizations conduct registration at the Ministry of Home Affairs as their supervisory agency. As evidence of their registration, the Ministry of Home Affairs will issue Certificate of Registration (SKT).

- **Tithe Collector: *Board of tithe collectors (BAZ) (Board of Tithe Collectors) and Tithe collector institution (LAZ) (Tithe Collectors Institution)***

The provision of Article 3 of Law Number 38 Year 1999 regarding Tithe Management states: “The government has the obligation to provide protection, advancement and services to *muzakki* (tithe payers), *mustahiq* (tithe receiver) and *tithe collector* (tithe collector)”. The definition of *Tithe collector* pursuant to the Elucidation to Article 3 is “By *tithe collector* (tithe collector) shall mean tither organizers organized into a board or institution”.

The definition of Tithe Management in Article 1 point 1 of Law Number 38 Year 1999 is: “Tithe Management means an activity of planning, implementation and control over collection and distribution as well as empowerment of tithe. Article 1 point 2 stipulates: “Tithe is asset that must be set aside by a muslim or body owned by a muslim pursuant to the provision of religion to be given to those entitled to receive the same”.

Giving tithe constitute an obligation as confirmed in Article 2 reading as follows: “Every Indonesia citizen that is a muslim and is capable or a body owned by a muslim has the obligation to pay tithe”. The obligation of the government is confirmed in Article 3 reading:

“The government is obliged to provide protection, advancement and services to muzakki (tithe payer), mustahiq (tithe receiver) and tithe collector (tithe collector)”. The definition of Muzakki and Mustahiq is set out in Article 1 point 3: “Muzakki is a person or body that is owned by a muslim that is obliged to pay tithe” and Article 1 point 4: “Mustahiq is a person or body that is entitled to receive tithe”.

Definition of BAZ and LAZ

There are two types of *tithe collector* (tithe collector) in Indonesia, namely that which is established and managed by the government and that which is established by the community or private party. Tithe collector that is established and managed by the government is called *Board of tithe collectors* (BAZ) (Board of Tithe Collector), while that which is established at the initiative of the community is called *Tithe collector institution* (LAZ) (Tithe Collector Institution).

The definition of BAZ as a tithe organizer that is established by the government is emphasized in Article 6 paragraph 1 of Law Number 38 Year 1999. While the definition of LAZ as tithe organizer that is established by the community is emphasized in Article 7 and specifically in the Elucidation of Article 7 paragraph (1) reading as follows: “Tithe collector institution is an institution of Tithe Management fully established at the initiative of the community and by the community”. Further concerning the definition, establishment, the main duties, and accountability of BAZ and LAZ are provided for in Articles 6, 7, 8, 9, and 10 of Chapter III of the Tithe Management Organization as follows:

CHAPTER III: TITHE MANAGEMENT ORGANIZATION

Article 6

- (1) Tithe management is conducted by *board of tithe collectors* (board of tithe collector) established by the government.
- (2) The establishment of *board of tithe collectors* (board of tithe collector):
 - a. At national level by the President based on proposal from Minister;
 - b. At provincial level by governor based on proposal from head of regional office of provincial ministry of religious affairs;
 - c. At regency or municipal level by regent or mayor based on proposal from office of regency or municipal ministry of religious affairs;
 - d. At sub-district level by sub-district head based on proposal from head of sub-district office of religious affairs.
- (3) *Board of tithe collectors* (board of tithe collectors) in all levels has work relation that is coordinative, consultative and informative in nature.
- (4) The management of board of tithe collectors consists of the element of the community and the government that fulfill certain requirements.
- (5) The organization of board of tithe collectors consists of the element of consideration, the element of supervisor and the element of implementer.

Article 7

- (1) Tithe collector institution is confirmed, advanced, and protected by the government.
- (2) Tithe collector institution as referred to in paragraph (1) must fulfill the requirements regulated further by the minister.

Article 8

Board of tithe collectors as referred to in Article 6 and tithe collector institution as referred to in Article 7 have the main duty of collecting, distributing and empowering tithe in accordance with the provisions of the religion.

Article 9

In performing their duties, board of tithe collectors and tithe collector institution report to the government in accordance with the hierarchy.

Article 10

Further provision on the organizational structure and work procedure of board of tithe collectors is stipulated by a ministerial decree.

BAZ has the structure from the central level until regional level. At the central level it is called National Board of Tithe Collectors (Baznas) that is established by virtue of Presidential Decree Number 8 Year 2001. While at regional level it is called Regional Board of Tithe Collectors (Bazda), which covers: Provincial BAZ, Regency BAZ, and Sub-District BAZ. LAZ may also be established at national level and develop its branches to regional level.

There are a total of 422 organizations of tithe collectors in Indonesia consisting of 1 Baznas, 18 national LAZs, 33 Provincial BAZs, more than 300 regency/municipal BAZs, and more than 70 LAZs either at provincial level or regency/municipal level. This study predicts that there are still thousand of small and traditional tithe collectors having their base in mosques and *pesantren* (Islamic boarding school) that have not been recorded by the government.

In relation to various inputs and criticism from the community, this Law Number 38 Year 1999 regarding Tithe Management has been proposed for amendment. One of the proposals for improvement that has obtained harsh criticism from the circle of LAZ is the proposal to confirm BAZ as the only one organization of tithe organizer from national level until village level. Criticism is mainly submitted by the circle of national LAZ, who remains wanting LAZ (the community) to remain having the right to establish and manage tithe collector together with the government (BAZ).

The Ministry of Religious Affairs constitutes the supervisory agency for BAZ and LAZ. Every tithe collector that is established must register at this Ministry. The Ministry of Home Affairs also plays the role as supervisory agency for other religious NPOs.

- **International Non-Government Organizations**

By virtue of Article 1 point 5 of Law No. 37 Year 1999 regarding Foreign Relation, the definition of international organization is an inter-government organization". While the existence of International Non-Government Organizations is implied in Article 5 reading as follows:

Article 5

- (1) Foreign Relation is organized in accordance with Foreign Politic, national laws and regulations and international law and convention.
- (2) The provision as referred to in paragraph (1) applies to all Foreign Relation organizers, either government or non government.

Elucidation of Article 5 paragraph (2) of the Law states that: "The circle of non-government as referred to in this paragraph shall cover individual person and organization that is commonly called and categorized by the United Nations Organization as non governmental organization (NGO), including the House of Representatives".

Non-government organization or NPO from abroad that wants to work in Indonesia must maintain evidence of registration from the Ministry of Foreign Affairs. Grant of permit is not determined by the Ministry of Foreign Affairs, but the application submitted will be studied by the Clearing House consisting of: State Intelligence Agency (BIN), *Bais* (Strategic Intelligence Agency) of *Polri* (the Indonesian Police), Strategic Intelligence Agency (*Bais*) of TNI (the Indonesian Armed Forces), the Ministry of Law and Human Rights, the Ministry of Home Affairs, and Attorney General's Office. If the application is approved, the Ministry of Foreign Affairs will issue a permit for the said NPO.

Supervision over the activity of foreign NPOs working in Indonesia constitutes the authority of the Ministry of Home Affairs, while supervision at regional level constitutes the responsibility of heads of the relevant regional government. By virtue of Circular Letter of Minister of Home Affairs Number 472/3035/SJ regarding Guideline for the Implementation of Coordination for Monitoring of Activity of Foreigner, foreign NGOs, and Foreign Institution at regional level issued on December 5, 2003, the effort of advancement and supervision to foreign NPOs is conducted by by Governor, Regent, and Mayor.

E. The Result of Assessment to Regulation at every Supervisory Agency

Supervisory agencies constitute government agencies, in this matter is the ministry that is responsible to develop, supervise and apply the laws, regulations or policies that is a part of the regulations that form regulatory framework of NPOs. The role of the ministry in the regulatory framework can be divided into two: as an agency that gives status of legal entity or called the starting agency; while the ministry that gives evidence of registration or permit to NPOs is called the doing agency.

The ministry that plays the role as starting agency is the Ministry of Law and Human Rights since it legalizes legal entity of an NPO. For example, after obtaining evidence of legality of its establishment from the Ministry of Law and Human Rights, if the NPO conducts activity in the field of social activity, it must register at the Ministry of Social Affairs, which in this matter serves as the doing agency. The Ministry of Social Affairs further gives permit or evidence of registration to the NPO. If an NPO conducts activity in the field of tithe collection, the ministry of the starting agency that gives the permit is the Ministry of Religious Affairs.

Regulatory framework of NPOs is conducted by 10 government agencies consisting of 8 ministries and 2 non-departmental government agencies. However, only 6 ministries which fully play the role as supervisory agencies for Indonesian NPOs, while the other 4 institutions are in nature not supervisors to Indonesian NPOs. Complete assessment based on the objectives and indicators is applied only to seven ministries as follows:

- The Ministry of Law and Human Rights (*Kemenkumham*) as supervisory agency for grant of legal entity status of an NPO.
- The Ministry of Home Affairs as the supervisory agency to community organization and foreign NPOs operating in Indonesia.
- The Ministry of Social Affairs (*Kemensos*), as the supervisory agency to Social Organization and NGOS.
- The Ministry of Religious Affairs, sebagai the supervisory agency to NPOs of religious nature.
- The Ministry Manpower and Transmigration (The Ministry of Manpower and Transmigration), as the supervisory agency to workers/labor organization.
- The Ministry of Trade, as the supervisory agency to NPOs of Non-Government Consumer Protection Agency (NGCPA) type.

Full assessment based on the objectives and indicators is applied to four agencies since they do not fully play role as supervisory agencies for NPOs, but only have relationship with NPOs. The four agencies are described only limited to their relationship with NPOs (*for more information please see the end part of this Chapter: "The Institution of the Relevant Government: the Indonesian NPOs Non-Supervisory Agencies"*). The four agencies are as follows:

- Center for Reporting and Analysis of Financial Transaction (PPATK) has a relationship in the effort to prevent abuse of NPOs by certain parties as facility for money laundering or terrorism funding.
- Directorate General of Tax has relationship with NPOs in the field of taxation for non-profit organizations.
- The Ministry of Foreign Affairs (*Kemenlu*) has relationship in the grant of permit to foreign NPOs, but does not play a role in supervising NPO that has Indonesian legal entity. While supervision to foreign NPOs is conducted by the Ministry of Home Affairs.
- The National Agency for Disaster Handling (BNPB) is in a coordinative manner related with NPOs dealing with the field of Disaster Handling, but not a supervisory agency to such NPO.

The result of assessment to the ten agencies above was brought to the Validation Workshop to obtain input for improvement on April 23-24, 2010 in Bogor, West Java. The next part explains about the results of assessment at every ministry.

E.1 The Ministry of Law and Human Rights (Kemenkumham)

The Ministry of Law and Human Rights (*Kemenkumham*) is established with a vision to realize table national legal and political system in the framework of upholding the supremacy of law and human rights to support the achievement of community's life that is secure, unified, harmonious, tranquil, just, and prosperous. The Ministry of Law and Human Rights constitutes a starting agency that has the authority to give authentication of legal entity status for establishment of an NPO. The organization and work procedure of the Ministry of Law and Human Rights are regulated in the Decree of Minister of Law and Human Rights Number M-09.PR.07.10 Year 2007 dated April 20, 2007 regarding Organization and Work Procedure of the Ministry Law and Human Rights of the Republic of Indonesia.

Directorate General of Public Law Administration runs its function to prepare policy formulation, policy implementation, formulation of standard, norms, guideline and procedure in the field of

public law administration. This directorate consists of six divisions, one of which is Civil Directorate which has the duty to handle registration and authentication of legal entity, either for NPOs or for companies.

Regulatory framework of NPOs that is the responsibility of the Ministry of Law and Human Rights is the laws and regulations that relate with legal entity of foundation and association, as follows:

- Law Number 16 Year 2001 regarding Foundation; and Law Number 28 Year 2004 regarding Amendment to Law Number 16 Year 2001 Regarding Foundation.
- *Staatsblad 1870 Number 64 Rechtspersoonlijkheid Van Vereenigingen* (Associations Having Legal Entity).
- Regulation of the Government of the Republic of Indonesia Number 63 Year 2008 regarding Implementation of Law on Foundation.

The result of assessment based on the 6 objectivess of regulatory framework to laws and regulations is explained in the following:

A. Objective of Regulation Number 1: Establishment of NPO

The basic right to establish an organization has been guaranteed in The Indonesian Constitution, mainly in Article 28E paragraph (3) of the 1945 Constitution, which states: Every person shall have the right to unify, assemble and express opinion. The realization of such freedom of organization is further guaranteed in Law on Foundation and *Staatsblad 1870 Number 64*, which also acknowledges that such organization can have legal entity or without legal entity.

There are two types of legal entity of NPOs, namely Foundation, which is regulated under Law on Foundation, and legal entity of association, which is regulated in *Staatsblad 1870 Number 64*. Foundation is a legal entity that is by nature non-membership while association is a legal entity for NPOs that are membership in nature.

Establishing an NPO is not necessary to have legal entity if the NPO is relatively small and the coverage of its activity is relatively limited. The difference is that for NPO having legal entity, if there is a dispute, it can become the party in dispute in a court, but this right is not applicable to NPO that does not have legal entity.

- **Establishment of a Foundation**

The definition of foundation based on the provision of Article 1 point 1 of Law Number 16 Year 2001: Foundation is a legal entity that consists of separated assets and allocated to achieve certain objectives in the field of social affairs, religion, and humanity, which does not have members. The requirements for obtaining the status of foundation legal entity are as follows:

- a. Application letter from Notary to Minister of Law and Human Rights of the Republic of Indonesia, in this matter is Director General of Public Law Administration;
- b. Copy of deed of establishment of foundation;
- c. Copy of Tax Payer's ID Number (NPWP) legalized by Notary;
- d. Letter of statement of domicile and complete address of the foundation signed by the management of the foundation and acknowledged by *lurah* (head of village government level) or head of the local village;
- e. Receipt of payment or bank certificate in the name of the foundation or written statement from founders containing information on separated asset value as the initial asset to establish the foundation;
- f. Letter of statement of founders concerning the legality of the said initial asset;
- g. Receipt of payment of costs of authentication and announcement of the foundation.

- **Establishment of an Association**

An association constitutes an organization that is by nature membership, established at least by several persons or may not by only one person. The provision on the status of legal entity of association is regulated in the *Staatsblad 1870* Number 64, which constitutes inheritance from the era of Dutch Colony and replacement has not been made until at present. In the said *Staatsblad*, there is no explanation about the definition of association.

Association establishment must fulfill substantial requirements and formal requirements. Substantial requirements for establishment of an association are, among other things:

- Established by several persons;
- Having members;
- Initial asset separated from self-owned assets;
- Initial asset is not determined.

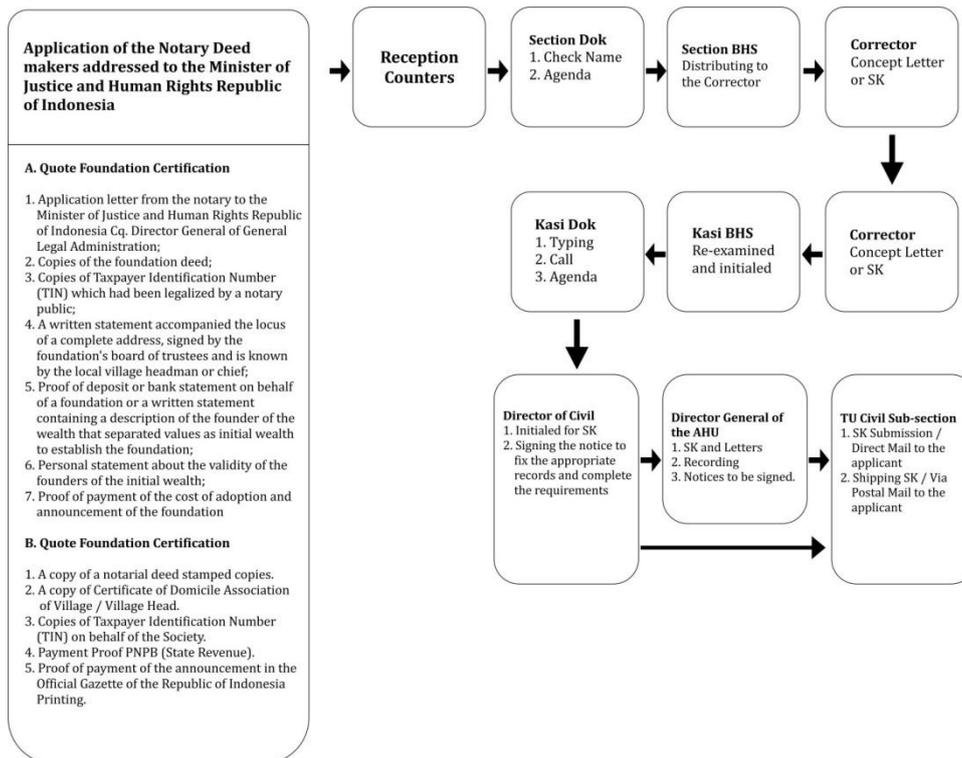
While formal requirements are, among other things:

- 1 sheet of copy of Notarial deed having a stamp on it.
- Copy of Certificate of Domicile of Association from Lurah/Village Head;
- Copy of Tax Payer's ID Number (NPWP) on account of the Association;
- Receipt of payment of PNBP (Non Tax State Revenue).
- Receipt of payment of announcement in the Supplement to the State Gazette from the Printing Company of the State of the Republic of Indonesia.

- **Procedure for Registration of Association and Foundation**

There is no fundamental difference in the registration of authentication of legal entity of NPO, either for legal entity of foundation or association. Application for authentication and approval of amendment to articles of association is submitted to Minister Law and Human Rights of the Republic of Indonesia in this matter is Directorate General of Public Law Administration. The following is the flow of the authentication:

**Table 2.3:
The Flow of Authentication of Legal Entity of NPO**



The benefit gained by an NPO if its has the status of legal entity is that it may become a party in court, may open a bank account on account of the organization by firstly possessing an NPWP, and it has more chance to have cooperation with government agency as well as donor agency at home country as well as abroad.

As many as 21,569 applications made by organizations (foundations and associations) for legal entity have been authenticated by the Ministry of Law and Human Rights from 2003 until September 2009. The detail can be seen in the following table:

Table 2.4:
Total NPO Registration at the Ministry of Law and Human Rights

Legal Service	2003	2004	2005	2006	2007 until June 2009
Association	-	13	43	237	32
Foundation	288	1,106	2,098	6,436	1,634

The following is the table of result of assessment to the effectiveness of establishing an NPO at the Ministry of Law and Human Rights that has been conducted and agreed upon by LAT.

Table 2.5:
Assessment to the Effectiveness Objective 1: Establishing an NPO

Indicator	Assessment
Well communicated	<ul style="list-style-type: none"> • Regulation of Staatsblad for establishment of an association still uses the rule from colonial inheritance with various Dutch legal terms. • Information that is easy to understand on the requirements and procedure for establishment of an association and foundation is available at website of the Ministry of Law and Human Rights

	(Kemenkumham).
Fair	<ul style="list-style-type: none"> • There is no restriction to citizens and organization to obtain status as legal entity of association or foundation. • In case application for authentication of Deed of Establishment is rejected, Minister must notify in writing along with the reasons therefor. Applicant may re-submit application for authentication of such Deed of Establishment, on condition that it complies with the provisions in this law and/or the implementing regulation hereof.
Proportionate	<ul style="list-style-type: none"> • There is still administratif charge that is burdensome to poor foundation. Special attention has not been given to ensure that poor foundation obtains reasonable charge.
Enabling	<ul style="list-style-type: none"> • Regulations that provide a space in which associations and foundations can pursue their formal objectives freely, namely in the field of social affairs, humanity and religion. • There has been no support to encourage legal entity of associations or foundations to comply with prevailing laws or regulations.
Context	<ul style="list-style-type: none"> • This law has regulated establishment of foundation, whether established by Indonesian persons or foreigners with objectives of humanity, social matters and religion.
Feasible and Realistic	<ul style="list-style-type: none"> • This regulation can be applied to all citizens • All organizations wanting to register at the Ministry of Law and Human Rights acan know the procedure for registration through website of the Ministry of Law and Human Rights (Kemenkumham).
Efficient	<ul style="list-style-type: none"> • Process of authentication takes several days treated by all applicant organizations (either association or foundation)

B. Objective of Regulation Number 2: Identifying NPOs

Recording of NPOs that have already had status of legal entity has been conducted manually and effort is being made to prepare printed directory so it can be accessed by the public. Development of NPO database in the form of computerized database supported by information technology has not been conducted so the public has not been able to access or see the status of legal entity of an NPO online in the internet. To obtain information, the public is expected to prepare an Application Letter regarding information on foundation/association to the office of the Ministry of Law and Human Rights (Kemenkumham).

In order for the status of legal entity of an NPO to be able to be identified continuously, NPO is obliged to report any change to the status of its articles of association to the Ministry of Law and Human Rights, and for a foundation it is also announced in the Supplement to the State Gazette by the Ministry of Law and Human Rights (Kemenkumham). The obligation of financial transparency for a foundation has been set out in the law; however, such obligation has not been confirmed for association since it still has *Staatsblad 1870* Number 64.

Foundation's obligations as set out in Law Number 16 Year 2001 regarding Foundation are as follows:

Article 52

- (1) Summary of annual report of foundation is announced on the bulletin board at the foundation's office.

- (2) Summary of annual report as referred to in paragraph (1) must be announced in a daily newspaper in Indonesian language for foundation that:
- a. obtains aids from the state, foreign aids, or other party in the amount of Rp 500,000,000 (five hundred million rupiah) or more; or
 - b. has assets beyond asset of donated property amounting to Rp 20,000,000,000 (twenty billion rupiah) or more.
- (3) Foundation as referred to in paragraph (2) must be audited by Public Accountant.
- (4) The result of audit to annual report of foundation as referred to in paragraph (3) is submitted to the patron of the relevant foundation and the copy is sent to the related minister and agency.
- (5) The summary of annual report as referred to in paragraph (1) is prepared in accordance with the applicable financial accounting standard.

The following is the table of result of assessment to the effectiveness of Identifying NPO at the Ministry of Law and Human Rights that has been conducted and agreed upon by LAT.

**Table 2.6:
Assessment to the Effectiveness of Objective 2: Identifying NPOs**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • Data on associations and foundations that have been registered at the Ministry of Law and Human Rights are still collected manually. There has not been any database that is supported by information technology such as internet so the public can access openly and promptly. To access the data, the public is requested to submit application formally. • The management of a foundation that is from merger of foundations must announce such merger no later than thirty days as of such merger. In practice however, this is very seldom conducted by the management of a foundation.
Fair	<ul style="list-style-type: none"> • Regulations should encourage transparency of associations and foundations; but in practice, it is not easy to do. • The cost of making of deed of legal entity through Notary varies; therefore, not all organizations can easily obtain a deed from Notary to establish an NPO. • Obligations of associations in the field of financial transparency have not been regulated in detail since it still uses the rule of Staatsblad 1870 Number 64.
Proportionate	<ul style="list-style-type: none"> • This Law places the reasonable charge of regulatory to the capacity a foundation that has the objectives of humanity, social matter and religion and is also feasible if compared with the level of risk. • Status of legal entity makes NPOs trusted more by donor agencies and other government agencies. • This regulation has been applied proportionally, so supervisory agency only uses its power when it is really needed.
Enabling	<ul style="list-style-type: none"> • The law has reduced the possibility abuse in establishment of a foundation, and opened a space for foundations to pursue its objectives freely.

	<ul style="list-style-type: none"> It is not clear whether or not any change or replacement of a status that has been approved requires further approval by any other party or agency. The rest is that this regulation is sufficiently effective.
Context	<ul style="list-style-type: none"> This law has been integrated with the legal system, for example with Law on Bankruptcy and Law on National Accounting System. Its objectives are appropriate with domestic and international priority. This regulation has been integrated with legal system, for example with the provision of Articles 1663 and 1664 of the Civil Code.
Feasible and Realistic	<ul style="list-style-type: none"> Foundations and associations must report any changes to the status of its articles of association to the Ministry of Law and Human Rights, and as for foundation it must also announced in the Supplement to the State Gazette by the Ministry of Law and Human Rights (Kemenkumham).
Efficient	<ul style="list-style-type: none"> The regulation encourages compliance with a certain time limit as provided for in the law, but this is still not complied with by several associations or foundations.

C. Objective of Regulation Number 3: Identifying Concerns

The Ministry of Law and Human Rights (Kemenkumham) is a starting agency ministry that deals more with matter of granting status of legal entity to NPOs. Therefore, the Ministry of Law and Human Rights does not widely identify various forms of abuse committed NPOs. The role of monitoring abuse of NPOs is played by the other relevant ministry (the doing agency). The role of identifying concerns played by the Ministry of Law and Human Rights is to reject grant of status of legal entity if such submission is considered not appropriate with the provisions of the prevailing laws.

The following table shows the result of assessment to effectiveness of Concerns Identification at the Ministry of Law and Human Rights conducted and agreed upon by LAT.

Table 2.7:
Assessment to the Effectiveness of Objective 3: Identifying Concerns

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> There is no rule on office period of patron of a foundation, whether or not it is limited for a certain period. There has been no information that shows whether resources of association and foundation are used appropriately.
Fair	<ul style="list-style-type: none"> This regulation only regulates matter of rejection to acknowledgement conducted based on public interest. This rejection is only accompanied with reasons, but there is not formal process to apply for an appeal or objection to the decision of the competent party.
Proportionate	<ul style="list-style-type: none"> This law places reasonable burden of regulatory against the capacity of foundation that has the objectives of humanity, social matters and religion and is also reasonable compared with the level of risk. The benefit obtained is bigger than the expense incurred.
Enabling	<ul style="list-style-type: none"> The law has reduced the possibility of occurrence of abuse in establishment of a foundation, and provided a space for foundations to pursue their objectives freely.

	<ul style="list-style-type: none"> • There has been no support to encourage legal entity of association to comply with the prevailing laws or regulations. The rest is that this regulation has been sufficiently effective.
Context	<ul style="list-style-type: none"> • This law has regulated establishment of foundation, whether established by Indonesian persons or foreigners with objectives of humanity, social matters and religion; however, its main strategic approach is not clear yet. The rest is that this law is sufficiently effective.
Feasible and Realistic	<ul style="list-style-type: none"> • Not all associations and foundations are able to submit their financial statements through media.
Efficient	<ul style="list-style-type: none"> • Investigation to financial matter is still difficult to do since many associations and foundations still consider that financial matters are their internal affairs.

D. Objective of Regulation Number 4: Investigating Concerns

The Ministry of Law and Human Rights (Kemenkumham) does play the role to investigate concerns. Investigation against concerns in the framework of supervision over NPOs is conducted by the other government agency. The Ministry of Law and Human Rights has the duty that is by nature coordination with the other government agency in conducting supervision over NPOs. The Police of the Republic of Indonesia (Polri) is the agency that has the authority in the investigation to abuse of NPOs.

Inspection or investigation against an NPO may be conducted only by the investigating agency such as the police and attorney. Inspector or investigator may only conduct inspection to a foundation or association after having obtained a ruling of court based on application filed by the party having the interest in such inspection. Inspection to a foundation is regulated in Article 53 of Law Number 16 Year 2001 regarding Foundation, as follows:

Article 53

- (1) Inspection to a foundation to obtain data or information may be conducted in case there is an allegation that any organ of the foundation:
 - a. commits an illegal action or any action in contrary to the articles of association;
 - b. is negligent to perform its duty;
 - c. commits an action that harms the foundation or third party; or
 - d. commits an action that harms the country.
- (2) Inspection as referred to in paragraph (1) letter a, letter b, and letter c may be conducted only based on a court ruling at a written request of the interested third party and accompanied with the reasons therefor.
- (3) Inspection as referred to in paragraph (1) letter d may be conducted based on a court ruling at the request of Attorney in case representing public interest.

The interested government may conduct inspection to the management of finance of a foundation if it obtains a court ruling at the written request of the interested third party accompanied with the reasons therefor; and may also be conducted based on a court ruling at the request of the Attorney in case representing public interest. The court may reject or grant such request of inspection.

If court grants the request of inspection against a foundation, the court issues a ruling for the inspection and appoints no more than 3 (three) experts as inspectors to conduct inspection. Patron, management, and supervisor as well as activity implementer or employees of a foundation may not landscape appointed as inspector. Inspector must submit a report of result of inspection that has been conducted to head of court at the domicile of the foundation no later than 30 (thirty) days as of the date of completion of inspection. And then head of the court gives a copy of report of result of inspection to the applicant or attorney and the relevant foundation.

The following is the table of result of assessment to the effectiveness of Concerns Investigation at the Ministry of Law and Human Rights conducted and agreed upon by LAT.

**Table 2.8:
Assessment to the Effectiveness of Objective 4: Investigating Concerns**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • The Ministry of Law and Human Rights is passive in nature, only receives application and report relating to any changes in articles of association of a legal entity. • Concerns investigation is not the authority of the Ministry of Law and Human Rights (Kemenkumham).
Fair	<ul style="list-style-type: none"> • the Ministry of Law and Human Rights may reject authentication of a legal entity submitted by an association and foundation, but there has been no mechanism for complaint if such rejection is considered not appropriate with the procedure.
Proportionate	<ul style="list-style-type: none"> • It is not clear as to what the follow up is to the result of inspection conducted by inspector to the findings reported to head of the court at the domicile of the foundation.
Enabling	<ul style="list-style-type: none"> • This law is designed in the manner that supports foundation sector that is feasible, in which the possibility of chance for abuse is minimized. • However, associations have not been supported by a law or regulation like the abovementioned.
Context	<ul style="list-style-type: none"> • The Ministry of Law and Human Rights does not conduct investigation over any alleged abuse by foundation or association. • The Ministry of Law and Human Rights only implements court judgment if such judgment orders the cancellation of status of legal entity of an NPO.
Feasible and Realistic	<ul style="list-style-type: none"> • The Ministry of Law and Human Rights only waits for application of legal entity from an association and foundation
Efficient	<ul style="list-style-type: none"> • Investigation is not the authority of the Ministry of Law and Human Rights (Kemenkumham). The implementation of investigation is by nature coordinative with the other agencies.

E. Objective of Regulation Number 5: Protecting NPOs

The Ministry of Law and Human Rights is not the authorized party whose responsibility covers protection to NPOs from the risk of abuse. Registration and grant of status of legal entity constitutes a form of protection to NPOs conducted by the Ministry of Law and

Human Rights (Kemenkumham). By having the status of legal entity, an NPO may take legal action in settling any dispute – if amicable deliberation cannot reach a settlement.

The following is table of result of assessment to the effectiveness of Protecting NPOs at the Ministry of Law and Human Rights conducted and agreed upon by LAT.

**Table 2.9:
Assessment to Effectiveness of Objective 5: Protecting NPOs**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> Associations or foundations having the status of legal entity may not have the same name. The Ministry of Law and Human Rights ensures that this does not occur, so it does not result in conflict of law in the future.
Fair	<ul style="list-style-type: none"> There has been no mechanism of complaint from association or foundation whose registration for legal entity is rejected by the Ministry of Law and Human Rights (Kemenkumham).
Proportionate	<ul style="list-style-type: none"> This regulation has been applied proportionally, so supervisory agency uses power only when it is really necessary.
Enabling	<ul style="list-style-type: none"> This law is designed to support development of NPO sector that is feasible, but it seems there has been no effort to encourage foundations or associations to comply with the prevailing regulations.
Context	<ul style="list-style-type: none"> Protection to NPOs against the risk of abuse constitutes the responsibility or authority of other ministry (the doing agency). The Ministry of Law and Human Rights only coordinate with such relevant agency.
Feasible and Realistic	<ul style="list-style-type: none"> The Ministry of Law and Human Rights only have the authority in receiving application and authenticating or rejecting the status of legal entity of an NPO.
Efficient	<ul style="list-style-type: none"> The involvement of the Ministry of Law and Human Rights in protecting NPOs is only coordinative by nature. This authority is at the other relevant Ministry.

F. Objective of Regulation Number 6: Mitigating Risks

Risk mitigation as provided for in the laws and regulations, for example, foundations are prohibited from entering into an agreement with any organization that affiliated with the foundation, patron, the management, and/or supervisor of the foundation, or with someone working for the foundation. This regulation is aimed to avoid effort of manipulation to enrich the persons that are involved in the management of the foundation. However, such prohibition does not apply in case the agreement gives benefit to the attainment of purpose and objectives of the foundation.

LAT estimates that there are still thousands of NPOs that have not had the status of legal entity. The Ministry of Law and Human Rights is passive in nature in receiving registration from the circle of NPOs. The effort of awakening that possessing the status of legal entity constitutes one of the forms of NPOs' accountability has not been made widely.

The following table shows the result of assessment to the effectiveness of Mitigating Risks at the Ministry of Law and Human Rights conducted and agreed upon by LAT.

**Table 2.10:
Assessment to the Effectiveness of Objective 6: Mitigating Risk**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> The language used in the laws and regulations is clear to avoid NPOs committing abuse.
Fair	<ul style="list-style-type: none"> Regulations give tolerance to NPOs to enter into an agreement with any organization that is affiliated with the foundation to the extent such agreement is entered into to attain the purpose and objectives of the foundation.
Proportionate	<ul style="list-style-type: none"> This law places feasible burden of regulatory against the capacity of foundations, but this has not been conducted to associations.
Enabling	<ul style="list-style-type: none"> This law is designed in the manner that supports foundation sector that is feasible, in which the change for abuse is minimized. However, associations have not been supported by laws or regulations like the above.
Context	<ul style="list-style-type: none"> For NPOs that have not possessed the status of legal entity, effort has not been made to encourage NPOs to immediately submit application for their status of legal entity, and coordinate it with the other ministries in dealing with this matter.
Feasible and Realistic	<ul style="list-style-type: none"> The Ministry of Law and Human Rights has not widely informed to NPOs that have not had legal entity of the requirements and procedure for application for the status of legal entity.
Efficient	<ul style="list-style-type: none"> The provisions on legal entity for all types of NPOs have been able to be covered by legal entity of foundations and associations. Mitigation of risks has been provided for in the Law on Foundation, but the same thing has not been conducted to associations.

E.2 The Ministry of Home Affairs

The Ministry of Home Affairs constitutes the implementer element of the government in the field of domestic governmental affairs.

The vision of the Ministry of Home Affairs is to be the most leading in encouraging the realization of governmental organization that is democratic, decentralized, orderly and advanced, still within the Unitary State of the Republic of Indonesia.

The Objectives of the Ministry of Home Affairs are as follows:

1. to realize the nation life order that is tranquil, orderly, peaceful and democratic, supported by the more and more stable nationalistic viewpoint and national integrity;
2. to improve accountability, transparency and responsiveness in decentralized governmental organization;
3. to realize the community that is advanced and independent through provision of basic necessities and protection in various aspects of life;
4. to improve integration of governmental organization between central and regional governments, among regional governments, and among areas in the resources management effectively and efficiently;
5. to realize situation and condition that is dynamic and conducive for the expediency of governmental organization and the life of the community, nation and state.

Regulatory framework of NPOs that becomes the responsibility of the Ministry of Home Affairs is the Laws and Regulations relating to community organization, as follows:

- Law Number 8 Year 1985 regarding Community Organization.
- Government Regulation Number 18 Year 1986 regarding Implementation of Law Number 8 Year 1985 regarding Community Organization.
- Instruction of Minister of Home Affairs Number 8 Year 1990 regarding Advancement of Non Government Organizations.
- Joint Decree of Minister of Home Affairs and Minister of Social Affairs Number 78 Year 1993; 39/Huk/1993 regarding Advancement of Social Organizations / Non Government Organizations.
- Regulation of Minister of Home Affairs Number 38 Year 2008 regarding Receipt and Grant of Aids of Community Organization from and to Foreign Party.

The Ministry of Home Affairs has been making effort to amend Law Number 8 Year 1985 regarding Community Organization since it is considered it is no longer relevant in this Reform Era. This law was indeed during the New Order governmental used politically to limit the activity of NPOs and emphasize the one and only principle of Pancasila. This law is more often criticized by NPOs since it is considered excessive in controlling NPOs. Regulation of Minister of Home Affairs Number 38 Year 2008 regarding Receipt and Grant of Aids of Community Organization from and to Foreign Party is also given big attention and criticized by NPOs since it is considered as containing political content to control NPOs which indeed so far lack of publication of their fund receipt and annual financial statement to the public.

The result of assessment based on 6 objectives of regulatory framework to the laws and regulations is explained in the following:

A. Objective of Regulation Number 1: Establishing NPOs

The Ministry of Home Affairs has big role as the supervisory agency for community organizations that cover all types of NPOs. While establishment of an NPO is still conducted through the Ministry of Law and Human Rights (Kemenkumham). Community Organization, whether or not having legal entity, by virtue of Law Number 8 Year 1985 regarding Community organization and by virtue of Government Regulation Number 18 Year 1986 regarding Implementation of Law Number 8 Year 1985 Regarding Community Organization, must specify the one and only principle of Pancasila.

In addition to supervising domestic NPOs, the Ministry of Home Affairs also plays its role to supervise foreign NPOs operating within the territory of Indonesia. However, grant of permit to operate within the territory of Indonesia is issued by the Ministry of Foreign Affairs. Therefore, the role of the Ministry of Home Affairs is by nature as role of activity supervision or a starting agency.

NPOs in Indonesia are obliged to register at the Ministry of Home Affairs in order to obtain Certificate of Registration (SKT), which SKT is not an operational permit of NPOs. In practice, not all NPOs register at the Ministry of Home Affairs. But no penalty will be imposed if an NPO fails to register or renew SKT.

In order to be registered, the Ministry of Home Affairs stipulates 18 requirements that must be fulfilled by community organizations/Non-Government Organizations. To register, organizations or NGOs must submit an Application for Registration of Organization/NGOs directed to Director General of Nation and Political Union, attention to Director of Facility of Political and Community Organizations. At provincial level, it is directed to Governor/Regent/Mayor attention to Chairman of *Kesbang* and *Linmas*. For Community Organization of DPD, it is signed by Genral Chairman and Secretary General or Chairman and Secretariat of DPD, for Governor/Regent/Mayor, enclosed with:

1. Notarized Deed of Establishment.
2. Notarized Articles of Association and By-Laws.

3. Work Program signed by Chairman and Secretary General.
4. Decree of the Central Management Board or DPP (complete) signed by Founders / the Chairman of *Munas*.
5. 3 Provincial SKTs (Ormas)/1 Provincial SKT (NGOs) to register at National Level.
6. Curriculum Vitae (Biodata) of the Central Management, namely:
 - a. General Chairman
 - b. Secretary General
 - c. Treasurer
7. Color photos 4 x 6 cm
 - a. General Chairman
 - b. Secretary General
 - c. Treasurer.
8. Photo Copy of Resident Identity Card (KTP) of the Central Management
 - a. General Chairman
 - b. Secretary General
 - c. Treasurer.
9. Form
10. Field Data
11. Front view photo with Sign Board and Address of Office/Secretariat
12. NPWP (Tax Payer's ID Number)
13. Certificate of Domicile signed by *Lurah* (Village Head) and *Camat* (Sub-District Head)
14. Contract / Permit of Use of place above an Rp. 6.000,-duty stamp
15. Not using the symbol of "Garuda" as the organization's symbol
16. Certificate not being under Internal Conflict (dualism/multi management) signed by Chairman and Secretary General stitched with Rp. 6.000,- duty stamp.
17. Certificate of Not Being Affiliated with a Political Party signed by Chairman and Secretary General stitched with Rp. 6.000,- duty stamp.
18. Submitting Activity Report of organization to Director General of National and Political Union once in 6 (six) months.

The following table shows the result of assessment to the effectiveness of Establishing NPOs at the Ministry of Home Affairs conducted and agreed upon by LAT.

**Table 2.11:
Assessment to the Effectiveness of Objective 1: Establishing NPOs**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • Explaining about the rights of citizens to establish a community organization. • Information on requirements and procedure for establishing a community organization and procedure for notification to government can be accessed through the website of the Ministry of Home Affairs. • The implementation of receipt of foreign aids and grant of aids to foreign party by community organization is informed to the public through public media.
Fair	<ul style="list-style-type: none"> • Every community organization is obliged to use Pancasila as the basis of its organization and may not use other principle as the principle to establish the organization.
Proportionate	<ul style="list-style-type: none"> • Placing feasible regulatori burden to the capacity of community organization in responding and also feasible if compared with the level of risks.

	<ul style="list-style-type: none"> The provisions in these articles do not regulate whether there is administrative expense; if there is, it must be maintained to the lowest extent possible, which is only charged if necessary.
Enabling	<ul style="list-style-type: none"> Registration is designed in the manner that supports community organizations that are feasible, in which there is only small possibility and community organizations are free to conduct their formal activity. There is non incentive to encourage community organizations to comply with this law.
Context	<ul style="list-style-type: none"> This law provides for the principle and objectives of establishment of community organizations that have relevance with domestic priority and international objectives in the framework of giving the freedom to organize and assemble under the conditions pursuant to the prevailing laws and regulations. The matter of establishment of community organizations is also indirectly regulated by other regulations, which requires mapping of regulations that govern the mechanism of registration and supervision.
Feasible and Realistic	<ul style="list-style-type: none"> The obligation to use Pancasila as the one and only principle in the establishment of community organizations is considered not appropriate with social diversity in Indonesia. Even though Pancasila can actually be used as a general principle that covers all community activities, pressure cannot be approved. This is then sued after reform is started in Indonesia in 1998. Registration of community organizations is conducted at all regional government agencies, but not all community organizations register their organizations.
Efficient	<ul style="list-style-type: none"> Not explaining how long it takes for the government to process registration of community organizations applied.

B. Objective of Regulation Number 2: Identifying NPOs

The Ministry of Home Affairs issues a directory of community organizations every year. The directory issued in 2009 contains 405 data on community organizations. Every regional office and agency at provincial level also prepares a directory of community organizations in its working area. The data identify the organization's name, office address, objectives of the organization, founders, name of chairman and technical patron as well as period of management. However, the Ministry of Home Affairs admits that there are still thousands of NPOs that have been recorded in Indonesia.

Directory of NPOs managed by NPOs are not in the form of database that is supported by internet in order for it to be able to be accessed by the public. The existing directory is still in the form of print out that can be requested to the office of the Ministry of Home Affairs. Community Organizations at national level are recorded by the Central Ministry of Home Affairs, while at provincial and regency/municipal levels they are recorded by regional government. Types of community organizations are divided into mass-based organizations and non mass-based organizations. Non Mass-Based Organizations are known as Non Government Organizations (NGOs).

The following table shows the result of assessment to the effectiveness of Identifying NPOs at the Ministry of Home Affairs conducted and agreed upon by LAT.

**Table 2.12:
Assessment to the Effectiveness of Objective 2: Identifying NPOs**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • Directory of community organizations registered at the Ministry of Home Affairs can be downloaded from the website of the Ministry of Home Affairs. But it only summarizes 405 data on organizations. It should actually summarize all of the existing community organizations both at national or national level. • The data have identified the basic profile of organizations, but the explanation on activity and funding is not specified. Article 40 does not contain even one legal norm (must/obliged to/prohibited/may), so this article has no clarity of its extent of binding. The constructive values that appear are, among other things, promoting transparency of community organizations, especially in relation to provision of information on activity of community organizations to the public.
Fair	<ul style="list-style-type: none"> • There is no mechanism of complaint when the public desires to know the data on NPOs since they are not provided by the government.
Proportionate	<ul style="list-style-type: none"> • This law places regulatory burden that is too wide because supervision covers all types of NPOs, so it becomes the target of criticism from NPOs. • The effort to amend Law Number 8 Year 1985 regarding Community Organization is expected to be more specifically directed to the types of NPOs and accommodate public criticism. • Administrative cost needs to be arranged to be at the lowest possible and is charged only if necessary.
Enabling	<ul style="list-style-type: none"> • The government gives space to community organizations to pursue their formal objectives freely. • There has been no incentive to encourage community organizations to comply with the laws and regulations. • The regulation is designed to support community organizations that are feasible, but considered negative by NPOs as limiting the freedom.
Context	<ul style="list-style-type: none"> • There has been a control over the objectives of community organizations that are appropriate with domestic priority, namely making the national development a success and maintaining the national union and unity, but the handling of this law has not been integrated with the legal system and its strategic approach is not clear. • Community Organizations may receive and memberi give aids to foreign party that has relation wih domestic priority and international objectives in the framework of giving the freedom to organize and assemble to the extent complying with the prevailing laws and regulations. • Its main strategic approach is clear by involving the community and the government, and has been integrated with other legal system, namely Law on Immigration and Law on Manpower. • The matter of community organizations is also regulated indirectly by other regulations, which require mapping of regulations together with the other ministry (the doing agency).
Feasible and Realistic	<ul style="list-style-type: none"> • Not all NPOs have registered at the Ministry of Home Affairs. On the other hand, the Ministry of Home Affairs itself admits it has not recorded all NPOs in Indonesia.
Efficient	<ul style="list-style-type: none"> • Other ministries also conduct recording and identification to the types of

	activities of community organizations, so it requires mapping of function of registration and supervision within the ministries.
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C. Objective of Regulation Number 3: Identifying Concerns

The Ministry of Home Affairs has issued several regulations concerning supervision over NPOs: Instruction of Minister of Home Affairs Number 8 Year 1990 regarding Advancement of Non Government Organizations; and Regulation of Minister of Home Affairs Number 38 Year 2008 regarding Receipt and Grant of Aids of Community Organizations from and to Foreign Party. The Ministry of Home Affairs together with the Ministry of Social Affairs also issues a Joint Decree of Minister of Home Affairs and Minister of Social Affairs Number 78 Year 1993; 39/Huk/1993 regarding Advancement of Social Organizations / Non Government Organizations.

Although this regulation has been paid attention and criticized by NPOs, in this regulation there are several identifications of concerns. Significant development of NPOs in the life of the community has made the Ministry of Home Affairs issue an Instruction for Advancement of Social Organizations and Non Government Organizations (NGOs). Criticism against NGOs also starts to be incessant alleging NGOs as the agents for foreign interests and seller of poverty. Although this allegation is also refuted by NGOs, we need to know that the handling of NGOs is still relatively weak in Indonesia.

Although it is also criticized by NPOs, Regulation of Minister of Home Affairs Number 38 Year 2008 regarding Receipt and Grant of Aids of Community Organizations from and to Foreign Party, makes effort to prevent abuse of foreign funds. Concerns identified in this regulation are as follows:

Article 6

- (1) Aids from foreign party as referred to in Article 3 is by nature non binding.
- (2) Aids as referred to in paragraph (1) may not be used for any activity that:
 - a. is in contrary to Pancasila and the 1945 Constitution of State of the Republic of Indonesia;
 - b. disturbs and/or threatens sovereignty and intactness of The Unitary State of the Republic of Indonesia;
 - c. disturbs and/or harms the national union, unity, and harmony;
 - d. disturbs public order and tranquility of the public;
 - e. causes social unrest, national and regional economic disorder; and/or
 - f. relates with the activities of intelligence, money laundering, terrorism, and separatism.

In practice, however, based on the findings of the Ministry of Home Affairs mainly from the report of National Unity Agency at provincial and regency/municipal level government, it is often found that community organizations conduct activities that are not in accordance with their field of affairs when registering at the Ministry of Home Affairs. For example, a community organization that registers dealing with the field of culture, but it also deals with the field of anti corruption advocacy. The Ministry of Home Affairs admits that it finds it difficult to monitor and record all community organizations and their activities.

The following table shows the result of assessment to the effectiveness of Identifying Concerns at the Ministry of Home Affairs conducted and agreed upon by LAT.

**Table 2.13:
Assessment to the Effectiveness of Objective 3: Identifying Concerns**

Indicator	Assessment
Well communicated	<ul style="list-style-type: none"> Regulation provides explanation on the types of fund use that is in contrary to the mutual objectives
Fair	<ul style="list-style-type: none"> There is no mechanism of complaint for community organizations if the government fails to give permit to the organization that is prohibited from receiving foreign aids for any reasons considered violating the laws and regulations.
Proportionate	<ul style="list-style-type: none"> Community organizations are suggested to unify in one medium of advancement and development of similar type. The regulation is considered giving excessive emphasis on supervision for community organizations, so it tends to obtain negative response and criticism.
Enabling	<ul style="list-style-type: none"> The regulation is designed to support community organizations that are feasible, where there is only little possibility for abuse to occur. However, incentive has not been given to encourage community organizations to comply with this law.
Context	<ul style="list-style-type: none"> Its main strategic approach is clear by conducting supervision to the use of finance of the community organizations. The matter of establishment of community organizations is also indirectly regulated by other regulations, which requires mapping of regulations. Regulation of Minister of Home Affairs have provided for the nature of aids from foreign party granted to community organizations that are related with domestic priority and international objectives in the framework of giving the freedom to organize and assemble to the extent in accordance with the prevailing laws and regulations.
Feasible and Realistic	<ul style="list-style-type: none"> The government cannot any further control the activity conducted by community organizations, for example: an organization initially registered its activity in the field of culture, but in practice it deals with the field of anti-corruption.
Efficient	<ul style="list-style-type: none"> Other ministries also play their role to identify concerns, so it requires coordination and distribution of role and coordination in supervision of NPOs.

D. Objective of Regulation Number 4: Investigating Concerns

The making of regulations constitutes the effort to supervise abuse of NPOs, either through requirements for registration or reporting of receipt of aids from foreign party. However, in the implementation, supervision cannot be conducted easily and it faces various obstacles, mainly in investigating the concerns. Such difficulty is mainly related with the facts and evidences that must be found in order to come to a conclusion that a community organization commits a violation.

Supervision to a community organization requires public support and participation. The central as well as regional ministries conduct partnership and supervision to the activity of NPOs. The public may give information or report if they find critical matters. However, the

public has not been aware that they have a very strategic role in improving accountability of NPOs.

The following table shows the result of assessment to the effectiveness of Investigating Concerns at the Ministry of Home Affairs conducted and agreed upon by LAT.

**Table 2.14:
Assessment to the Effectiveness of Objective 4: Investigating Concerns**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • The regulation stating that community organizations must register the type of foreign aids they receive has been stipulated in a language that is easy to understand.
Fair	<ul style="list-style-type: none"> • There has no mechanism of complaint if the government cancels the permit for community organizations that obtain aids from foreign party.
Proportionate	<ul style="list-style-type: none"> • Grant of permit to obtain foreign aids for Community Organizations is based on national interest governed in the prevailing laws and regulations.
Enabling	<ul style="list-style-type: none"> • No incentive to community organizations, but the government may grant permit and determine community organizations that can give and receive aids from foreign party.
Context	<ul style="list-style-type: none"> • Regional government autonomy restricts teyh authority of the central government and regional government, which affects work pattern in investigating and responding to any violation committed by a community organization. On the other hand, any action taken by the Ministry of Home Affairs needs to be based on the data and facts obtained from site.
Feasible and Realistic	<ul style="list-style-type: none"> • Investigation against concerns is by nature feasible and realistic that involves the government, provincial government, regency/municipal government and the community in the form of supervision activity conducted by the community organization.
Efficient	<ul style="list-style-type: none"> • Investigation over concerns has not been able to be conducted effectively due to obstacles to obtain facts and evidence of violation committed by the community organizations especially community organizations at regional level.

E. Objective of Regulation Number 5: Protecting NPOs

Law Number 8 Year 1985 regarding Community Organization during the New Order Government Era gives a very centralistic impression. However, at present, in line with development of government decentralization, the Ministry of Home Affairs as the government agency that implements the law needs top make adjustment. If previously the government played the role as patron, presently the government is demanded to become facilitator and partner of community organizations.

The Ministry of Home Affairs needs to encourage the adjustment of its role relating to community organizations. There are two objectives that are used as the approach in partnership with community organizations. Such objectives cover general objectives and specific objectives. The general objectives are, among other things: to realize the ideal of the Indonesian Nation, maintain the need of the Unitary State of the Republic of Indonesia, and

develop democratic culture. While the specific objectives are to empower the community's aspiration, improve the role and participation of the community, and improve welfare.

The following table shows the result of assessment to the effectiveness of Protecting NPOs at the Ministry of Home Affairs conducted and agreed upon by LAT.

**Table 2.15:
Assessment to the Effectiveness of Objective 5: Protecting NPOs**

Indicator	Assessment
Well communicated	<ul style="list-style-type: none"> Protection from the government is conducted by supervision to the activity conducted by community organizations.
Fair	<ul style="list-style-type: none"> There are still provisions that have the potentiality to slow down, or even obstruct the activity of community organizations, mainly community organizations that are so far critical to the government. We need regulate administrative expense that is affordable by all NPOs and which is charged only if necessary.
Proportionate	<ul style="list-style-type: none"> This law is not quite proportional against the issues that develop since there are still provisions that tend to be repressive and not in line with the development of spirit of reform and democratization that provide space for community organizations to support freedom to organize and express opinion.
Enabling	<ul style="list-style-type: none"> There are still provisions that restrict the activity of community organizations and no incentive is given to encourage community organizations to comply with this law.
Context	<ul style="list-style-type: none"> There has been a regulatory on objectives of community organizations that is appropriate with domestic priority, namely to make the national development a success and maintain national union and unification. This Regulation of Minister of Home Affairs governs Receipt and Grant of Aids of Community Organizations from and to Foreign Party that is related with domestic priority and international objectives in the framework of providing freedom to organize and assemble to the extent complying with the prevailing laws and regulations. The matter of community organizations is also regulated indirectly by other regulations, which require mapping of regulations together with the other related ministries.
Feasible and Realistic	<ul style="list-style-type: none"> The existing regulations may be applied to community organizations, but the supervision has not been implemented effectively.
Efficient	<ul style="list-style-type: none"> Process of permit that is in stages either for establishment, registration of business and permit to give and obtain aids from abroad elongates the bureaucracy for community organizations.

F. Objective of Regulation Number 6: Mitigating Risks

Laws and regulations implemented by the Ministry of Home Affairs tend to be paid attention on and criticism from NPOs. The effort made by the Ministry of Home Affairs to amend Law Number 8 Year 1985 regarding Community Organization is deemed necessary to involve

public participation, so it will laws that are relevant with the development of accountability and transparency of NPOs. This constitutes one of the methods to improve compliance with laws and regulations.

The following table shows the result of assessment to the effectiveness of Protecting NPOs at the Ministry of Home Affairs conducted and agreed upon by LAT.

**Table 2.16:
Assessment to the Effectiveness of Objective 6: Protecting NPOs**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> There is no special part in the regulations that is related with risk mitigation. However, mitigating risk in the form of abuse committed by Community Organizations is responded by the Ministry of Home Affairs based on the data and facts from site.
Fair	<ul style="list-style-type: none"> Mitigating risks needs to be supported by laws and regulations that can accommodate criticism and advice from NPOs.
Proportionate	<ul style="list-style-type: none"> Laws and regulations are designed to handle certain risks and problems identified previously.
Enabling	<ul style="list-style-type: none"> It is not clear as to the incentive to encourage community organizations to comply with this law.
Context	<ul style="list-style-type: none"> Effort to mitigate risks has not been made actively by involving public participation in monitoring NPOs.
Feasible and Realistic	<ul style="list-style-type: none"> Regulation is deemed not quite feasible and realistic by NPOs, so it tends to be paid attention on and criticized.
Efficient	<ul style="list-style-type: none"> The implementation of the regulations becomes not quite effective due to criticism and attention given by NPOs.

E.3 The Ministry of Social Affairs (Kemensos)

The Ministry of Social Affairs constitutes the government agency that deals with the matters of Social Welfare in the field of development of Social Welfare as the national effort and movement to realize Social Welfare by individual person, family, community group, organization and the world of business for all Indonesian people.

The Ministry of Social Affairs plays the role as the supervisory agency (starting agency) for NPOs that are of Social Organization type dealing with the field of empowerment of Social Welfare. The Ministry of Social Affairs develops Work Program: development of potentiality of Social Welfare; improvement of management quality and professionalism of social services, development of harmonization of public policy in the handling of social problems, and development of information system on Social Welfare.

Regulatory framework of NPOs that is the responsibility of the Ministry of Social Affairs in terms of laws and regulations that relate with Social Organization are as follows:

- Law Number 11 Year 2009 regarding Social Welfare in lieu of Law Number 6 Year 1974 regarding The Main Provisions of Social Welfare.
- Law Number 9 Year 1961 regarding Collection of Money or Goods.
- Government Regulation Number 29 Year 1980 regarding Implementation of Donation Collection.

- Joint Decree of Minister of Home Affairs and Minister of Social Affairs Number 78 Year 1993; 39/Huk/1993 regarding Advancement of Social Organizations / Non Government Organizations.
- Decree of Minister of Social Affairs of the Republic of Indonesia Number 1/HUK/1995 regarding Collection of Donation for Victims of Disaster.
- Decree of Minister of Social Affairs of the Republic of Indonesia Number 56/HUK/1995 regarding Implementation of Donation Collection by the community.

The result of assessment based on 6 objectives of regulatory framework to the laws and regulations is explained as follows:

A. Objective of Regulation Number 1: Estaboishing NPOs

Supervision over NPOs that are of Social Organization types constitutes the authority of the Ministry of Social Affairs (Kemensos). NPOs dealing with the field of Social Welfare are obliged to register at the Ministry of Social Affairs (Kemensos). Registration is conducted based on national scope, provincial scope as well as regency/municipal scope, by filling out application form and registration form and identification. Although every region applies several different additional requirements as well as period, general requirements that must be fulfilled have been stipulated, among others, as follows:

- Notarial Deed that stipulates the principle of Pancasila and the 1945 Constitution.
- Articles of Association and By-Laws.
- Composition of Management with address.
- Report of activity of business line of Social Welfare that has been conducted.
- List of targets in accordance with the type of services/assistance.

If registration is declared fulfilling the requirements and provisions of regulations, a Decree (SK) of Registration will be issued, and which will further be notified to the relevant Social Organization. After the Social Organization is declared as being registered, the management must submit a report of activity in the Business Line of Social Welfare to Provincial Social Service or the Ministry of Social Affairs, with copies sent to a number of relevant institutions / agencies at least once in 3 months (quarterly).

NPOs must also re-register to Provincial Social Service no later than one week before the expiration of validity period of its Decree of (SK) of Registration. Procedure for re-registration is conducted using the procedure as that in registration of social organizations and enclosed with photo copy of its latest Decree (SK) of Registration.

The following table shows the result of assessment to the effectiveness of Establishing NPOs at the Ministry of Social Affairs conducted and agreed upon by LAT.

Table 2.17:
Assessment to the Effectiveness of Objective 1: Establishing NPOs

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • Using a language that is easy to understand. Well explaining the obligation to register social organizations and the right of the community to be involved in the activity of donation collection through Social Organizations. • Information on registration of social organizations can be obtained at the respective offices of social service and not all information can be obtained in the wider manner through internet or other media.
Fair	<ul style="list-style-type: none"> • Application of regulations is different at several agencies. Several social

	<p>services maintain procedure, requirements and validity period of registration of social organizations that is different one from another.</p>
Proportionate	<ul style="list-style-type: none"> • Regulatory explains proportionally about the role of government and Social Organizations in the organization of Social Welfare. • Registration of social organizations is conducted in a process that is swift, easy, and cost free. • The regulation provides dispensation to the community that conducts donation collection for the necessity of religious, custom and habit affairs without requiring permit of donation collection from the competent official. • The requirements given to social organizations to obtain permit of donation collection is still rational in nature and does not give too much burden. • However many social organizations still do not arrange permit to conduct activity of donation collection
Enabling	<ul style="list-style-type: none"> • The regulation strengthens and supports the sector work by explaining the objectives of the organization of social welfare to improve ability, care and social responsibility of the world of business and the community in the organization of social welfare institutionally and sustainably. • The regulation encourages social organizations to maintain good organizational administration by submitting application for permit of collection of money or goods to the competent official. • The regulation facilitates the activity of donation collection by the community for the necessity of religious, customs and habit affairs by not requiring permit to conduct such activity. • This regulation is designed in the manner that supports NPOs that are feasible, in which there is only little possibility for deviation or abuse to occur and NPOs can conduct donation collection safely. • It is not clear as to incentive to encourage NPOs in order to comply with this regulation.
Context	<ul style="list-style-type: none"> • Its main strategic approach involves social organizations and government in the organization of social welfare and integrated with other laws and regulations within the scope of national legal system. • This regulation is in line with the objective to involve public participation in realpermitg social welfare by involving social organizations in donation collection for social necessity under the coordination, advancement and supervision of the Ministry of Social Affairs (Kemensos). This matter is also handled by the other competent agencies.
Feasible and Realistic	<ul style="list-style-type: none"> • Registration of social organizations is conducted at all government levels whether at national level, provincial level or regency and municipal level, and is cost free and organized swiftly and easily. • However, in the implementation, some social services still collect registration cost especailly for NPOs that are in the form of foundation
Efficient	<ul style="list-style-type: none"> • The Ministry of Social Affairs conducts recapitulation of registration of social organizations in Indonesia. Until 2008 recapitulation has been conducted for 22 provinces out of 33 provinces in Indonesia.

B. Objective of Regulation Number 2: Identifying NPOs

Social organizations have certain types that can be distinguished based on their business activity, community group that conduct the same, and their territory, with the explanation as follows:

- Social organizations deal with a number of business activities, one of the activities of which is social welfare business. Social organizations dealing with the field of social welfare business covers social organization business governed by the Law on Social Welfare. Scope of organization of social welfare business covers social rehabilitation, social security, social empowerment, and social protection.
- Community groups that conduct social welfare business that is organized in a certain circumstance or area in which the existence and benefit of its activity is acknowledged by the community.
- Based on the scope of activity area, social organizations can be classified into three, namely: (1) national-level organization, the scope of activity of which covers more than two provinces; (2) provincial-level organization, the scope of activity of which covers more than two regencies/municipalities; and (3) regency/municipal-level organization, the scope of activity of which is at the level of regency/municipality.

The Ministry of Social Affairs develops database of NPOs in 2008. Data of NPOs that have been entered into the database are the data of NPOs from 22 Provinces in Indonesia. Preparation is conducted based on the name and address of NPOs. Such data preparation has not been able to be conducted for all NPOs in all provinces in Indonesia due to limited budget of 2008. The database of NPOs is collected in printed form by the Ministry of Social Affairs, and online database that can be accessed by public through website has not been available.

The following table shows the result of assessment to the effectiveness of Identifying NPOs at the Ministry of Social Affairs conducted and agreed upon by LAT.

Table 2.18:
Assessment to the Effectiveness of Objective 2: Identifying NPOs

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • Data on social organizations registered at the Ministry of Social Affairs can be accessed only in printed form and cannot be obtained through website of the Ministry of Social Affairs (Kemensos). • The stakeholders obtain access of information on types of activities in the framework of social welfare business conducted by social organizations
Fair	<ul style="list-style-type: none"> • In order to access data on social organizations can be conducted by directly visiting the Office of regency/municipal Social Service or Provincial Social Service.
Proportionate	<ul style="list-style-type: none"> • The requirements for registering social organizations are almost the same for all, except some differences of one region from the other. However, the requirements submitted are sufficient to be used to identify social organizations.
Enabling	<ul style="list-style-type: none"> • The regulation encourages administrative order for social organizations in conducting business of social activity and donation collection by making general information clearer in order to be known by the public to improve their performance. • The Ministry of Social Affairs develops partnership activity to create effective performance of social organizations.
Context	<ul style="list-style-type: none"> • Registration constitutes one of the requirements and opens the opportunity for social organizations to become partner of the Ministry

	of Social Affairs (Kemensos).
Feasible and Realistic	<ul style="list-style-type: none"> • Process of registration can be conducted and social organizations that have been registered are provided with a Decree (SK) of registration so they can distinguish which one has been registered and which one has not.
Efficient	<ul style="list-style-type: none"> • the Ministry of Social Affairs conducts recapitulation of registration of social organizations until 2008 and has recapitulated 22 provinces out of 33 provinces in Indonesia.

C. Objective of Regulation Number 3: Identifying Concerns

Concerns in business of organization of social welfare are directed to the involvement of foreign NPOs. Therefore, foreign NPOs are obliged to obtain permit and report their activity to minister, governor, and regent/mayor in accordance with their authority. In case of violation against the matter, the government may give administrative penalty in the form of:

- a. written warning;
- b. suspension of activity;
- c. cancellation of permit; and/or
- d. administrative penalty.

The following table shows the result of assessment to the effectiveness of Identifying NPOs at the Ministry of Social Affairs conducted and agreed upon by LAT.

**Table 2.19:
Assessment to the Effectiveness of Objective 3: Identifying Concerns**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • the Ministry of Social Affairs receives information on violation committed by social organizations that conduct social welfare business and donation collection for social activities.
Fair	<ul style="list-style-type: none"> • Competent official may reject application for permit for collecting money or goods, and applicant may resubmit its application within a period of 14 days after fulfilling the requirements that have not been completed. • The regulation has the objective to create justice and avoid abuse that can occur in the activity of donation collection.
Proportionate	<ul style="list-style-type: none"> • The Ministry of Social Affairs coordinates with the Ministry of Home Affairs and Governor in conducting supervision to the grant of permit of donation collection given to social organizations. • The regulation has the objective to make donation collection conducted well and directed in accordance with social need. Requirements for permits in conducting donation collection are feasible conducted to avoid illegal collection and other abuse. • The regulation has given emphasis to responsibility of NPOs in conducting the activity of donation collection in order to prevent deviation.
Enabling	<ul style="list-style-type: none"> • The Ministry of Social Affairs has not analyzed data on NPOs collected to prepare the most recent analysis concerning the tendency, concerns and risks.
Context	<ul style="list-style-type: none"> • The approach taken is still passive in nature by receiving report from the community regarding alleged abuse conducted by social

	organizations. There has been no approach to conduct periodic evaluation.
Feasible and Realistic	<ul style="list-style-type: none"> • Identification of concerns can be conducted through coordination with other agencies such as the Ministry of Home Affairs, Governor, and the police in case of crime.
Efficient	<ul style="list-style-type: none"> • System is not efficient to identify concerns regarding violation conducted by social organizations.

D. Objective of Regulation Number 4: Investigating Concerns

The Ministry of Social Affairs maintains unit of Civil Servant Investigators (PPNS) responsible to investigate the possibility of abuse conducted by NPOs. PPNS has the duty as investigator helping conduct investigation together with police investigator to overcome abuse conducted by NPOs. PPNS obtains training from Criminal Investigation Department of Polri Headquarters. The Ministry of Social Affairs identifies cases in the framework of supervision and gives administrative penalty for administrative violation and together with the police in following up crime committed by NPOs.

The following table shows the result of assessment to the effectiveness of Investigating Concerns at the Ministry of Social Affairs conducted and agreed upon by LAT.

**Table 2.20:
Assessment to the Effectiveness of Objective 4: Investigating Concerns**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • The public may submit report or complaint to the Ministry of Social Affairs if there is an indication of abuse committed by social organizations. • The Ministry of Social Affairs takes action and investigation to the report from the public and from other government agencies relating to the violation committed by social organizations in conducting social welfare business and donation collection.
Fair	<ul style="list-style-type: none"> • Investigation is conducted based on internal standard applicable at the Ministry of Social Affairs in which every violation committed by social organizations may be given penalty.
Proportionate	<ul style="list-style-type: none"> • Government and the public conduct supervision to the organization of social welfare conducted by social organizations. Therefore, the public does not only serve as benefit receiver, but also as the party that is involved in making the organization of social welfare more effective. However, this regulation has not detailed the forms and mechanism of supervision conducted by the public. • The regulation shares the role among a number of government levels in giving permit of collecting money or goods followed by supervision level that has objective to avoid abuse. In case of abuse, punishment will be imposed on offender.
Enabling	<ul style="list-style-type: none"> • The regulation encourages that social organizations conduct organization of social welfare applies better and better management and responsibility and supported with monitoring by the public.
Context	<ul style="list-style-type: none"> • Supervision approach that is used also emphasizes public participation in supervising the organization of social welfare. • Strategic approach in the regulation is to enter NPOs in national legal system and supported by punishment for NPOs that commit abuse or

	<p>crime.</p> <ul style="list-style-type: none"> • The competent official makes effort of effective supervision and monitoring against NPOs that conduct activity of donation collection.
Feasible and Realistic	<ul style="list-style-type: none"> • The regulation and procedure for investigation based on scope of authority of the Ministry of Social Affairs is conducted by PPNS of the Ministry of Social Affairs that coordinates with police investigator in investigating an alleged abuse committed by social organizations. • Criminal Investigation Department of the Indonesian Police (Polri) provides training on investigation to PPNS of the Ministry of Social Affairs (Kemensos).
Efficient	<ul style="list-style-type: none"> • The competent official conducts supervision and control. However, not all social organizations conducting the activity donation collection can be supervised and controlled. The permit granted cannot be equalized by effective supervision in the implementation.

E. Objective of Regulation Number 5: Protecting NPOs

The Ministry of Social Affairs conducts supervision over and at the same time partnership with NPOs. Partnership is aimed to improve the capacity of NPOs as the effort to protect NPOs from committing abuse. The Ministry of Social Affairs in the framework of supervision gives penalty of warning to NPOs and recommends actions in order for the abuse not to cause losses to the public.

The following table shows the result of assessment to the effectiveness of Protecting NPOs at the Ministry of Social Affairs conducted and agreed upon by LAT.

Table 2.21:
Assessment to the Effectiveness of Objective 5: Protecting NPOs

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • The language used is formal language that is simple and easy to understand to know distribution of authority and duty among a number of government agencies related with grant of permit and supervision to the organization of social welfare.
Fair	<ul style="list-style-type: none"> • There is no mechanism of complaint if social organizations feel they are treated unfairly in the implementation of supervision conducted by the Ministry of Social Affairs (Kemensos).
Proportionate	<ul style="list-style-type: none"> • The regulation shares the role among a number of government levels in giving permit for collecting money or goods followed by the supervision level to avoid abuse. In case of an abuse, punishment will be imposed on the offender. • Supervision over social organizations gives the authority to the Ministry of Social Affairs to give warning and even cancellation of permit of social welfare business and donation collection conducted by social organizations.
Enabling	<ul style="list-style-type: none"> • The regulation encourages intensification to the capacity of NPOs in conducting the organization of social welfare. The organizer of social welfare is given certificate based on testing of competency of ability to organize social welfare, and give incentive of tax payment relief to NPOs in conducting donation collection.

	<ul style="list-style-type: none"> • The regulation supports intensification of the management and social responsibility of NPOs in conducting the activity of donation collection. • The regulation gives a number of dispensations in the management of permit, such as the management of permit that is free of charge and dispensation for donation collection for victims of disaster that is urgent in nature.
Context	<ul style="list-style-type: none"> • Government gives certificate to the party that conduct organization of social welfare to improve competency of social welfare organizer. • Strategic approach in the regulation, namely to enter NPOs into the national legal system and facilitate supervision to the activity of money or goods collection to avoid abuse. • Relief of tax payment improves effectiveness of donation distributed by the public to NPOs because the public still highly needs donations from the public fund in doing social activities.s
Feasible and Realistic	<ul style="list-style-type: none"> • Supervision can be conducted more directed since there are PPNS of the Ministry of Social Affairs (Kemensos).
Efficient	<ul style="list-style-type: none"> • Not all social organizations can be supervised effectively. So far, any action taken to social organizations that commit violation is obtained from didapat from information of the public or the other government agencies.

F. Objective of Regulation Number 6: Mitigating Risks

Directorate of Social Institution Empowerment of the Community - the Ministry of Social Affairs has designed and issued a guidebook on *Institutional Standardization of Social Organization* issued in 2006. This book contains the principles and components of standardization of management of social organizations. Such guideline is required by social organizations in order to know the guideline based on the laws and regulations and the good organization management in conducting social welfare affairs.

The Ministry of Social Affairs develops accreditation and certification to the organization of social welfare with the objective to determine the level of feasibility and standardization of organization of social welfare. Certification is conducted to determine the qualification and competency that is appropriate with the field of organization of social welfare. Such certificate is given to professional social workers and social welfare personnel that have completed an education and/or training. Grant of certificate is conducted at recommendation of professional organization according to their authority as acknowledgement to competency of conducting the practice social work. Certificate is given after passing competency test as acknowledgement to competency in doing certain organization of social welfare.

The following table shows the result of assessment to the effectiveness of Mitigating Risks at the Ministry of Social Affairs conducted and agreed upon by LAT.

Table 2.22:
Assessment to the Effectiveness of Objective 6: Mitigating Risks

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • The effort of mitigating risks is conducted by making a guide book of Institutional Standardization of Social Organization useful as a guideline for social organizations to run its function well.
Fair	<ul style="list-style-type: none"> • NPOs that fail to fulfill the requirements and whose application is

	<p>rejected still may resubmit its application after fulfilling the requirements determined.</p>
Proportionate	<ul style="list-style-type: none"> • The public establishes a social welfare coordinating agency to conduct coordination of organization of social welfare. However there is no further explanation about the form of duty and authority from the agency. • The regulation provides that not more than 10 percent of the result of donation be utilized as cost of donation collection to NPOs. This provides proportionality of allocation of result of donation in order to be effectively used for social necessity and at the same time setill considering managerial cost of NPOs. • The public obtains relief to conduct donation collection in caseof emergency without arranging a permit first; however, no later than one month the permit must have been applied to the competent official. Supervision to donation collection is conducted to a number of government levels and is coordinated to the National Disaster Handling Coordinating Agency. • The regulation gives opportunity to NPOs whose permit is rejected to resubmit its application after having fulfilled the requirements determined. The regulation also gives relief to not obtain permit for certain activity of donation collection, for example for the interest of ibadah (worship), religion, customs or collection in an organization.
Enabling	<ul style="list-style-type: none"> • The regulation encourages intensification of the capacity of the public in conducting coordination of organization of social welfare in the form of social welfare coordinating agency. However, there is no further explanation about the formof duty and authority of the agency. • The regulation encourages NPOs to conduct money or goods collection transparently and in accordance with the prevailing laws and regulations in order to prevent abuse or crime. • Social organizations conducting donation collection may use not more than 10% of the result of donation collection to finance the activity of donation collection they have conducted. • The regulation supports intensification of the management and social responsibility of NPOs in conducting the activity of donation collection. Providing a relief in permit arrangement, for example, permit arrangement that is free of charge and dispensation to donation collection for victims of disaster, which is urgently needed.
Context	<ul style="list-style-type: none"> • The approach used in this supervision involves public participation in making the organization of social welfare a success through social welfare coordinating agency. • Supervision to donation collection involves every level of government agency and is coordinated to the National Disaster Handling Agency (BNPB). • Donation collection for the necessity of religious affairs and customs conducted by the community is conducted without permit from the competent official. Such donation collection constitutes a method used by religious organization and customs organization to improve social solidarity governed in any other regulations, for example regulations on zakat (tithe).
Feasible and Realistic	<ul style="list-style-type: none"> • The Ministry of Social Affairs develops Institutional Standardization of Social Organization to encourage such organization to be more

	competent.
Efficient	<ul style="list-style-type: none"> • Risk mitigation is still conducted in a preventive manner by making a publication containing Institutional Standardization of Social Organization. It cannot be seen yet whether or not such standardization is effective in mitigating risks.

E.4 The Ministry of Religious Affairs

The Ministry of Religious Affairs constitutes a government agency that deals with religious affairs and chaired by a minister. Vision and mission of the Ministry of Religious Affairs can be seen in the Decree of Minister of Religious Affairs Number 2 Year 2010. The vision is "The realization of the Indonesian community that is religious, harmonious, intelligent, independent and prosperous physically and mentally". While its mission is to improve the quality of religious life and religious harmony; improve the quality of raudhatul athfal (kindergarten), madrasah (Islamic schools), religious university, religious education, and religion-related education; improve the quality of the organization of pilgrimage, and realize clean and good governance. The Ministry of Religious Affairs constitutes the supervisory agency for NPOs that have religious characteristic. There are five Directorate Generals (Directorate General) related with supervision to NPOs, namely as follows:

- Directorate General (Directorate General) of Islamic Community Guidance**

This Directorate General (Directorate General) has the duty to implement the policy in the field of Islamic Community Guidance. NPOs that have Islamic religious characteristic are under the supervision of this Directorate General (Directorate General). Of all NPOs having religious characteristic, NPOs having Islamic religion characteristic constitutes the most. Types of NPOs supervised are like Tithe Collector (LAZ and BAZ) and Nathir that is related with tithe and bequest empowerment.
- Directorate General (Directorate General) of Christian Community Guidance**

This Directorate General (Directorate General) has the duty to organize and implement the policy and technical standardization in the field of Christian community guidance based on the policy of the Ministry of Religious Affairs. This Directorate General plays the role to supervise NPOs of Christian religion characteristic. Types of NPOs supervised are, for example, church organization, Christian foundations, and so on.
- Directorate General of Catholic Community Guidance**

This Directorate General has the duty to organize Catholic community guidance based on the policy determined by the Ministry of Religious Affairs. This Directorate General supervises NPOs of Catholic religion characteristic. Types of NPOs supervised are, for example, churches, Catholic foundation, and so on.
- Directorate General Budha Community Guidance**

This Directorate General has the duty to organize Budha community guidance with the objective to realize the public Budha community that is devoted, advanced, prosperous and in harmony in the medium of the Unitary State of the Republic of Indonesia. Types of NPOs supervised are, for example, community organization of Budha devotees.

- **Directorate General of Hindu Community Guidance**

This Directorate General has the duty to organize Hindu community guidance based on the policy of the Ministry of Religious Affairs. This Directorate General plays the role to supervise NPOs with Hindu religion characteristic.

Regulatory framework of NPOs that is the responsibility of the Ministry of Religious Affairs is the laws and regulations relating to NPOs of religious characteristic (Islam, Christian, Catholic, Buddha, Hindu, and the belief in God the one and only). However, this assessment study is focused more on laws and regulations that relate with NPOs of Islamic religion characteristic. The related regulatory framework is as follows:

- Law Number 38 Year 1999 regarding Tithe Management.
- Law Number 41 Year 2004 regarding *Wakaf* (Property Donated for Religious Interest).
- Decree of Minister of Religious Affairs Number 373 Year 2003 regarding Implementation of Law Number 38 Year 1999 regarding Tithe Management.
- Government Regulation Number 42 Year 2006 regarding Implementation of Law Number 41 Year 2004 regarding *Wakaf*.

The result of assessment based on the 6 objectives of regulatory framework to the laws and regulations is explained in the followings:

- **Objective of Regulation Number 1: Establishing NPOs**

Establishing NPOs of religious characteristic has in general run well in Indonesia. This is in line with the freedom to follow and perform religious worship as guaranteed by the 1945 Constitution and the other supporting regulations. NPOs that have or have not had legal entity are obliged to register at The Ministry of Trade.

NPOs of Islam religious characteristic studied are especially Tithe Collectors. This organization may be established by the government or by the community. Tithe collector has the objective to conduct activity of tithe collection, distribution and efficiency. Based on Article 1 point 2 of Law Number 38 Year 1999, the definition of *zakat* (tithe) is: "*Zakat* is assets that must be set aside by a muslim or body owned by a muslim in accordance with the provision of religion to be given to those entitled to receive. BAZ has its structure from national level until to the level of province, regency/municipality, and sub-district. While LAZ may also develop itself until having branches beyond the area of its head office.

The agency that manages *wakaf* is called Nazhir, which is divided into individual Nazhir, organizational Nazhir, or Nazhir of legal entity. Based on Article 1 point 1 of Law Number 41 Year 2004 regarding *Wakaf*, the definition of *wakaf* reads: "*Wakaf* is alegal action of *wakif* (the person that gives *wakaf*) to separate and/or submit any part of its assets to be utilized everlastingly or for a certain period according to the necessity for the interest of worship and/or general welfare based on *syariah*" (). *Wakif* is the party that surrenders its asset.

The following table shows the result of assessment to the effectiveness of Establishing NPOs at the Ministry of Religious Affairs conducted and agreed upon by LAT.

Table 2.23:
Assessment to the Effectiveness of Objective 1: Establishing NPOs

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • The existing regulation is socialized in a language understood by the community.

	<ul style="list-style-type: none"> • Tithe collector, nazhir and citizens know and understand their rights and obligations based on the existing regulations. • The government gives opportunity to the public to establish organization of tithe collector and nazhir.
Fair	<ul style="list-style-type: none"> • There is not restriction to establish religious NPOs, and in this matter tithe collector and Nazhir. Establishment of tithe collector must have legal entity, but Nazhir is not necessarily a legal entity. The main principle is that the relevant NPOs meet the criteria as religious organizations and meet certain requirements.
Proportionate	<ul style="list-style-type: none"> • Laws and regulations on zakat and wakaf are sufficiently proportional.
Enabling	<ul style="list-style-type: none"> • To guarantee the certainty, openness and order in the organization of zakat and wakaf, the government establishes BAZ in every level, whether central, province or regency/municipality. • It is stated that registration of tithe collector and nazhir is free of charge; it is, however, different in practice.
Context	<ul style="list-style-type: none"> • The Ministry of Religious Affairs requests report of implementation of BAZ and LAZ. Report of Nazhir is submitted through the Indonesian Wakaf Agency (BWI). However, it is still found that tithe collector and nazhir do not submit report.
Feasible and Realistic)	<ul style="list-style-type: none"> • Registration has been well in progress, but it is passive in nature. Not all Nazhir are recorded. • Supervision has been in progress effectively.
Efficient	<ul style="list-style-type: none"> • Process of registration of tithe collector and Nazhir in normative level is very simple and not too bubiokratis, tetapi in praktiknya bureaucratic and there is fee to pay.

- **Objective of Regulation Number 2: Identifying NPOs**

In general, the basic information on all LAZ and Nazhir registered has been available at the Ministry of Religious Affairs. However, the information posted at website is still limited to only providing information on address and contact person. Directory that has been available is in the printed form and is in good condition. A number of information such as the printed books and brochures on zakat and wakaf are also published by the Ministry of Religious Affairs and distributed to the government as well regional NPOs.

18 LAZ of National LAZ are acknowledged, meaning that they have been confirmed by obtaining a certificate issued by the Ministry of Religious Affairs. Presently the number of Nazhir is being recorded, starting by recording Natzhir in Sumatera Island and other islands to follow. Information on LAZ and Nazhir registered (have obtained a Decree (SK)) can be accessed through the website and printed Directory Book published by Directorate General Islamic Community Guidance (Bimas Islam), the Ministry of Religious Affairs. The information is always updated every year.

The following table shows the result of assessment to the effectiveness of Identifying NPOs at the Ministry of Religious Affairs conducted and agreed upon by LAT.

**Table 2.24:
Assessment to the Effectiveness of Objective 2: Identifying NPOs**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> Information on BAZ, LAZ and Nazhir that are registered has been able to be accessed through website (brief information) and in Directory Book published by the Ministry of Religious Affairs.
Fair	<ul style="list-style-type: none"> The Ministry of Religious Affairs has worked and applied the laws and regulations. The Ministry of Religious Affairs makes effort to regularly provide information to registered BAZ, LAZ and Nazhir, but it is very difficult to monitor LAZ and Nazhir that are not registered.
Proportionate	<ul style="list-style-type: none"> The law does not impose penalty against LAZ and Nazhir that do not register, so it is difficult for the government to supervise or monitor the same.
Enabling	<ul style="list-style-type: none"> There are still LAZ and Nazhir that do not comply with the laws and regulations, namely by not registering with the relevant agency. The estimated number of LAZ and Nazhir that are not registered is unknown.
Context	<ul style="list-style-type: none"> The Government has disseminated information through website, printed directory, and books as well as brochures of information on registered BAZ, LAZ and Nazhir.
Feasible and Realistic	<ul style="list-style-type: none"> There are still several provisions in laws and regulations that are implemented ineffectively, for example those related with the mechanism reporting from BAZ, LAZ and Nazhir to the government, so it is very difficult for the government to supervise. The Ministry of Religious Affairs as the party that supervises the existence of BAZ, LAZ and Nazhir is planning to conduct improvement in terms of control, and there is also receipt of complaint from the public.
Efficient	<ul style="list-style-type: none"> The Government and the stakeholders still cannot identify the existence of LAZ and Nazhir that are not registered but have been in operation.

• **Objective of Regulation Number 3: Identifying Concerns**

The Ministry of Religious Affairs obtains report of activity from BAZ and LAZ and from Badan Wakaf Indonesia (BWI), from national level until regional level. Information that needs to be reported relates with:

- The activity conducted by BAZ, LAZ, and Nazhir.
- Financial statement concerning the amount of fund collected or distributed.
- Location and time of tithe collection and distribution activity.
- The parties that receive the benefit of tithe.
- Explanation about the result of the activity.

Article 31 of the Decree of Minister of Religious Affairs Number 373 Year 2003 stipulates that BAZ and LAZ provide annual report of implementation of their duty to the government according to their level no later than 3 (three) months after year end. Further, Article 9 of Regulation of Minister of Religious Affairs Number 4 Year 2009 stipulates that Nazhir must submit report of

money wakaf management every 6 (six) months to BWI with copies sent to Director General of Bimas Islam, the Ministry of Religious Affairs.

Findings on site show that the said provision is not effective. Reporting tends to be dependent on the initiative of the agency; some report regularly, but some other do not report. This results in data being incomplete and do not cover all BAZ, LAZ, and Nazhir. The Ministry of Religious Affairs generally gives letter of warning. However, this results in the data becoming not detailed and incomplete.

The following table shows the result of assessment to the effectiveness of Identifying Concerns at the Ministry of Religious Affairs conducted and agreed upon by LAT.

**Table 2.25:
Assessment to the Effectiveness of Objective 3: Identifying Concerns**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • There has been no mechanism and procedure concerning the form of report that must be submitted by LAZ and Nazhir in the implementation of their duty and function to manage tithe and wakaf.
Fair	<ul style="list-style-type: none"> • In identifying concerns to the activity of LAZ and Nazhir that does not comply with the provision of laws and regulations, the Ministry of Religious Affairs has been made effort to obtain information on activity of LAZ and Nazhir, but the implementation is not optimum.
Proportionate	<ul style="list-style-type: none"> • Laws and regulations are applied in a proportional manner. The Ministry of Religious Affairs uses its authority only when it is really necessary.
Enabling	<ul style="list-style-type: none"> • Reporting of activity and financial matter has not run effectively so it results in data compilation being not quite complete. • The Ministry of Religious Affairs gives warning to organizations that fail to give report. • The application of mechanism of penalty has not been implemented effectively to enable BAZ, LAZ, Nazhir to comply with the existing regulations.
Context	<ul style="list-style-type: none"> • Laws and regulations still have not worked effectively in the framework of identifying concerns related with the indication that some BAZ, LAZ and Nazhir conduct operational activities that deviate from the main objectives.
Feasible and Realistic	<ul style="list-style-type: none"> • The application of supervision mechanism to the operational activity of BAZ, LAZ and Nazhir is still ineffective.
Efficient	<ul style="list-style-type: none"> • In practice, supervision and penalty have not been effective, so even if there are violations that are not charged with penalty, such as by canceling the Decree (SK).

- **Objective of Regulation Number 4: Investigating Concerns**

The applicable laws or regulations generally have given authority to the Ministry of Religious Affairs to supervise the implementation and obligation of reporting of activity and finance of

BAZ, LAZ, and Nazhir. The main weakness is in the implementation, in which report is often not submitted.

Although there has been effort to give warning, standard of punishment mechanism has not been developed. However, several cases of serious violation have been filed to the court. Based on the high complaints by the public and mass media that question such cases, the Ministry of Religious Affairs plans to improve regulations in order to provide mechanism of supervision and receipt of complaints from the public.

The following table shows the result of assessment to the effectiveness of Investigating Concerns at the Ministry of Religious Affairs conducted and agreed upon by LAT.

Table 2.26:
Assessment to the Effectiveness of Objective 4: Investigating Concerns

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> The government and citizens have not obtained information easily to investigate the possibility of abuse of tithe and wakaf.
Fair	<ul style="list-style-type: none"> The effort to file serious violation found to court constitutes the effort to maintain the public trust. However, the revelation of such case is not finding of supervision result, but based on complaint and attention paid by mass media. Regional government has the right to make regional regulations (Perda), but there have been no restrictions on what matters that can be governed in regional regulation (perda).
Proportionate	<ul style="list-style-type: none"> It is not clear as to arrangement of for follow up if a warning is ignored by BAZ, LAZ, or Natzhir.
Enabling	<ul style="list-style-type: none"> The involvement of the public in supervision or public complaints handling has not been developed effectively.
Context	<ul style="list-style-type: none"> The capacity of regional government in the mechanism of supervision and witness still differs. Restriction on what can be covered in the making of regional regulations on tithe and wakaf has not been regulated in a more detail in the laws and regulations.
Feasible and Realistic	<ul style="list-style-type: none"> Supervision has not been able to be implemented actively, so the symptoms of the arising of problems are not identified consistently.
Efficient	<ul style="list-style-type: none"> The target of laws and regulations in the field of tithe and wakaf has not been conducted effectively with respect to the procedure and mechanism of supervision and reporting for BAZ, LAZ and Nazhir.

- Objective of Regulation Number 5: Protecting NPOs**

Monitoring conducted by the public over the possibility of abuse of tithe collector and Nazhir has developed. Several cases of fund abuse have been filed to the court and the offenders were punished. Monitoring conducted by the public in the form of involvement of mass media in reporting cases that occur. However, punishment is directed more to offender, and it is not clear as to witness provided to organization.

One of the obstacles for the public in conducting monitoring is because the management of BAZ as the agency established by the government mainly consists of regional government officials and prominent figures. Protection to community members that file complaints is also uncertain, so even if there is an alleged abuse, community members are still reluctant to make complaint. This is different from LAZ, which is established by the community. LAZ applies financial audit and reporting to the public and the public feels easier to make complaint to the management, which generally consists of non government officials.

The following table shows the result of assessment to the effectiveness of Protecting NPOs at the Ministry of Religious Affairs conducted and agreed upon by LAT.

**Table 2.27:
Assessment to the Effectiveness of Objective 5: Protecting NPOs**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> The wide public has not obtained information on what types of abuse they can make complaint and to whom they can make such complaint.
Fair	<ul style="list-style-type: none"> Regulations that must be complied with by BAZ, LAZ, and Nazhir have been clearly determined; the weakness is more on supervision and handling measures, which is not effective. Cases of abuse paid attention to by the public have been taken to court and offenders have been punished, but penalty to organization has not been upheld.
Proportionate	<ul style="list-style-type: none"> Protection to community members that desire to report a complaint is not clear, so community members feel there is no need to do so. Supervision to BAZ is still deemed bias since it is established by the government.
Enabling	<ul style="list-style-type: none"> Rights and obligations of citizen to establish tithe collectors and Nazhir have been acknowledged and set out in the laws and regulations. There is no limitation of work area for LAZ, so it has the same characteristic with as BAZ, namely it can have branches up to regional level.
Context	<ul style="list-style-type: none"> Government maintains clear strategy for the sector of tithe and wakaf management through BAZ, LAZ and Nazhir. The presence of LAZ and Nazhir can help government program in the framework of making welfare for the community, especially muslims.
Feasible and Realistic	<ul style="list-style-type: none"> Regional government has not possessed the same capacity to conduct monitoring and protection to NPOs.
Efficient	<ul style="list-style-type: none"> Supervision is not supported by a monitoring standard that can be applied by regional governments, which have different capacity.

- Objective of Regulation Number 6: Mitigating Risks**

The Ministry of Religious Affairs is making effort to propose amendment to Law Number 38 Year 1999 regarding Tithe Management, and also preparing Government Regulation as the implementing regulation thereof. Until this June 2010, the law is still on the proposing stage.

Input from the public for this law is to maintain that LAZ is acknowledged as tithe collector with management right remains in the community.

In general, the central Ministry of Religious Affairs has possessed information materials such as books, brochures, leaflets distributed to regional governments and BAZ, LAZ, and Nazhir. However, it is still in limited quantity. The making of this information media is as one of the methods of information to encourage compliance with the existing laws and regulations. However, regional governments have not proactively developed the information method to the public.

The following table shows the result of assessment to the effectiveness of Mitigating Risks at the Ministry of Religious Affairs conducted and agreed upon by LAT.

**Table 2.28:
Assessment to the Effectiveness of Objective 6: Mitigating Risks**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • Central government has prepared basic information on regulations regarding zakat and wakaf and the implementing agencies. However, in general, regional governments have not made the same move.
Fair	<ul style="list-style-type: none"> • LAZ hopes that their proposal for the amendment to Law Number Number 38 Year 1999 regarding Tithe Management can be accommodated fairly and in equally, without discrimination that gives loss to LAZ and BAZ.
Proportionate	<ul style="list-style-type: none"> • Regional government has not effectively disseminated information submitted by the central government. • Development of database supported by sufficient information technology has not been conducted, so the public and regional government can access information swiftly.
Enabling	<ul style="list-style-type: none"> • Central government as well as regional government has, though still limited, made effort of training, workshop, and seminar for the public regarding zakat and wakaf. • LAZ may establish its branches until regional level and does not find significant obstacles from regional autonomy or government decentraliization.
Context	<ul style="list-style-type: none"> • The mechanism for public participation in supervision needs to be developed, so partnership can be maintained better.
Feasible and Realistic	<ul style="list-style-type: none"> • Regional governments still have different capacity to conduct supervision and dissemination of information to the public. • Supervision faces the obstacale of minimum funding.
Efficient	<ul style="list-style-type: none"> • Periodic supervision has not been conducted consistently due to the obstacle of minimum human resource in regional governments. • The making of regional regulations regarding zakat may also have the impact on Tithe Management being inefficient.

E.5 The Ministry Manpower and Transmigration (The Ministry of Manpower and Transmigration)

The Ministry of Manpower and Transmigration constitutes a government agency tha deals with manpower and transmigration. Its institutional arrangement referes to Presidential Decree Number 47 Year 2002 regarding Position, Duty, Function, Authority, Organizational Structure and Procedure of the Ministry of Manpower and Transmigration. The vision of the Ministry of Manpower and Transmigration is the realized manpower and transmigration community that is productive, competitive and prosperous.

The Ministry of Manpower and Transmigration constitutes the supervisory agency for NPOs that have types of workers/labor unions, federation, and confederation, implemented by Directorate General (Directorate General) of Manpower Advancement and Supervision. All workers/labor unions from at the level of factory until provincial and national levels are obliged to report their existence to the Ministry of Manpower and Transmigration.

Regulatory framework of NPOs that is the responsibility of the Ministry of Manpower and Transmigration is laws and regulations relating to workers/labor organization, as follows:

Law Number 21 Year 2000 regarding Workers Union/Labor Union.

The result of assessment based on the 6 objectives of regulatory framework to the laws and regulations is explained as follows:

A. Objective of Regulation Number 1: Establishing NPOs

The establishment of organizations for workers/labors, from the level of union at factory and outside factory until national level as provided for in Law Number 21 Year 2000 regarding Workers Union/Labor Union.

Article 5

- (1) *****Every worker/labor shall have the right to establish and become a member of Workers Union/Labor Union.
- (2) Workers Union/Labor Union shall be established by no less than 10 (ten) workers/labors.

Article 6

- (1) Every worker/labor shall have the right to establish and become a member of Workers Union/Labor Union Federation.
- (2) Workers Union/Labor Unions Federation shall be established by no less than 5 (five) Workers Unions/Labor Unions.

Article 7

- (1) Workers Unions/Labor Unions Federation shall have the right to establish and become a member of Workers Unions/Labor Unions confederation.

- (2) Workers Unions/Labor Unions Confederation shall be established by no less than 3 (three) Workers Unions/Labor Unions federations.

International Labor Organization (ILO) Conventions Number 98 and Number 87 have been ratified into laws and regulations. Indonesia has issued Law Number 18 Year 1056 regarding Ratification of Convention Number 98 of the International Labor Organization regarding the Applicability of Fundamentals of Rights to Have Organization and to Have Mutual Talk. Presidential Decree Number 83 Year 1998 ratifies ILO Convention Number 87 regarding Freedom to Assemble and Protection of Right to Have Organization.

The following table shows the result of assessment to the effectiveness of Establishing NPOs at the Ministry of Manpower and Transmigration conducted and agreed upon by LAT.

Table 2.29:
Assessment to the Effectiveness of Objective 1: Establishing NPOs

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> The Government and Workers Union/Labor Union know and understand the obligation determined in the laws and regulations. The Government gives opportunity to citizens to play active role in the establishment of Workers Union/Labor Union that struggles for, defends and protects the rights and interests of workers/labors and improves the welfare of workers/labors and their families.
Fair	<ul style="list-style-type: none"> No restriction to establish Workers Union/Labor Union. No provisions that Workers Union/Labor Union must have legal entity. The main requirement that must be fulfilled is that Workers Union/Labor Union meet the criteria of at least consisting of 10 workers/labors, and meet the requirements determined in the laws and regulations.
Proportionate	<ul style="list-style-type: none"> Several labors federations consider that establishment of workers/labor unions at present has been made too simple: ten workers may establish a labor union.
Enabling	<ul style="list-style-type: none"> In accordance with the provision, registration of Workers Union/Labor Union, federation or confederation is free of charge. In practice, however, cost must be incurred.
Context	<ul style="list-style-type: none"> The Ministry of Manpower and Transmigration requests report of implementation of activity of Workers Union/Labor Union, federation or confederation. However, the unions do not give positive response to such request. Requiring arrangement on legal entity of Workers Union/Labor Union and it is a must or voluntary.
Feasible and Realistic	<ul style="list-style-type: none"> In every company, generally a Workers Union/Labor Union can be established, with at least ten members in accordance with the provision of the prevailing laws and regulations.
Efficient	<ul style="list-style-type: none"> In general, some are effective. The process of establishment of Workers Union/Labor Union, federation or confederation at normative level is very simple and not too bureaucratic. In practice, however, registration seems bureaucratic and cost is charged.

B. Objective of Regulation Number 2: Identifying NPOs

There are three confederations and 90 federations of labor Workers/labor unions that have been officially recorded or registered at the Ministry of Manpower and Transmigration at total members of 3,338,597 persons. Names and contact persons of the unions that have been registered can be accessed by the public through the official site of the Ministry of Manpower and Transmigration (www.depnakertrans.go.id). However, it is estimated that there are still thousands of labor unions that are not registered since the recording is generally conducted by federation that has inaccurate data -- federation can certainly claim having bigger number of member unions because verification on site is very seldom conducted by the relevant agency.

In accordance with the principle of decentralization, the Ministry of Manpower and Transmigration has turned over its authority to the local Manpower and Transmigration Service to record Workers Union/Labor Union, federation and confederation. However, the result of such recording has not been managed into database that can be accessed by the public.

The following table shows the result of assessment to the effectiveness of Identifying NPOs at the Ministry of Manpower and Transmigration conducted and agreed upon by LAT.

Table 2.30:
Assessment to the Effectiveness of Objective 2: Identifying NPOs

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> Information on union and the contact person has been available in the website, but complete profile has not been designed. Data on NPOs in printed form have been available.
Fair	<ul style="list-style-type: none"> The Ministry of Manpower and Transmigration has applied the rule for establishing Workers Union/Labor Union in which labors do not find significant obstacles. Complete profile of Workers Union/Labor Union not recored well, and verication to the validity of data collected by federation and confederation has not been conducted.
Proportionate	<ul style="list-style-type: none"> Only registered Workers Unions/Labor Unions have the right to be represented in negotiation with companies, or have partnership with the government in negotiation and formulation of agreement.
Enabling	<ul style="list-style-type: none"> IN general, Workers Unions/Labor Unions desire to obtain evidence of registration from the Ministry of Manpower and Transmigration. The regulation does not restrict the rights of Workers Unions/Labor Unions which are also regulated in ILO Convention.
Context	<ul style="list-style-type: none"> Government, employers, and Workers Unions/Labor Unions jointly acknowledge that the existence of the law has protected negotiation process in settling manpower matters.
Feasible and Realistic	<ul style="list-style-type: none"> Supervision becomes less effective since there thousands of unions

	due to easy establishment of union. Supervision requires big amount of fund if it must be conducted to all Workers Unions/Labor Unions.
Efficient	<ul style="list-style-type: none"> Supervision is less efficient since it cannot reach all of the existing Workers Unions/Labor Unions.

C. Objective of Regulation Number 3: Identifying Concerns

The Ministry of Manpower and Transmigration has not completely recorded complete profile of all Workers Unions/Labor Unions and their activities. The data available are profiles and contact persons of Workers Unions/Labor Unions that have registered. The information can be obtained at the local office of the Ministry of Manpower and Transmigration. Availability of information in each province differs, depending on the ability to record possessed by the local Manpower Service.

Fund resources of Workers Unions/Labor Unions are from membership dues, legal business proceeds, and non binding aids from other party. Donor agencies dealing with the field of advocacy of workers' rights generally cooperate with federation or confederation of labors in organizing education and training programs. If obtaining aids from donor, a Workers Union/Labor Union must notify the same to the local Manpower Service. The Ministry of Manpower and Transmigration also develops partnership program with Workers Union/Labor Union.

The arrangement of financial matters and assets of Workers Union/Labor Union, federation and confederation of Workers Union/Labor Union are regulated as follows:

financial matters and assets of Workers Union/Labor Union, federation and confederation must be separated from personal financial matters and assets of the management and its members.

transfer or assignment of financial matter and assets to any other party and investment of fund and other legal business may be conducted only in accordance with the articles of association and/or by-laws of the relevant Workers Union/Labor Union, federation and confederation of Workers Union/Labor Union.

The management is responsible for the use and management of financial matters and assets of Workers Union/Labor Union, federation and confederation of Workers Union/Labor Union. The management must prepare book keeping for financial matters and assets and report periodically to its members pursuant to the articles of association and/or by-laws of the relevant Workers Union/Labor Union, federation and confederation Workers Union/Labor Union.

The following table shows the result of assessment to the effectiveness of Identifying Concerns at the Ministry of Manpower and Transmigration conducted and agreed upon by LAT.

**Table 2.31:
Assessment to the Effectiveness of Objective 3: Identifying Concerns**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> The regulation has not provides for the mechanism and procedure for the form of report that must submitted by union, federation, and confederation to the government.
Fair	<ul style="list-style-type: none"> The Ministry of Manpower and Transmigration has made effort to obtain information on the activity of the existing Workers Union/Labor Union, federation or confederation. However, in the implementation it is still ineffective.
Proportionate	<ul style="list-style-type: none"> In settling any dispute or agreement of Workers Union/Labor Union with company, the regulation has stipulated that the government serves as facilitator and may not be biased. The government uses its authority only within certain limits in accordance with the regulation.
Enabling	<ul style="list-style-type: none"> Workers Union/Labor Union only has the right to negotiate and represent labors if it has had evidence of registration from the Ministry of Manpower and Transmigration. Registration may be conducted to the local Manpower Service, so it is effective for Workers Union/Labor Union.
Context	<ul style="list-style-type: none"> There has been no effective supervision from the government over cooperation or the receipt of fund received by federation and confederation from international or foreign donors.
Feasible and Realistic	<ul style="list-style-type: none"> The application of mechanism of supervision to the activity and funding of Workers Union/Labor Union is considered ineffective.
Efficient	<ul style="list-style-type: none"> The Ministry of Manpower and Transmigration has no fund to apply supervision entirely to unions.

D. Objective of Regulation Number 4: Investigating Concerns

By virtue of regulations on establishment of Workers Union/Labor Union, the Ministry of Manpower and Transmigration is responsible for conducting recording of establishment of Workers Union/Labor Union. The Ministry of Manpower and Transmigration suspends the recording if the formal requirements stipulated by the laws and regulations have not been fulfilled. The Ministry of Manpower and Transmigration has no authority to ban establishment of Workers Union/Labor Union.

The Ministry of Manpower and Transmigration has the authority to ask the management of Workers Union/Labor Union, federation and confederation to notify in writing of receipt of aids other party from abroad. Such notification must be submitted if the aids are used to improve the quality and welfare of its members. If the aids are used for any other purpose that is not in line with the objective, then this is not the the authority of the Ministry of Manpower and Transmigration, but it is the authority of law enforcing agency to conduct further investigation. The Ministry of Manpower and Transmigration planned to make Regulation of Minister that further regulates in a more detail of the mechanism for reporting of use of fund originating in foreign aids.

The following table shows the result of assessment to the effectiveness of Investigating Concerns at the Ministry of Manpower and Transmigration conducted and agreed upon by LAT.

**Table 2.32:
Assessment to the Effectiveness of Objective 4: Investigating Concerns**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • The Ministry of Manpower and Transmigration is only responsible for conducting recording of the establishment of Workers Union/Labor Union and may suspend the recording only if the formal requirements stipulated by the by laws and regulations are not fulfilled.
Fair	<ul style="list-style-type: none"> • The Ministry of Manpower and Transmigration may not ban establishment of Workers Union/Labor Union in any company that has owned Workers Union/Labor Union because laws and regulations do not provided restriction of the number of Workers Union/Labor Union allowed in a company.
Proportionate	<ul style="list-style-type: none"> • The Ministry of Manpower and Transmigration only has the authority to request report on foreign aids that are used to improve the quality and welfare of its members. Any abuse of such aids is not the authority of the Ministry of Manpower and Transmigration but the authority the law enforcing agency to conduct investigation.
Enabling	<ul style="list-style-type: none"> • The government constitutes the facilitator for Workers Union/Labor Union and employers in any negotiation or the making of agreement.
Context	<ul style="list-style-type: none"> • Donors of fund aids for Workers Union/Labor Union, federation, and confederation have not informed their aids to the government.
Feasible and Realistic	<ul style="list-style-type: none"> • Supervision cannot be conducted effectively, so it does not guarantee the consistency of data and identify problems in its enforcement.
Efficient	<ul style="list-style-type: none"> • Standard format of reporting has not been developed to facilitate unions to submit report.

E. Objective of Regulation Number 5: Protecting NPOs

The law emphasizes that every person is prohibited from precluding or forcing workers/labors to establish or not establish, become the management or not become the management, become members or not become members and/or conduct or not conduct activities of Workers Union/Labor Union by way of:

- a. employment termination, suspension, demotion, or transfer of position;
- b. not paying or reducing remuneration of workers/labors;
- c. intimidation in any form whatsoever;
- d. campaign of anti establishment of Workers Union/Labor Union.

Employers must also give opportunity to the management and/or members of workers/labor unions to conduct the activity of their organization during working hours agreed upon by both parties and/or as provided for in a joint work agreement. In such agreement of both parties and/or joint work agreement, the following matters must be regulated:

- a. types of activity that are given the opportunity;
- b. procedure for giving the opportunity;
- c. the giving of opportunity with pay and without pay.

In case of any violation against the provision above, the local Ministry of Manpower and Transmigration has the authority to conduct investigation to such violation. Breach to Article 5 paragraph (2), Article 6 paragraph (2), Article 7 paragraph (2), Article 21 or Article 31 of Law Number 21 Year 2000 may be punished with administrative penalty in the form of cancellation of recording evidence number of Workers Union/Labor Union, federation and confederation.

The following table shows the result of assessment to the effectiveness of Protecting NPOs at the Ministry of Manpower and Transmigration conducted and agreed upon by LAT.

**Table 2.33:
Assessment to the Effectiveness of Objective 5: Protecting NPOs**

Indicator	Assessment
Well communicated	<ul style="list-style-type: none"> • No information on the giving of penalty to Workers Union/Labor Union that commits a violation.
Fair	<ul style="list-style-type: none"> • There have been regulations stating that every person is prohibited from precluding or forcing workers/labor unions to establish or not establish, become the management or not become the management, become members or not become members and/or conduct or not conduct activities of Workers Union/Labor Union.
Proportionate	<ul style="list-style-type: none"> • The government is only responsible to give penalty to Workers Union/Labor Union that has deviated from the purpose and objectives of the establishment of the organization.
Enabling	<ul style="list-style-type: none"> • Employers must give opportunity to the management and/or members of Workers Union/Labor Union to conduct the activity of Workers Union/Labor Union during working hours agreed upon by both parties and/or as provided for in a joint work agreement.
Context	<ul style="list-style-type: none"> • The government, Workers Union/Labor Union and employers have mutually acknowledged that workers/labors have the right to establish or not establish their organization.
Feasible and Realistic	<ul style="list-style-type: none"> • The government is in the position as facilitator for Workers Union/Labor Union and employers in the making of cooperation agreement or negotiation to settle a dispute.
Efficient	<ul style="list-style-type: none"> • Reporting to the government concerning the activity and aid fund received by Workers Union/Labor Union has not been conducted

	effectively.
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F. Objective of Regulation Number 6: Mitigating Risks

The government has provided a number of publications of laws and regulations that can be asked by Workers Union/Labor Union to the local Ministry of Manpower and Transmigration. The information is also available at website of the Ministry of Manpower and Transmigration, so it facilitates Workers Union/Labor Union to obtain such information. The government also holds seminar, workshop, and training for the management of unions to improve their understanding in the field of manpower regulations.

In preparing the laws and regulations in the field of manpower, the Ministry of Manpower and Transmigration always invites labor organizations, employer organizations, and experts to obtain significant inputs. Negotiation of employment agreement between Workers Union/Labor Union and employers is also necessary to be conducted in an amicable deliberation facilitated by the government.

The following table shows the result of assessment to the effectiveness of Mitigating Risks at the Ministry of Manpower and Transmigration conducted and agreed upon by LAT.

Table 2.34:
Assessment to the Effectiveness of Objective 6: Mitigating Risks

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> The preparation or improvement of laws and regulations is always communicated and invites Workers Union/Labor Union and employers association. Laws and regulations can be accessed and available at the Ministry of Manpower and Transmigration.
Fair	<ul style="list-style-type: none"> Workers Union/Labor Union considers that the laws and regulations give more benefit to employers. Outsourcing work contract method is deemed seriously harmful to labors/workers union.
Proportionate	<ul style="list-style-type: none"> Workers Union/Labor Union considers that the government tends to side with employers when a dispute arises.
Enabling	<ul style="list-style-type: none"> The implementing laws and regulations have facilitated workers/labors to establish their organizations.
Context	<ul style="list-style-type: none"> The law "highly" facilitates establishment of Workers Union/Labor Union, federation, and confederation; on one hand, it is considered that this may be counter-productive because it may disintegrate labors.
Feasible and Realistic	<ul style="list-style-type: none"> There is no significant obstacle for workers/labors to establish their unions.
Efficient	<ul style="list-style-type: none"> The implementation of freedom of organization for workers/labors has been effective, but it is not matched by recording and monitoring thereof.

E.6 The Ministry of Trade

The Ministry of Trade constitutes a government agency that deals with matters of trade chaired by a minister. This Ministry has the duty to formulate national policy, implementing policy, and technical policy in the field of trade, management of state-owned goods/assets that are its responsibility, and submission of report of evaluation result, suggestion and consideration in the field of its duty and function to the President.

The Ministry of Trade constitutes the supervisory agency for NPOs of Consumer protection, namely Non-Government Consumer Protection Agency (NGCPA). Supervision over NGCPA is conducted by Directorate General of Domestic Trade especially by Directorate of Consumer Protection.

Regulatory framework of NPOs that is the responsibility of the Ministry of Trade is laws and regulations relating to NGCPA, as follows:

- Law Number 8 Year 1999 regarding Consumer Protection.
- Government Regulation Number 59 Year 2001 regarding Non-Government Consumer Protection Agency.
- Decree of Minister of Industry and Trade Number 302/MPP/Kep/10/2001 regarding Registration of Non-Government Consumer Protection Agency.

The result of assessment based on the six objectives of regulatory framework to the laws and regulations aforesaid is explained as follows:

A. Objective of Regulation Number 1: Establishing NPOs

Law Number 8 Year 1999 regarding Consumer Protection has the objective to protect citizens' right to play active role and serve as partner of the government in the effort of realizing Consumer Protection. There is no restriction to establish NGCPA. Neither does establishment of NGCPA require a status of legal entity.

Government Regulation Number 59 Year 2001 regarding Non-Government Consumer Protection Agency stipulates that every established NGCPA must conduct registration at regency/municipal government where the NGCPA has its domicile to obtain a Certificate of Registration of Consumer Protection Agency (CRCPA). In accordance with the provision set out in Article 2 paragraph (1) letter a of Government Regulation Number 59 Year 2001 regarding Non-Government Consumer Protection Agency, CRCPA is not a permit, but only an evidence of registration. CRCPA only evidences that the relevant NGCPA truly deals with the field of Consumer Protection in accordance with the Articles of Association and By-Laws (AD/ART) of the said NGCPA.

Procedure for registration of NGCPA is regulated as follows:

1. Application to obtain CRCPA is submitted by an NGCPA to Regent or Mayor through Chairman of the local Trade Service;

2. In most regions, regents or mayors have assigned their authority to service chairman, so any application to obtain CRCPA is submitted by NGCPA directly to chairman of the local service;
3. Application to obtain CRCPA is signed by the management/person in charge of NGCPA or his proxy.

The benefit of registration and CRCPA for NGCPA is to obtain official acknowledgement of its existence from the government, to obtain right to run for office as a member of Consumer Dispute Settlement Agency (CDSA); the right to run for office as a Member of National Consumer Protection Agency (NCPA); and NGCPA may be involved in training/activity of the government.

The following table shows the result of assessment to the effectiveness of Establishing NPOs at the Ministry of Trade conducted and agreed upon by LAT.

**Table 2.35:
Assessment to the Effectiveness of Objective 1: Establishing NPOs**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • The government gives widest opportunity to citizens to play active role and as partner of the government in the effort to realize Consumer Protection. • NGCPA understands what things are required by the laws in the field of Consumer Protection.
Fair	<ul style="list-style-type: none"> • Applicant for establishment of NGCPA is treated equally, without distinguishing their background. • There is restriction to establishment of NGCPA. The status of legal entity is not the requirement to establishment an NGCPA. The main requirement that must be fulfilled is that the relevant NGCPA truly deals with the field of Consumer Protection in accordance with the Articles of Association and By-Laws (AD/ART) of the NGCPA.
Proportionate	<ul style="list-style-type: none"> • The process of establishment and registration of NGCPA is free of charge even though the fact on site is that cost must be incurred.
Enabling	<ul style="list-style-type: none"> • Every NGCPA is obliged to register with the reGENCY/municipal government where the NGCPA has its domicile. NGCPA that has registered obtains Certificate of Registration (CRCPA) as evidence that the relevant NGCPA truly deals with the field of Consumer Protection in accordance with the Articles of Association and By-Laws (AD/ART) of the NGCPA. • Article 2 paragraph (1) letter a of Government Regulation Number 59 Year 2001 regarding Non-Government Consumer Protection Agency stipulates that registration is aimed as recording but not constitutes a permit.
Context	<ul style="list-style-type: none"> • It is better to determine expressly that every establishment of NGCPA must be registered as a permit granted by the government in order to facilitate supervision. If it does not comply with or deviates from its Articles of Association and By-Laws (AD/ART), the permit of the relevant NGCPA may be revoked.

Feasible and Realistic	<ul style="list-style-type: none"> • The rule for registration of every NGCPA at the local Trade Service is still ineffective since only 183 NGCPAs are registered and maintain CRCPA. • Many NGCPAs do not register because they are not imposed with penalty.
Efficient	<ul style="list-style-type: none"> • Process of registration of NGCPA in normative stage is very simple and not too bureaucratic. In practice, however, registration seems bureaucratic and cost is charged to obtain CRCPA. • Establishment of NGCPAs is expected to be equal between entrepreneur and consumer in order to form entrepreneurs that are responsible and consumers that are autonomous.

B. Objective of Regulation Number 2: Identifying NPOs

Basic information on NGCPAs is not published openly. Profiles of NGCPAs and their contact persons have not been available for the public in the website of the Ministry of Trade. To obtain the information, they must directly request to Directorate of Consumer Protection, Directorate General of Domestic Trade, the Ministry of Trade; or to Industry and Trade Service at the level of regency/municipality.

Information on NGCPAs in Indonesia that are registered (possessing CRCPA) is contained in the printed Directory Book issued by Directorate of Consumer Protection. Such directory is distributed to every province through Provincial Office of Industry and Trade Service to be submitted to Regency/Municipality Trade Service. There are some 183 NGCPAs that have been registered.

From the result of field visit, we obtain information that in the near future Directorate of Consumer Protection, Directorate General of Domestic Trade, the Ministry of Trade will publish information on all registered NGCPAs through their website.

The following table shows the result of assessment to the effectiveness of Identifying NPOs at the Ministry of Trade conducted and agreed upon by LAT.

Table 2.36:
Assessment to the Effectiveness of Objective 2: Identifying NPOs

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> • The government still has not provided information on NGCPAs openly to the stakeholders through website. • Presentation of information is still conducted in a simple manner, namely through the arrangement of Directory Book by the Ministry of Trade, distributed restrictedly.
Fair	<ul style="list-style-type: none"> • The Ministry of Trade gives widest opportunity to NGCPAs to register.
Proportionate	<ul style="list-style-type: none"> • The laws and regulations do not regulate penalty for NGCPAs that do not register, so the government finds it difficult to supervise NGCPAs' activity.

Enabling	<ul style="list-style-type: none"> The government gives different treatment to NGCPAs that have registered. NGCPAs have the right to become members of the Consumer Dispute Settlement Agency (CDSA) and the National Consumer Protection Agency (NCPA).
Context	<ul style="list-style-type: none"> The freedom of not to register makes it difficult to identify the progress and trend of NGCPAs within the community.
Feasible and Realistic	<ul style="list-style-type: none"> Reporting from NGCPAs to the government does not flow effectively which makes it difficult for the government to supervise NGCPAs.
Efficient	<ul style="list-style-type: none"> The number and distribution of NGCPAs that do not register are unknown.

C. Objective of Regulation Number 3: Identifying Concerns

In accordance with regional government autonomy, regional Directorate of Consumer Protection is responsible for collecting information on NGCPAs and their activity. The information collected will further be reported to the head office. Therefore, data update highly depends on reporting from regional government.

Article 12 of the Decree of Minister Industry and Trade Number 302/MPP/Kep/10/2001 as amended with the Decree of Minister of Industry and Trade Number 480/MPP/Kep/6/2002 clearly stipulates that NGCPAs that have obtained CRCPAs must submit report of activity to Regent or Mayor or Chairman of the Service that has the authority to issue CRCPA, once a year as of the date of issuance of CRCPA. The fact on site shows that such provision is not effective.

It is still often found that NGCPAs do not submit report, even though they have been given written warning for 3 (three) consecutive times. Penalty for such violation is generally ineffective. Due to non compliance with such provision, it is difficult to prepare accurate and updated report on NGCPAs.

The following table shows the result of assessment to the effectiveness of Identifying Concerns at the Ministry of Trade conducted and agreed upon by LAT.

Table 2.37:
Assessment to the Effectiveness of Objective 3: Identifying Concerns

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> NGCPAs that have obtained CRCPAs must submit report of activity, but this provision is ineffective. The giving of warning is ineffective since mechanism of penalty is not explicit and there is no application thereof.
Fair	<ul style="list-style-type: none"> The government only waits for report from regional government or from NGCPAs.
Proportionate	<ul style="list-style-type: none"> Supervision to NGCPAs that are registered or unregistered is ineffective.
Enabling	<ul style="list-style-type: none"> What activities of NGCPAs that are not registered are unknown, so the public may be subject to harming practices.

Context	<ul style="list-style-type: none"> It is not clear as to what strategy that involves the public in supervision to NGCPAs that registered or unregistered.
Feasible and Realistic	<ul style="list-style-type: none"> Supervision mechanism to the operational activity of NGCPAs still cannot be applied optimally. Regional government has different capacity to supervise NGCPAs.
Efficient	<ul style="list-style-type: none"> Supervision is by nature passive meaning that it only waits for report from regional government and NGCPAs.

D. Objective of Regulation Number 4: Investigating Concerns

Directorate of Consumer Protection - Directorate General of Domestic Trade - the Ministry of Trade as supervisory agency has the authority and responsibility for the organization of Consumer Protection in Indonesia. To support such authority and responsibility, Directorate of Domestic Trade obtains data from the report submitted by Trade Service at the level of regency/municipality or from NGCPAs.

The implementation on site shows that such authority is assigned to Industry and Trade Service at the level of regency/municipality, including the authority to give penalty to NGCPA that violates the rule. However, thus far there has been no penalty in the form of freezing and then cancellation of CRCPAs stipulated by Trade Service to NGCPAs that violate the rule.

The following table shows the result of assessment to the effectiveness of Identifying Concerns at the Ministry of Trade conducted and agreed upon by LAT.

Table 2.38:
Assessment to the Effectiveness of Objective 4: Investigating Concerns

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> The public has not fully been able to easily obtain information on the form of abuse committed by NGCPAs. There has been no database that can be accessed swiftly by the public to find out NGCPAs that are registered or unregistered.
Fair	<ul style="list-style-type: none"> The government has not effectively detected the possibility of abuse committed by NGCPAs. The implementation on site of the mechanism for giving warning and penalty is not quite express.
Proportionate	<ul style="list-style-type: none"> Development of public participation in supervision over the activity of NGCPAs is ineffective.
Enabling	<ul style="list-style-type: none"> There has been no supervision to the activity of NGCPAs that have not been registered makes this sector susceptible to abuse. It is not clear as to the penalty for NGCPAs that fail to report their activity and source of fund although they have been given warning.
Context	<ul style="list-style-type: none"> Regional government still not quite active in providing information on the existence of NGCPAs in its territory which can be accessed by the public swiftly.
Feasible and Realistic	<ul style="list-style-type: none"> Reporting and accuracy of the data have not been verified or equalized by monitoring directly on site in order to obtain feasible

	and realistic data.
Efficient	<ul style="list-style-type: none"> Regional government lacks of human resource and funding to conduct supervision.

E. Objective of Regulation Number 5: Protecting NPOs

The Ministry of Trade may give warning for 3 (three) times to NGCPAs that are proved to commit a violation. Such warning may be given only to NGCPAs that have registered and have CRCPAs. The Ministry of Trade cannot detect violation committed by NGCPAs that are not registered. Neither is follow up to the penalty of warning sufficient. Thus far there are no subsequent penalties (such as cancellation or freezing of CRCPAs) if the 3 (three) time-warning above is ignored by NGCPAs.

Thus far there has been an idea that the government should take resolute action against all NGCPAs that commit violation, either NGCPAs that have been registered or those that have not been registered. Such resolute action will maintain the credibility of NGCPAs as a Consumer Protection agency and the violation committed by certain NGCPAs will not bring negative impact on NGCPAs that really conduct their activity.

In the implementation of the supervision, the authority to give this penalty can be assigned to Trade Service at the level of regency/municipality. The fact that some NGCPAs have not had CRCPAs makes it difficult for the government to monitor the activity of NGCPA, apply penalty, or give protection.

The following table shows the result of assessment to the effectiveness of Protecting NPOs at the Ministry of Trade conducted and agreed upon by LAT.

Table 2.39:
Assessment to the Effectiveness of Objective 5: Protecting NPOs

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> Penalty and the mechanism thereof have not been expressly socialized to NGCPAs. NGCPAs that ignore warning have not been informed to the public or mass media.
Fair	<ul style="list-style-type: none"> Irresolute penalty will lessen the public trust to NGCPAs or to the government.
Proportionate	<ul style="list-style-type: none"> It is not clear as to what kind of penalty that can be applied by the government to unregistered NGCPAs that commit an abuse.
Enabling	<ul style="list-style-type: none"> The government has not made clearer incentive obtained by NGCPAs that regularly submit report. Direct monitoring on site is conducted ineffectively to ensure the accuracy of the data that are reported at the same time detect the possibility of abuse that occur.
Context	<ul style="list-style-type: none"> Unregistered NGCPAs and NGCPAs with activity unrecorded constitute the weak point that may encourage an abuse.

Feasible and Realistic	<ul style="list-style-type: none"> Supervision is still passive namely waiting for report only from registered NGCPAs. The government needs to be active in supervision, namely conducting on-site monitoring and enforcing penalty against abuse.
Efficient	<ul style="list-style-type: none"> Irresolute mechanism of penalty makes the cost that has been incurred to make warning and reporting inefficient.

F. Objective of Regulation Number 6: Mitigating Risks

The government has through the activity of seminar and training given technical guideline to NGCPAs that are registered to delve into important issues in developing Consumer Protection. The materials discussed relates with development of human resource, procedure for supervision over goods/service that circulates in the market, or concerning laws and regulations.

The government develops partnership and participation of NGCPAs. The government involves NGCPAs as the stakeholders in the process of designing laws and regulations in the field of Consumer Protection. One of the examples of NGCPAs participation is in preparing correction and input for the Draft of Amendment to Law Number 8 Year 1999 regarding Consumer Protection.

Mechanism of penalty and incentive is required to stimulate NGCPAs to regularly submit report of their activity and financial matters. This effort needs to be accompanied with active action of supervision by conducting on-site monitoring, law socialization to the public, and conducting recording of NGCPAs that have been registered.

The total NGCPAs that are registered until February 24, 2010 is 183 agencies. Even though the government has ever facilitated an all Indonesian meeting of NGCPAs, only registered NGCPAs were invited. From this meeting, the Association of all-Indonesian NGCPA was established, but this association has not yet conducted its activity.

The following table shows the result of assessment to the effectiveness of Mitigating Risks at the Ministry of Trade conducted and agreed upon by LAT.

**Table 2.40:
Assessment to the Effectiveness of Objective 6: Mitigating Risks**

Indicator	Assessment
Well Communicated	<ul style="list-style-type: none"> The government still has not provided easy access to accurate, regular and updated information on the activity of NGCPAs.
Fair	<ul style="list-style-type: none"> The government gives opportunity to all NGCPAs that have had CRCPAs to run for office to become a Member of NCPA and CDSA. The government also runs a number of programs of advancement and improvement of the capacity of human resource of NGCPAs. Supervision to NGCPAs that are not registered has not been conducted to lessen the opportunity for abuse.

Proportionate	<ul style="list-style-type: none"> The government may only impose a penalty to registered NGCPAs. However, NGCPAs that are not registered cannot be relatively covered by the government supervision.
Enabling	<ul style="list-style-type: none"> The government has made effort to develop partnership with NGCPAs even though it is limited only to those that are registered. Registered NGCPAs obtain benefit from a number of seminar and training organized by the Ministry of Trade in the form of technical guideline concerning supervision against goods/services that circulate in the market. NGCPAs that are registered have been able to be involved in the drafting or improvement of laws and regulations in the field of Consumer Protection.
Context	<ul style="list-style-type: none"> The existing laws and regulations may be said to be relevant with the global development which expect the government to be more and more sensitive in protecting consumers (citizens).
Feasible and Realistic	<ul style="list-style-type: none"> The frequency of socialization of laws and regulations in the field of Consumer Protection and the organization of a number of activities (seminar, workshop, training, and others) to improve the capacity of NGCPAs still needs to be increased, mainly from regional government for NGCPAs in its region.
Efficient	<ul style="list-style-type: none"> Human resource available has not been maximized to conduct supervision of NGCPAs.

F. The Institutional Matter of the Relevant Government: Non-Indonesian-NPOs Supervisory Agency

There are four agencies or state bodies that are lack relevance if analyzed based on six regulatory objectives. The four agencies are Center for Reporting and Analysis of Financial Transaction (PPATK), Directorate General of Tax (Directorate General of Tax), and the Ministry of Foreign Affairs (Kemlu), and the National Disaster Handling Agency (BNPB). The main reason is that the agencies do not directly serve as supervisory agency of Indonesian NPOs, because there is no type of Indonesian NPOs that specifically based on regulation becomes the object of its supervision.

F.1 Center for Reporting and Analysis of Financial Transaction (PPATK)

PPATK is not a supervisory agency against NPOs, so it is not relevant if it is analyzed based on six regulatory objectives and their indicators. Law Number 15 Year 2002 regarding Crime of Money Laundering as amended with Law Number 25 Year 2003 expressly mandates the establishment of PPATK as a focal point that coordinates the implementation of law in question in order to prevent and removal of crime of money laundering in Indonesia.

The relationship of PPATK with the handling of NPOs is by nature indirect in which PPATK has no authority to supervise the activity of NPOs, but accept and conduct analysis of suspicious transactions and submit the same to law enforcing agency. However, the handling of NPOs in order not to be abused as a facility of money laundering and terrorism funding, to be more precisely it constitutes a proposal that is preventive in nature, provided for in the international

best practices through Special Recommendation VIII issued by Financial Action Task Force (FATF SR VIII). Based on the result of Mutual Evaluation Asia Pacific Group on Money Laundering (APG) Year 2007 it is declared that the application of FATF SR VIII by Indonesia obtained the rank of Non-Compliance (NC), which means that the handling of NPOs in Indonesia is not sufficient.

From the result of visit and discussion with PPATK, in order to improve the handling of NPOs, PPATK is in the opinion that the supervision and handling of NPOs can be conducted by firstly applying the principle of good governance, namely transparency and accountability of NPOs.

F.2 Directorate General of Tax, the Ministry of Finance (DIRECTORATE GENERAL OF TAX)

Indonesia has not had a separate regulation concerning taxation of NPOs. Therefore, Directorate General of Tax does not specifically place separate supervision to NPOs as a taxable item. The policy on tax handling does not distinguish NPOs from non-NPOs. If an agency generates income, then it is assessed with Income Tax. Neither does database on tax payers make category for NPOs. Data on tax payers are based more on code of business line.

Relating to the nature of NPOs which is non-profit, the funds (donation or aids) obtained by NPOs do not constitute tax deductible item. If an NPO generates material profit from its activity, for example from a business activity, if the profit is re-utilized for a non-profit objective, then such profit is not taxable. However, if within a certain time limit such profit is not utilized, then such income will become a taxable item.

If an NPO like foundation gains profit from its business, then if within four year-period such profit is re-invested into the foundation, then the proceeds of such investment (for example construction) is not a taxable item. However, if after 4 year-period it is not invested, then it will become a taxable item. More complete explanation is provided for in Regulation of Directorate General of Tax Number PER-44/PJ/2009 regarding Implementation of Acknowledgement of Surplus Received or Obtained by a Non-Profit Body or Agency dealing with the Field of Education and/or Research and Development Exempted from Income Taxable Item.

Tax obligation concerning an NPO is the payment of tax of its official or staff having income (honorarium or salary), and such matter is the obligation of the employee itself. NPO's employees that earn wage or income must pay in their tax based on the calculation of Employees' Income Tax (IT) Article 21. The legal basis of IT Article 21 is Article 21 of Law Number 7 Year 1983 regarding Income Tax as amended with Law Number 36 Year 2008 regarding Fourth Amendment to Law Number 7 Year 1983 regarding Income Tax.

NPO as an organization is obliged to report its tax every year. In this matter, NPO is suggested to have Tax Payer's ID Number (NPWP). Taxation system in Indonesia applies self assessment system. By such system, a Tax Payer is trusted to calculate itself the amount of outstanding tax in one tax year. Directorate General of Tax will send a warning if annual report is not submitted.

Directorate General of Tax has no authority to monitor financial statement of an NPO, either domestic or foreign NPO. Supervision activity and finance of NPO constitutes the authority of the other ministries. Neither does Directorate General of Tax have the authority to assess tax of

foreign NPO since tax reporting constitutes the obligation of the relevant NPO to its country of origin. If it is indeed it is required to see tax reporting of an NPO, the same may be conducted by entering its NPWP into the database.

Incentive in the field of taxation for NPO presently is that NPO does not serve as tax deducting item. For a company that gives donation as charity or grant or in the framework of implementation of Corporate Social Responsibility (CSR), the fund is not considered as a taxable item.

F.3 The Ministry of Foreign Affairs (Kemlu)

One of the authorities of the Ministry of Foreign Affairs that is related with NPO is the arrangement of the presence of foreign NPOs in Indonesia, mainly the aspect of grant of operational permits within the territory of Indonesia. Establishment of foreign NPOs and supervision over their activity does not constitute the authority the Ministry of Foreign Affairs (Kemlu). The authority of the Ministry of Foreign Affairs (Kemlu) is in the grant of permit for establishment of representative office and branch office of foreign foundations.

Establishment of foreign NPOs in Indonesia, especially those taking the form of foundation, has been regulated in Government Regulation Number 63 Year 2008 concerning Implementation of Law on Foundation. The said Government Regulation elucidates the procedure for establishment of foundation, either by foreigners and or by Indonesians. It is confirmed that the implementation of Law on Foundation is under the authority of the Ministry of Law and Human Rights, while supervision over the activity of foreign NPOs working in Indonesia constitutes the authority of the Ministry of Home Affairs.

The duty of advancement and supervision over Foreign NPOs that will conduct activity in the region constitutes the responsibility of chairman of the respective regions. By virtue of Circular Letter of Minister of Home Affairs Number 472/3035/SJ regarding Guideline for the Implementation of Coordination of Monitoring Activity of Foreigners, NGOs, and Foreign Agencies in Regional Territory issued on December 5, 2003, the effort of advancement and supervision over foreign NPOs is conducted by governor, regent, and mayor.

The following is a further elucidation on the procedure for establishment of representative office foreign foundations in Indonesia.

1. Application letter is submitted by head office of NPO abroad to Directorate General of Multilateral, the Ministry of Foreign Affairs. Application letter must explain about the objectives, location or work domicile of NPO, work partner of NPO at home country, and the period desired (if the activity of the NPO is only for a certain period, for example in providing aids for victims disaster).
2. NPO must submit clear work Program as evidenced by a Memorandum of Understanding (MoU) with the related party.
3. Proposal or program submitted will be studied by the Clearing House consisting of:
 - a. State Intelligence Agency (BIN)
 - b. Strategic Intelligence Agency (Bais) of Polri (the Indonesian Police)

- c. Strategic Intelligence Agency (Bais) of TNI (the Indonesian Armed Forces)
 - d. The Ministry of Law and Human Rights
 - e. The Ministry of Home Affairs
 - f. The Ministry of Manpower
 - g. General Attorney
4. If after being considered and studied the proposal or program submitted is not detrimental and does not threat security, the Ministry of Foreign Affairs will issue recommendation with a copy sent to the Ministry of Home Affairs.

Based on such regulation, a foreign NPO can only operate in Indonesia after first obtaining a permit from the Ministry of Foreign Affairs. While the requirements for the implementation of program/activity of foreign NPOs in regional territory are as follows:

- a. Maintaining a permit from the Ministry of Foreign Affairs.
- b. Maintaining an MoU of the relevant ministry/government agency or Non-Department Government Agency in accordance with the activity conducted by the said foreign NPOs (Work Program).
- c. Permit for conducting activity from Governor in this matter is Chairman of Provincial Political Union Agency.

The obligations that must be fulfilled by Representative of a Foreign NPO are as follows:

- 1. Having a partnership with local NPOs that have been registered at the Ministry of Home Affairs;
- 2. maintaining representative office in the Capital of the State of the Republic of Indonesia (in Jakarta);
- 3. conducting financial management based on the national banking mechanism;
- 4. preparing a accountability report and submitted to the competent official.

The mechanism for supervision over foreign NPOs is conducted by regional government in the regency/municipality where the NPO has its domicile. This report of accountability of monitoring and supervision over foreign NGOs is submitted to regent/mayor and then by the regent/mayor it is forwarded to governor every six months. Governor must report the same to Minister of Home Affairs once in six months.

Foreign NPOs may establish branch offices in Indonesia, namely by making an MoU of cooperation with the related agency without requesting a recommendation from the Ministry of Foreign Affairs. This activity is given a term Aids Activity. Aids activity is by nature temporary (with a certain time limit) and the permit may be extended if necessary.

In addition to supervision over foreign NPOs, it is also necessary to conduct supervision over expatriates working in the foreign NPOs or serving as consultants for projects of NPOs in Indonesia. This has been regulated in the Presidential Decree Number 75 Year 1995 regarding Use of Expatriates. The Presidential Decree describes the Criteria or requirements for using expatriates (TKWNA).

F.4 The National Board of Disaster Handling (BNPB)

BNPB is established by virtue of Presidential Regulation Number 8 Year 2008. This agency was previously called the National Disaster Handling Coordinating Agency that was established by virtue of Presidential Regulation Number 83 Year 2005, replacing the National Disaster and Refugee Handling Coordinating Agency that was established by virtue of Presidential Decree Number 3 Year 2001. BNPB constitutes a non-department government agency that has the duty to assist the President coordinate the planning and implementation of disaster handling activity. The establishment BNPB is in accordance with the mandate of Law Number 24 Year 2007 regarding Disaster Handling.

Chairman of BNPB was appointed and dismissed by President and is given financial and administrative right at the same level of minister. The member of the elements of Disaster Handling Director are also appointed and dismissed by the President. BNPB has the duty to help the President coordinate the planning and implementation of disaster handling and emergency in an integrated manner, from before, during, and after the occurrence of disaster.

Then relationship of BNPB with the handling of NPOs is by nature indirect, considering that the agency does not play the role as the supervisory agency for NPOs. BNPB constitutes a coordinative agency, meaning that in disaster handling, BNPB coordinates with the other government elements. In its age that is still relatively young, BNPB has been making effort to complete its structure, namely developing Regional Disaster Handling Agency (BNPD) at the level of province all over Indonesia. By such condition, it is irrelevant if the implementation of BNPB's duty is analyzed based on the six regulatory objectives and their indicators.

BNPB constitutes a state agency that implements Law Number 24 Year 2007 regarding Disaster Handling. While the problem faced by BNPB relates with NPO and the world of business is concerning public fund raising. Funding is regulated in Article 60 paragraphs (1) and (2) of Law Number 24 Year 2007, which stipulates that the funding for Disaster Handling is the responsibility of responsibility the (central) government and regional government; the government encourages public participation in provision of fund originated in the public.

But this Law Number 24 Year 2007 regarding Disaster Handling has not provided for the matters of what the form and how the mechanism of public participation is in the public fund raising to deal with disaster. Regulation on participation in the capacity as public fund raising organizer in the field of disaster has been given serious attention by BNPB because a number of agencies conduct public fund raising in the name of humanity without doing coordination with BNPB or the Ministry of Social Affairs (Kemensos).

The public and NPOs have actually paid attention on and criticized the practices of natural disaster fund raising conducted by a number parties. For example, a number of mass media raise public fund and they successfully collect billions of rupiah, but they are not quite transparent concerning their activity and what minimum requirements that must be fulfilled by an institution before conducting the activity of public fund raising. With respect to public participation in its capacity as donor, very little attention has been paid by public fund raising agency to the matter of donor's rights.

Another matter that is often complained to BNPB is concerning coordination of the involvement of foreign as well as national NPOs in the handling of disaster. A number of NPOs involved in the disaster handling do not certainly have good disaster-handling capacity, and openly report their public accountability. However, basically, supervision over NPOs is not under the authority of BNPB. However, BNPB has made effort to issue a directory book of NPOs that work in the field of disaster handling, as one of the efforts to conduct partnership with NPOs.

G. Closing

LAT does not draw conclusion of this chapter. The result of assessment in this chapter will be discussed in a workshop, in which assessment will be conducted especially to the effectiveness rating based on a Matrix of Effectiveness. This assessment to the rating effectiveness will be placed in Chapter III, and serves as the main material in the discussion on key risks that affect regulatory framework in Indonesia. Based on such key risks, recommendation will be formulated, and which is detailed in Chapter IV.

Chapter III: Assessment in Rating Effectivity, Analysis on Key Risks and Formulation of Recommendations

A. Purpose of Assessment and Methodology

In Chapter II: "Framework for Regulatory Effectiveness Assessment of NPO Sector in Indonesia" has been carried out based on the assessment of the regulatory framework of the six goals (22 indicators) and assessment of the seven Standard of Effectiveness, to the ministry which acts as a watchdog agency for NPO. Based on the results of the evaluation, the LAT then assessed based on the Effectiveness Rating as a basis to identify and formulate key risks.

The effectiveness of the regulatory framework is a product of many factors that vary from one country to another in terms of the nature and importance. The affecting factors need to be identified so that they can formulate the main factors or key risks that impact on regulatory weaknesses. Early stage to identify those factors is to conduct the assessment on effectiveness rating.

Effectiveness rating is a system to measure the effectiveness of the regulatory objectives and its institutional parole officer. This rating assessment will produce a quantitative assessment of which actions will be footing in discussing various key risks impacting on the NPO. Based on the understanding of the effectiveness rating and the key risks, it will then be formulated recommendations to address those risks.

Key risks will be analyzed through a Matrix of key risks which will result in making the priority recommendations. This matrix will provide guidance about which of the key risks that need to attain immediate/urgent treatment (action), and which risks that only requires the handling of action and monitoring.

Assessment on effectiveness rating and key risk analysis and the matrix of risks as well as formulation of recommendations have been carried out by members of the LAT through Validation Workshop in Bogor on 21-23 April 2010.

B. Assessment on Effectiveness Rating on Regulatory Framework

The effectiveness rating was generated by an assessment tool called the matrix of effectiveness. This measurement is a test on the effectiveness of regulatory and government agencies (oversight agencies) which acts to implement. The assessment on effectiveness ratings used, are as follows:

Tabel 3.1:
Explanation for Assessment on Effectiveness Rating

Rating	Score *	Remarks
Effective	4	All designated indicators are in accordance with the required standard, there are few minor exceptions or of no importance. Achieved with a clear purpose.
Mostly Effective	3	Most designated indicators are in accordance with the required standards. There are some exceptions that have an impact on overall effectiveness, but not significant.
Partially Effective	2	There were few designated indicators that are in accordance with the standard. There are several exceptions that have a major impact on the achievement of its objectives effectively.
Ineffective	1	There is no or only little evidence of the required indicators. This causes the objectives are not achieved.

* Marking scores is an effort of the LAT Team to better facilitate interpretation on the result of assessments conducted by each group.

B.1 Result of Assessment Made by Government, NPO, and Joint Groups

In the assessment process, to produce a balanced outcome in making assessments on the regulatory framework, the LAT Members were divided into three groups: Government Group, NPO group, and the Joint Group (combination of Government and NPO). The following table sets out assessment results of the three groups:

Tabel 3.2:
Assessment By Government Group (Oversight Agencies)

Regulation Objectives	Well-Communication	Fair	In Proportion	Ability	Context	Feasible and Realistic	Efficient	Average Score
Establishing NPO	4	4	4	4	2	2	3	3.29
Identifying NPO	3	3	3	3	3	3	2	2.86
Identifying Concerns	4	2	2	3	2	3	1	2.43
Investigating the Concerns	3	3	2	2	2	2	2	2.29
Protecting the NPO	3	3	3	3	3	3	3	3.00
Reducing Risks	2	4	2	3	2	3	2	2.57
Total Score in Average								2.74

- The tendency of the Government Group's overall assessment is that the regulatory framework has been largely deemed effective. Total value of the average evaluation of the Government group reached an average score of 2.74 (close to 3).
- Three regulatory objectives: Establishing NPO (3.29), Identifying NPO (2.89), and Protecting the NPO (3.0) have higher scores than others which supports the assessment of the regulatory framework to be mostly effective.
- Concerning the assessment on abuse: Identifying Concerns (2.43), Investigating the Concerns (2.29), and Reducing Risks (2.57) have low scores than other regulatory purposes. Identifying Concerns in red shows that the government is ineffective in terms of efficiency in execution.

Tabel 3.3:
Assessment By NPO Group

Regulation Objectives	Well-Communication	Fair	In Proportion	Ability	Context	Feasible and Realistic	Efficient	Average Score
Establishing NPO	4	3	2	3	2	2	2	2.57
Identifying	3	4	2	2	2	2	2	2.29

NPO								
Identifying Concerns	1	2	2	2	2	2	1	1.71
Investigating the Concerns	2	3	3	3	2	2	2	2.43
Protecting the NPO	2	3	3	2	2	2	2	2.29
Reducing Risks	2	2	2	3	2	2	2	2.14
Total Score in Average								2.24

- NPO group's overall assessment is that the regulatory framework is seen only partially effective. Total score of the average rating from NPO group was only 2.26 (leaning to 2: in orange or partially effective). No rating that can be classified to 3.
- Three regulatory objectives: Establishing NPO (2.57), Identifying NPO (2.43), and Investigating Concerns (2.43) have higher scores than others, but still tend to lean to 2 or partially effective.
- Low scores on: Identifying Concerns (1.71), Protecting the NPO (2.29), and Reducing Risks (2.14).
- Government and NPO groups have the same conclusion that is, there are parts where the government is ineffective in Investigating Concerns regarding: the government gave 1 red score, while the NPO group gave 2 red scores.
- The differences lies in the assessment on Protecting NPO. The Government group assessed that in Protecting NPO they are mostly effective (3.00), but the NPO group assessed that it is only Partially Effective (2.29).

Tabel 3.4:
Assessment By Joint Government & NPO Group:

Regulation Objectives	Well-Communication	Fair	In Proportion	Ability	Context	Feasible and Realistic	Efficient	Average Score
Establishing NPO	4	4	3	3	3	2	2	3.00
Identifying NPO	3	3	2	2	2	2	2	2.29
Identifying Concerns	1	2	2	3	2	2	1	1.86
Investigating the Concerns	2	2	2	2	2	2	2	2.00
Protecting the NPO	3	3	2	3	3	3	2	2.71
Reducing	3	4	2	3	3	2	2	2.71

Risks								
Total Score in Average								2.43

- Joint group's overall overall assessment tend to, that the regulatory framework is seen only partially effective. Total average score of 2.43 rating (leaning to 2: in orange or partially effective).
- Three regulatory objectives: Establish the NPO (3.00), Protecting the NPO (2.71) and Reducing Risk (2.71), the highest level.
- Three regulatory objectives: Identifying NPO (2.29), Identifying Concerns (1.86), and Investigating the Concerns (2.00) have the lowest score.
- This group also considered that the purpose of Identifying Concerns have 2 (two) red scores (same as the assessment result by the NPO Group).

**Table 3.5:
Compilation of Assessments By the 3 Groups:**

Regulation Objectives	Government Group	NPO Group	Joint Group	Average Score
Establishing NPO	3.29	2.57	3.00	2.95
Identifying NPO	2.86	2.29	2.29	2.48
Identifying Concerns	2.43	1.71	1.86	2.00
Investigating the Concerns	2.29	2.43	2.00	2.24
Protecting the NPO	3.00	2.29	2.71	2.67
Reducing Risks	2.57	2.14	2.71	2.48
Average Score	2.74	2.24	2.43	2.47

B.2 Conclusion on the Assessment Result of the Three Groups:

- **There is no regulatory framework objectives with the result that can be categorized as effective.** Based on the assessments made by a group and the joint group, it can be seen from the score produced that there is no regulatory framework objectives with a score above 3 that can be categorized as Effective.

The main weakness acknowledged by the Government and NPO on regulatory framework is on abuse of NPO in which monitoring and evaluation by government agencies has not effectively been carried out to identify and develop a mechanism for sanctions in dealing with the problem. Most NPO do not comply with various obligations of public accountability regarding the transparency of funding and activities. Cross-ministerial coordination is another weak point where the ministry does not yet have a common mechanism in conducting data collection and oversight on NPO to abide by existing regulations.

- **The general conclusion of the assessment of the regulatory framework is that it is Partially Effective.** Combined assessment of the regulatory framework of the three groups was able to obtain an average figure of 2.47 which is closer to the Partially Effective assessment. The government group considered that the regulatory framework is already Mostly Effective (2.74), but the NPO Group considered that it is Partially Effective (2.24). The combination of government and NPO group also resulted only Partially Effective (2, 43).
 - **Two Objectives (Establishing NPO and Protecting NPO) are the regulatory framework objectives assessed as Mostly Effective.** Establishing NPO (2.95) and Protecting NPO (2.67) have higher scores than other objectives. Only these objectives that can be assessed as a Mostly Effective of regulatory framework objective. However, it should be noted that the NPO assessed that Protecting NPO is only Partially Effective. Since the reformation era, establishing an NPO is relatively easy and procedural requirements are fully met. The weakness relates to the suggested procedure to be more simplified, and the need to amend Law Number 8 of 1985 on Civil Society Organizations.
 - **Four Objectives (Identifying NPO, Identifying Concerns, Investigating the Concerns, Reducing Risks) were assessed only as Partially Effective.** Based on the average score generated, it turns out four objectives considered to be Partially Effective. Identifying NPO and Reducing Risks both had an average rating of 2.48. Identifying Concerns obtained score of 2.00 and 2.24 for investigating the Concerns.
 - **Identifying NPO.** Based on the findings of LAT that the government has a weakness in the NPO field data collection and data availability to the public. Each ministry manages its own data and not yet in the form of a computer database, and also not yet accessible via the internet. NPO profile data is only available in the form of printed directories.
 - **Identifying Concerns.** The survey found that the public still have no access to NPO financial information, and data structures of its founders if the founder is an important official. Not many NPO that have submitted financial statements to the public. The Government has not monitored the obligation of public reporting. The government has not been able to provide an open NPO data that is publicly accessible regarding the complete NPO profile and management, financial reporting, and activities. Government needs to develop a management information system regarding the NPO.
 - **Investigating the Concerns.** The survey found that a government agency had already been positioned as a supervisory agency (oversight agency) for the NPO. Nevertheless, supervisory agency usually require for the police to investigate further if there was an indication of serious or severe abuse in an NPO, such as NPO abused by an important official or a famous person to develop business, corruption, and personal interests to enrich themselves. This investigative effort is generally triggered by the emergence of mass media or public pressure. Thus, the Supervisory Agency is still passive or awaits for the emergence of a problem or risk.
 - **Reducing the Risk.** The government has not maximized the socialization of compliance with laws and regulations. NPOs are rarely penalized if found deviating

from its obligations as required under the Law. Notwithstanding the foregoing, in the reformation era, NPO is now more actively involved in the design and supervision of regulations, but generally on social issues. Sometimes if the issue involves government efforts to apply the rules for NPO, the NPO for example NGOs immediately gave strong reaction. The reaction was experienced by the Ministry of Domestic Affairs when the Regulation of the Minister of Domestic Affairs Number 38 Year 2008 on Income and Civil Society Organizations Relief From and To the Foreign Party was issued.

C. Identifying Key Risks

Based on the results of visits and discussions to various government agencies and NPO, then in this present condition LAT found at least seven major risk of abuse of NPO, which are the following:

1. NPO can be misused to support the financing of terrorism activities and its persuasive efforts.
2. NPO can be used as a means of of ciminal acts of laundering money.
3. NPO can be utilized for other criminal acts, such as corruption, smuggling, fraud, violence, and embezzlement.
4. Overseas NPO carrying out fundraising activities in the country.
5. NPO can be misused for fundraising and persuasive efforts of separatist which can threaten the nation's disintegration.
6. The challenges to maintain the "survival" local NPOs from being too dependent of foreign funds and the low capability of NPOs operational management.
7. Inappropriation of NPO utilization from its purpose, for example, the NPO is not consistent but depends on the issues and the availability of funds. If many natural disasters occur at the moment, the NPOs will plunge to handle natural disasters even with its minimum expertise, and various other unprofessional behaviours.

By realizing the seven main risks, LAT realized that such risks cannot be deemed as the key risk or major issue. By discussing the seven risks and their assessment results By discussing the seven risks and the assessment result on effectiveness rating of the regulatory framework, members of the LAT managed to formulate eight stretegic issues that can be used as key risks.

Eight (8) Key Risks

The eight key risk is formulated by taking into account the relation of one key risk to other key risks, and ultimately determined eight key risks as described below:

- 1. Complexity in NPO laws and regulations in Indonesia which resulted in lack of synergies between the laws and regulations to be effectively intertwined.**

NPO legislation in Indonesia has lasted at least 140 years since the publication of Staatsblad 1870 Number 64 Rechtspersoonlijkheid Van Vereenigingen (Associations Having Legal Entities) at the Dutch colonial era. Although four stages of history have passed, namely the

Dutch colonial era, Indonesia's Independence, the New Order Era, and the Reformation Era, apparently to this day the Indonesian government has not conducted a comprehensive mapping of regulations to cope with the complexity of NPO laws and regulations.

The Indonesian government is at least implementing 27 regulation, consisting of 15 Laws, 5 Government Regulations, and 7 Ministerial Regulations and Decisions. Of the total 27 existing regulations, there are three main regulatory namely Law Number 16 Year 2001 on Foundations, and Law Number 28 Year 2004 regarding Amendment on Law Number 16 Year 2001 on Foundations, Law Number 8 Year 1985 on Civil Society Organizations, and Staatsblad 1870 Number 64 on Associations. The three laws have different origins, Staatsblad 1870 Number 64 comes from the Dutch colonial period, Civil Society Organization Law from the New Order, and Foundation Law from the Reformation Era. Foundation Law primarily regulates NPOs with non-membership, while in Staatsblad 1870 Number 64 regulates NPOs with membership (based on individuals or legal entities), and both laws are carried out by the Ministry of Law and Human Rights. The Civil Society Organizations Law is carried out by the Ministry of Domestic Affairs almost cover all types of NPO. On the other hand, the Ministry of Foreign Affairs holds the role of granting a license for international NPO by coordinating with other state ministries; while supervision is carried out by the Ministry of Domestic Affairs.

The complexity of NPO's laws and regulations actually caused an important implication, whereby the regulation become less able to create an effective system for NPO governance. The complexity of the regulation caused it unable to compensate and accomodate the dynamic development of NPO that grow increasingly more complex both in its quantity and quality. This can be seen from the implementation of oversight by governmental agencies, both at central and regional levels and cross-ministries, weak spots occurred in the registration, data administration, monitoring & evaluation, sanction mechanisms, and others. As a result of this weakness, NPO tend to be less compliant with their obligations as stipulated in various laws and regulations; and also NPO become vulnerable to be misused by certain parties for unlawful purposes.

Another factor which demanded that the mapping of laws and regulations to be done immediately is the quantity of NPO regulation which tend to increase, but not accompanied by a strategic effort to improve the quality of its implementation. Various formulation of laws and regulations programs such as draft law on Associations, draft law on Non-Governmental Organization (NGO), amendment to the Law Number 8 Year 1985 concerning Civil Society Organizations, amendment to the Law of Zakah, revision of Law on Foundations, the submission of various Drafts of Government Regulations, are being proposed to immediately be validated and published.

2. Registration and Validation of NPO [as] legal entities have not yet been properly managed in ministries.

Many NPO have not yet register and complete its legal entity status. Some contributing factor is the cost of making the deed of establishment to the notary that are expensive and with an addition of registration fees to the ministries, ministerial cross-registration procedures have not been coordinated properly, and the NPO still have minimal

understanding of the benefits and procedures for registration. On the other hand, the government (ministries) is still not yet persistent in socializing the procedure to apply for NPO legal entity status, also on registration procedures to the various ministries. Registration and validation as well as to clarify the division of roles and tasks of ministries, namely the role as a starting agency and as the doing agency.

3. Monitoring & Evaluation on NPO as a supervisory system and sanctioning have not yet been implemented effectively.

The government has not maximize its strategies to monitor and evaluate the NPOs. The Ministry has not been effective in reprimanding NPOs to renew their registrations and notify their activities and their funding. The impact of the weak monitoring and evaluation has made a variety of misuses by the NPO to occur, for instance, the use of NPO is not consistent with the objectives of its establishment; NPO misused to support the financing of terrorism; NPO used as a means of a criminal act of money laundering and other criminal acts, such as corruption, smuggling, fraud, violence, and embezzlement; NPO misused to finance separatist activities that threaten national disintegration. This occurs because the NPO tend to ignore the various obligations contained in the laws and regulations due to weak government control, and mainly because of inconsistent sanctions and enforcement.

4. Monitoring of overseas NPO in Indonesia is not supported with firm sanctions.

Overseas NPOs are relatively free to operate in Indonesia. This freedom has been abused in some cases for purposes of harming the Nation of Indonesia, such as records of mineral resources in the name of non-profit research, supporting the separatist activities and entering areas of conflict or natural disaster areas without permission, to mobilize domestic funds, foreign institutions to channel funds to its foreign institutions partners in Indonesia in the name of disaster relief or humanitarian, and a variety of cases that do not conform with the implementation of the Memorandum of Understanding (MoU) with the ministry as its partners.

5. No integrated database system at ministries for NPO Data Management and Updates.

The Ministry has not applied information technology and software database in the processing of information and NPO data. Data management and information management as well as updating thereof does not yet have an integrated database system. NPO data management is still fragmentary in their respective ministries in which there is no pooling of data management functions to process and analyze the entire data compilation for NPO. NPO data availability in the central ministries and provincial level are still in the form of printed directories. The Ministry does not have a computer database that is connected to the Internet so the public can access the information.

6. Informing the Public as disclosure of information for public is still minimal carried out by the government and the NPO itself.

Various important information regarding NPO such as socialization of laws and regulations, NPO data, financial reports in the mass media, information on fundraising and other activities have not been actively informed by the government and NPO to the public. Along

with the publication of Law Number 14 Year 2008 on Disclosure of Public Information, efforts to increase transparency and accountability for NPO needs to be improved. Most members of NPO assume that their accountability have been adequate by submitting them only to their donor agencies. Only large NPOs that have begun to use public audit and publish their financial statements through annual reports, websites, and other mass media.

7. Protection for NPO as a strategy to minimize the misuse of NPO has not been actively developed by the government and NPO.

Indonesian NPOs are still vulnerable to various practices of abuse/misuse, especially in the financial sector. Indonesia is relatively high dependant on foreign donors, especially among NGOs. Protection for social workers association of NPO also has not been developed in Indonesia in the fight for the protection of the rights of social workers of NPO. Protection for NPO social workers when conducting field work is also not yet developed. NPO also need to obtain protection in the form of tax deductions. In addition to the development of protection, several awards (reward), and incentives also need to be given by the government.

8. Partnership between the government, public, dan NPO has not been widely socialized.

Reformation era has been growing and expanding public participation in its development. The position of the government is no longer considered higher than the public, but the relationship has been interpreted as a partnership. Efforts have started to grow this partnership initiated by the government and NPO. The spirit of this partnership that needs to shown as a paradigm of good governance in developing NPO and government. However, the development of this partnership needs to be improved, especially for growing self-regulation initiatives among NPO through the formulation of code of ethics and code of conduct. This partnership also has not been socialized to many NPOs and government agencies at the regional level.

D. Key Risks Matrix

The eight key risks are then analyzed in the Risk Matrix. This matrix will analyze each key risk based on probability (likelihood) and impact (damage caused). The results using the eight key risks are, as follows:

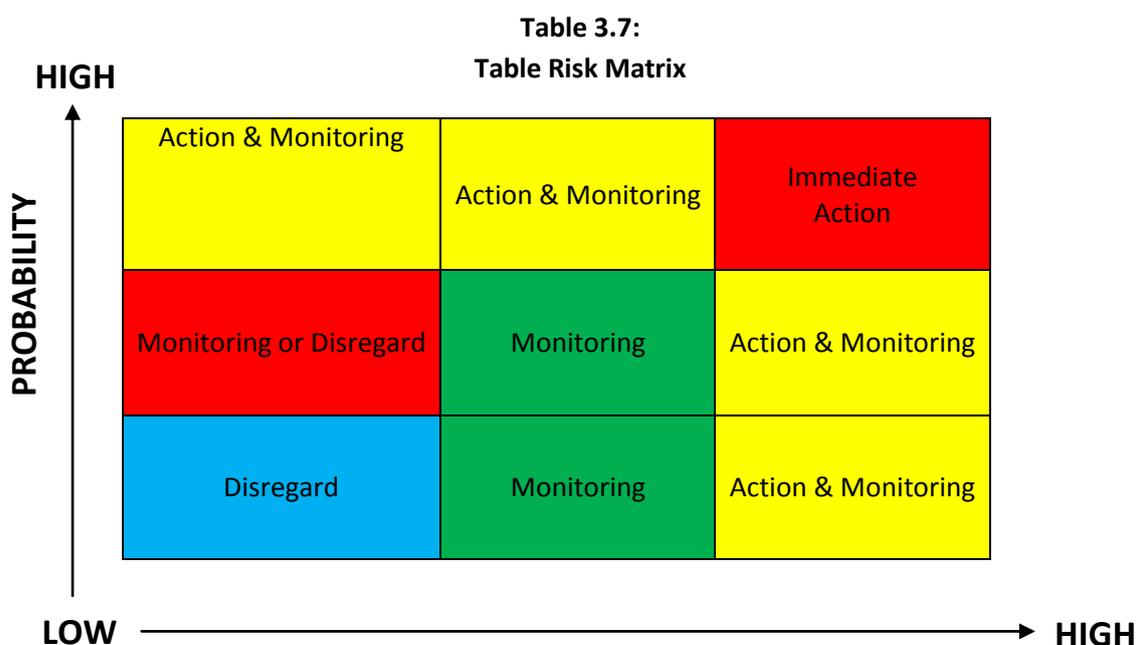
Table 3.6:
Risk Analysis: Probability and Impact

Risks on NPO Sector	Probability *			Impact *		
	High	Middle	Low	High	Middle	Low
1. There is the complexity of NPO law in Indonesia which resulted in synergies between the regulation itself is less effectively interwoven	V			V		

2. Registration and validation of NPO corporation has not been properly administered in cross-ministerial level.		V		V		
3. Monitoring & Evaluation of the NPO as a supervision system and sanctioning have not been implemented effectively.		V		V		
4. Supervision on overseas NPO in Indonesia is not supported with firm sanctions.			V	V		
5. NPO Data Management and Updates do not have an integrated database system at the ministry.	V				V	
6. Informing Public as disclosure of information to the public is still minimal by the government and NPO itself.		V			V	
7. NPO protection as a strategy to minimize the abuse/misuse is still not yet actively developed by the government and NPO.		V			V	
8. Partnership between government, public, and the NPO is not widely socialized.		V			V	

* Probability and Impact, can only choose one.

The result of the foregoing analysis will then be incorporated into the analysis on Risk Matrix. But before doing so, risk matrix will be first explained, by viewing the table below:



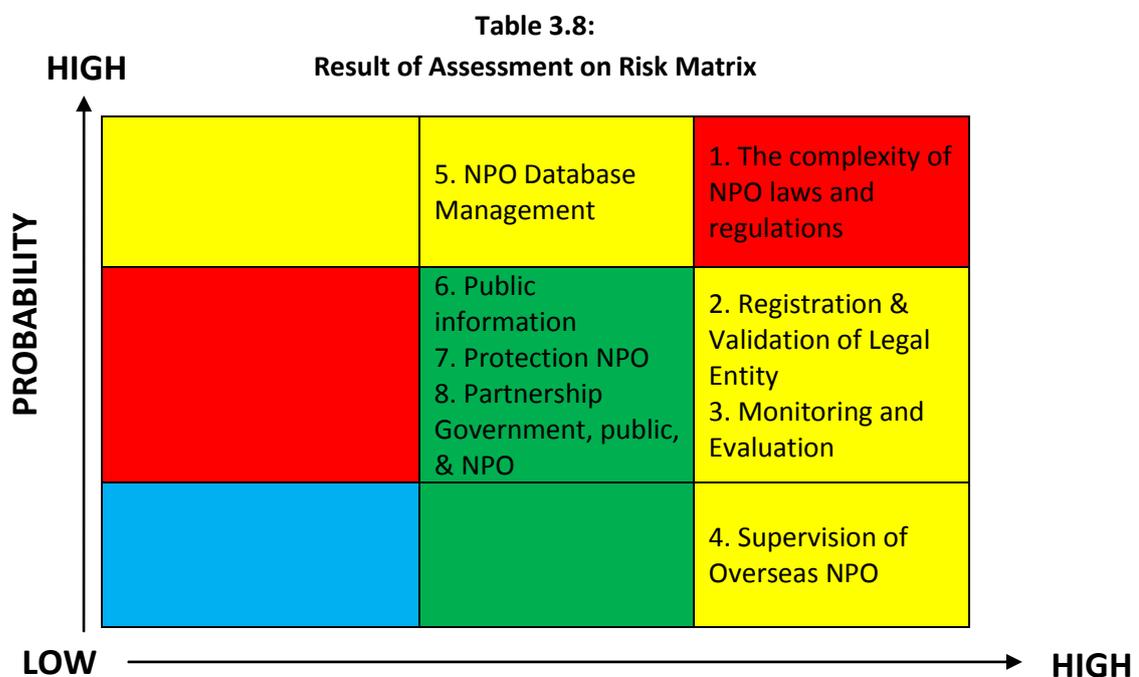
Explanation:

Risk Matrix table above will help determine the significance of the problem and the type of action that might be needed. The closer the content of the risk to the 'High Probability' and 'High Impact' then it is increasingly required to immediately take action. If the probability has low impact then risk issues can be disregarded. The following sequence of priorities of the Risk Matrix:

	Probability and impact are equally high, the handling of key risks requiring Immediate Action (Action).
	Handling of key risks requiring action & Monitoring, but not an urgent issue on the red key.
	The handling of these key risks require monitoring so that problems can be handled.
	Handling the key risk if deemed necessary only require monitoring or can be disregarded.
	Risks in this key can be disregarded altogether.

Result on Risk Matrix Analysis

Eight Key Risks that have been assessed on their probability and impact, subsequently incorporated into the Risk Matrix table. Here are the result.



Conclusion on Risk Matrix: Priority in Handling Issues

Of the eight key risks that have been placed into the Table Analysis of Risk Matrix, the general conclusions found are:

- 1 key risk requiring Immediate Action (Action), which is key risk 1.
- 4 key risks requiring Action & Monitoring, which are Key Risk 2, 3, 4, 5.
- 3 key risks requiring Monitoring, which are Key Risk 6, 7, 8.

The order of priority is as a benchmark for Key Risk to prioritize the recommendations in the next section.

Priority 1: Urgent/Immediate Action (Action)

Development of Empowering Regulation for NPO	
Key Risk No. 1	1. There is the complexity of NPO regulation in Indonesia which resulted in synergies between the regulations which interwoven less effectively.
Important Note:	The risk of this key should be treated with immediate or urgent (urgent). Settlement of this risk is a top priority because it is perceived to have a wide impact on other key risks.

Priority 2: Action & Monitoring

Development of an Integrated Supervision Strategy	
Key Risk No. 2, 3, 4, 5	2. Registration and validation of NPO corporation has not been properly administered in cross-ministerial level. 3. Monitoring & Evaluation of the NPO as a supervision system and sanctioning have not been implemented effectively. 4. Supervision of overseas NPO in Indonesia is not supported with firm sanctions. 5. NPO Data Management and Update do not have an integrated database system at the ministry.
Important Note:	The four key risks demands actions to address the problems and synergy Monitoring (Supervision). The four key risks are the main tools in developing an integrated monitoring system.

Priority 3: Monitoring

Development of Partnership and Public Participation Strategy	
Key Risk No. 6, 7, 8.	6. Informing the public as a public information disclosure is still minimal by the government and NPO itself. 7. NPO protection as a strategy to minimize the abuse is still not yet actively developed by government and NPO. 8. Partnership between government, public, and the NPO is not yet widely socialized.
Important Note:	These three key risk requires to be first developed and subsequently government's main role will have greater portion in supervising (monitoring) and as a working partner of NPO and public.

E. Recommendations

Based on the priority list generated by the Risk Matrix, the LAT makes the formulation of recommendations. More detailed explanation about the overall recommendations will be discussed in Chapter IV. The formulations of the eight main recommendations are, as follows:

- 1. Mapping laws and regulations on NPO in Indonesia should be carried out comprehensively to address the complexity of the laws and regulations.** The government should immediately seek a comprehensive mapping of NPO laws and regulations involving all relevant ministries, legal experts, and the NPO. The result of the mapping is expected to provide a description on the complexity of the existing laws and regulations as well as strategies to overcome them. The result of this mapping is expected to provide input to the various draft of new laws being proposed. From this mapping result, a division of roles and coordination among ministries will be designed to carry out supervision on NPOs.
- 2. Simplifying the registration and validation of legal entity.** Government needs to develop a compact and effective NPO registration procedure, so as to create a synergized segregation of duties and roles involving data collection and monitoring among ministries. The government will further socialize its implementation to regional governments. Registration and supervision of overseas NPOs, implementation for the registration through a cross-ministerial coordinated by the ministry of foreign affairs.
- 3. Development of monitoring and sanctions system by implementing a regular monitoring & evaluation.** Supervision needs to be done effectively by applying strong sanctions. Supervision is done through the development of a system of regular monitoring and evaluation, both within the ministry and across ministries, and is actively able to be applied by regional governments. This oversight needs to be done so that NPOs are driven to effectively carry out its various obligations that are embodied in the laws and regulations.
- 4. Increasing the effectiveness of supervision of overseas NPO in Indonesia.** Governments need to improve management for oversight and sanctions supported by drafting regulations so that foreign NPOs operating in Indonesia will increase their appreciation and recognition of authority and independency of the Indonesian community. This oversight needs to be done in coordination with other ministries and regional governments.
- 5. Development of management information systems data management for NPO.** NPO data management needs to be upgraded to an integrated database which can be accessed by other ministries (central and regional) as well as by the NPO and the public. Databases supported by the application of information technology, the internet and publicly accessible websites. Each ministry should have an online database and once integrated into a central information management for NPO that manages polling of data. The government needs to appoint a ministry or government agency in charge of managing the polling data and monitor data progress update (update) from each ministry.
- 6. Informing the public needs to be improved immediately to develop NPO information transparency and accountability to the public.** Every NPO should be encouraged to inform its NPO profile, inform its activities and its annual financial reports to the public, as an effort to encourage public accountability. This obligation is already stated in the laws and regulations, but still not many NPO have complied. Public Information is in-line with the publication of Law Number 14 Year 2008 on Disclosure of Public Information. The

government has also been demanded to openly provide information that it administers to the NPO and the public.

- 7. Increase protection for NPOs as a strategy to minimize misuse of NPOs and to increase its accountability.** Effort to strengthen the accountability and transparency of NPOs especially in maintaining the freedom to associate, will increase NPOs independency from their dependency of foreign funds which among other things by increasing NPOs ability to raise public funds domestically, to develop protection for NPOs' social workers, granting awards for good practices accomplished, incentive on tax, and other incentives.
- 8. Development of Partnership between Government, Public, and NPO.** Public participation is one effective way in enhancing good governance between government and NPO. Therefore it needs to be encouraged so that the government together with the public and the mass media to actively supervise NPOs. The government needs to build partnership programs with the NPOs, both at central and regional governments. The development of this partnership is to encourage the process of internal democratization in NPOs self-governing efforts, through an effort which among other things by reinforcement of code of ethics and code of conducts.

Chapter IV

Recommendation:

Proposed Treatment of Existing Risks

A. Definition of Recommendation

Formulation of recommendation that have been generated from Chapter III, will be described more fully by stating the risks it handled, the description of risk issues, and the strategic ministry as the executor of the recommendation. Thus, the recommendation is expected to be a structured input and there are questions that systematically test the standards of each recommendation.

In accordance with the results of the Risk Matrix in Chapter III, the formulation of recommendation based on priorities, are as follows:

- Key risk 1 is the first priority which requires an immediate/urgent action. Recommendation suggested to handle this problem should be immediately implemented in the near term. Settlement risk has become a major priority because the perceived risk has a major impact on other key risks.
- Key risk 2, 3, 4, 5 is the second priority that demands action to address the problems and in synergy with Monitoring (Supervision). The four [key risks] are the main tools in developing an integrated surveillance system.
- Key risk 6, 7, 8 is the third priority that requires to be first developed and subsequently the government's main role will have greater portion in supervising (monitoring) and as a work partner of NPOs and the public.

This recommendation is a strategic input and fully addressed for the government especially the ministry concerned. The government is the main implementer of this recommendation, and is expected to seek participation in its implementation from key stakeholders ie, NPOs, and also academics and the mass media. The recommendation emphasizes on cross-ministerial coordination in the implementation.

B. Composition of Recommendation

Here are eight key risks described along with recommendations for dealing with them. The recommendations are expected to be implemented by the government, in this case, the ministry as a watchdog agency for NPOs.

B.1 Risk 1 and Recommendations

Risk 1: Complexity of NPO regulations in Indonesia which resulted in synergies between the regulation itself to be less effectively interwoven.

Recommendation: Mapping of NPO laws and regulations in Indonesia should be comprehensive to address the complexity of the laws and regulations. The government should immediately seek a comprehensive mapping of NPO's laws and regulations involving all relevant ministries, legal experts, and the NPO. The result was expected to give a picture of the complexity of the existing laws and regulations and strategies to overcome them. The result of this mapping is expected to provide input to the various draft of new legislation being proposed. From this mapping result, it will then a division of roles and coordination can be designed among ministries to carry out supervision of NPO.

Description of Issue

Complexity of NPO regulations in Indonesia which resulted in synergies between the regulation itself to be less effectively interwoven.

NPO legislation in Indonesia has lasted at least 140 years since the publication of Staatsblad 1870 Number 64 Rechtspersoonlijkheid Van Vereenigingen (Associations With Legal Entities) in the Dutch Colonial era. Though already past four stages of history, ie the Dutch colonial era, Indonesia's Independence, the New Order Era, and the Reformation Era, apparently to this day the Indonesian government has never conducted a comprehensive mapping of regulation to overcome the complexity of regulations for NPO.

The Indonesian government implements at least 27 regulations, consisting of 15 Laws, 5 Government Regulations, and 7 Ministerial Regulations and Decisions. Of the total 27 existing regulations, there are three main regulatory namely Law Number 16 Year 2001 on Foundations, and Law Number 28 Year 2004 regarding Amendment on Law Number 16 Year 2001 on Foundations, Law No. 8 Year 1985 of Civil Society Organizations, and Staatsblad 1870 Number 64 on associations. The three regulations have different origins, Staatsblad 1870 Number 64 comes from the Dutch colonial period, Civil Society Organizations from the New Order, and Foundation Law from the Reformation Era. Foundation Law primarily regulates NPO with non-membership, whereas Staatsblad 1870 Number 64 regulates NPO with membership (individuals or legal entities); and both regulations implemented by the Ministry of Law and Human Rights. The Civil Society Organizations Law is implemented by the Ministry of Domestic Affairs which covers almost all types of NPO. On the other hand, the Ministry of Foreign Affairs holds the role of granting licenses to international NPOs in coordination with the ministries of other countries, while being supervised by the Ministry of Domestic Affairs.

The complexity of NPO laws and regulations causes a significant implication, the regulations become less able to create a system of effective governance for NPO. The complexity resulting the regulation is unable to compensate and accommodate for NPO dynamic development which increasingly grows complex both in quantity and quality. This can be seen from the implementation of oversight by governmental agencies, both at central and regional levels and across ministries, [the oversight] has weak spots in registration, data collection, monitoring & evaluation, sanction mechanisms, and others. Consequently, NPO tend to be less compliant with their obligations stipulated in various laws and regulations; at the same time NPO become vulnerable to be misused by certain parties for purposes that violates the law.

Another factor which demanded that the mapping effort of legislation to be done is the quantity of NPO legislation that tends to increase, but not accompanied by a strategic effort to improve the quality of implementation. Various design legislation program such as the draft law on Association, the draft law on Non-Governmental Organization (NGO), amendment to Law Number 8 Year 1985 concerning Civil Society Organizations, amendment to Law of Zakah, the

revised Law on Foundations, the submission of various Draft Government Regulations, are being proposed to immediately be validated and published.

What standard is acceptable for these issues?	
<ul style="list-style-type: none"> Ministry of Law and Human Rights Ministry of Domestic Affairs 	A comprehensive mapping of NPO laws on regulations n the complexity of NPO regulations so that policies can be composed to overcome the complexity.
How can the standard be achieved?	
<ul style="list-style-type: none"> Ministry of Law and Human Rights Ministry of Domestic Affairs Ministry of Social Affairs Ministry of Religious Affairs Ministry of Health Ministry of Manpower and Transmigration Ministry for Environment Ministry of National Education 	<ol style="list-style-type: none"> 1. Carry out a comprehensive mapping of laws and regulations involving the relevant ministries and other key shareholders. 2. Convey the result of analysis to the public and NPOs in the regions to obtain critical inputs. 3. Dissemination to key shareholders. 4. Propose policy-making to repair. 5. Draft an academic paper.
How would you know if the standard is achieved?	
<ul style="list-style-type: none"> Ministry of Law and Human Rights Ministry of Domestic Affairs Ministry of Social Affairs Ministry of Religious Affairs Ministry of Health Ministry of Manpower and Transmigration Ministry for Environment Ministry of National Education 	<ul style="list-style-type: none"> The team succeed to formulate its analysis on the comprehensive mapping of laws and regulations on the situation and challenges caused from the complexity of the regulations. Results of mapping analysis to be disseminated to all stakeholders, including policymakers to be repaired. The analysis will be further developed into an academic paper involving the relevant stakeholders. Political will must exist to harmonize NPO regulations.

B.2 Risk 2 and Recomendations

Risk 2: Registration and Validation of NPOs’ Legal Entities have not been properly administered across ministries.

Recommendation: Simplify registration and validation of legal entities. Government needs to develop a compact and effective NPO registration procedure, so as to create segregation of duties and roles involving data collection and monitoring synergies among ministries. The government will further socialize the implementation to regional governments. Registration and supervision of foreign NPOs, the application for registration through a cross-ministerial coordinated by the Ministry of Foreign Affairs.

Description of Issue
Registration and Validation of NPOs’ Legal Entities have not been properly administered across ministries.

Many NPO still have not register and complete its legal entity status. Some contributing factor is the cost of making the deed of establishment to the notary that are expensive and in addition registration fees to the ministries, ministerial cross-registration procedures have not been coordinated properly, and the NPO still has minimal understanding of the benefits and the procedures for registration. On the other hand, the government (ministry) is not yet persistent in socializing the procedure to apply for NPO legal entity and the registration procedures to the various ministries of the government. Registration and validation as well as to clarify the division of roles and tasks of ministries, namely the role as the starting agency and the doing agency.

What standard is acceptable for these issues?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Ministry of Domestic Affairs 	An NPO registration procedure is formed that is simple and easily accessible to NPOs with legal entity or a non-incorporated NPO, and the division of roles between ministries the starting agency and the doing agency.
How can the standard be achieved?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Ministry of Domestic Affairs • Ministry of Social Affairs • Ministry of Religious Affairs • Ministry of Health • Ministry of Manpower and Transmigration • Ministry for Environment • Ministry of National Education 	<ol style="list-style-type: none"> 1. Create a roadmap for the purpose of simplifying the NPO registration mechanisms and procedures, so that the role of the starting agency and the doing agency are clearly divided. Implementation of registration is for non-incorporated NPO to the Ministry in the country, while incorporated NPO (foundations and associations) to the Ministry of Law and Human Rights. 2. Socialize laws and regulations that relates to NPO. 3. Strengthen the coordination of relevant agencies handling NPO. 4. Formulate a standard of cost for drafting deed of establishment through notaries. 5. Review Staatsblad on association and Civil Society Organizations Law.
How would you know if the standard is achieved?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Ministry of Domestic Affairs • Ministry of Social Affairs • Ministry of Religious Affairs • Ministry of Health • Ministry of Manpower and Transmigration • Ministry for Environment • Ministry of National Education 	<ol style="list-style-type: none"> A. A roadmap for simplified NPO registration for incorporated and non-incorporated NPO B. Good division of roles between starting agency and doing agency. C. An information system available with easy access for the relevant parties D. Coordination meetings established between agencies handling NPO

Explanation Note:

LAT members provides a description of NPO registration phase in Indonesia (see Road Map). Results of LAT discussion concludes that basically 2 types of regulatory agencies (government ministries) are needed:

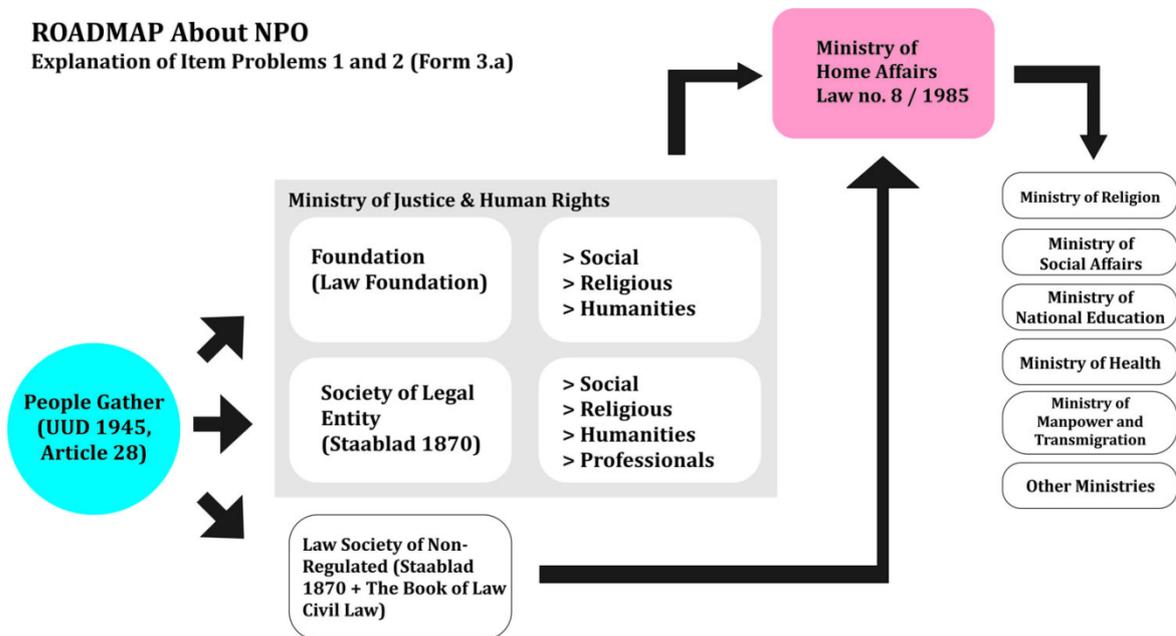
- **Starting Agency.** Board of Trustees which acts as a conduit of the legality of the establishment (Starting Agency), namely the Ministry of Law and Human Rights. Starting agency only has a role to assess and declare the validity of the establishment of an NPO. Starting agency in this case is the Ministry of Law and Human Rights Agency issuing proof of legality of incorporation status.
- **Doing Agency.** After obtaining approval on the incorporation from the starting agency, an NPO subsequently register with the related ministries (Doing Agency). A new NPO can be active in the community if it already has a registered license from the Doing Agency, as an example an NPO foundation-incorporated that wants to collect zakat charity, then after having proof of Validation of Incorporation, it must register with the Ministry of Religious Affairs (Starting Agency) to obtain a permit to legitimately to collect zakat charity; and since the collection of goods and services is also a domain of supervisory Ministry of Social Affairs, the Foundation is also required to register itself and obtain a permit from the Ministry of Social Affairs.

Challenges in registration and in laws and regulations

Based on the above perspective, the members of LAT found that registration to the Ministry of Domestic Affairs pursuant to Law Number 8 Year 1985 become less effective, the position of the Ministry of Domestic Affairs is baffling: it is neither the starting agency or the doing agency (see Road Map).

ROADMAP About NPO

Explanation of Item Problems 1 and 2 (Form 3.a)



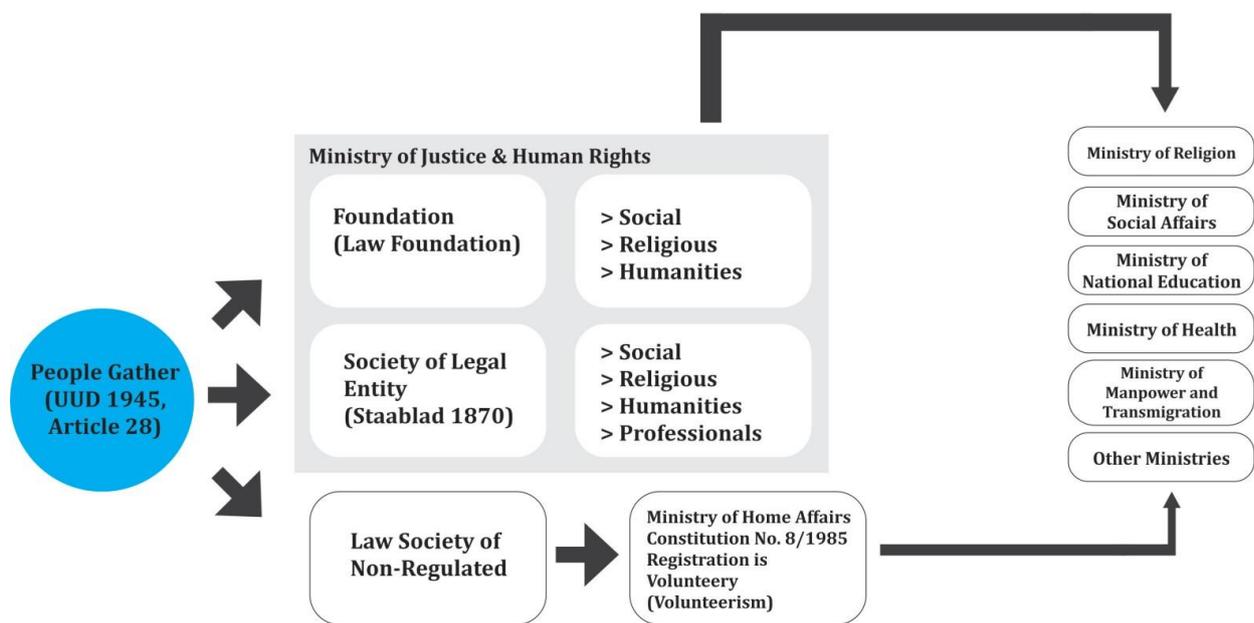
Recommendation on Administering NPO Registration

LAT members then composed a "Road Map" (please see below) which administers stages of registration to be simple and practical. Explanation is stated hereunder.

- **Two Starting Agency:** the Ministry of Law and Human Rights, and the Ministry of Domestic Affairs.

- Incorporated NPO is under the auspice of the Ministry of Law and Human Rights. After obtaining proof of Validation of Incorporation, the next stage is for the NPO to register itself to the relevant ministries (Doing Agency).
- Non-Incorporated NPO is under the auspice of the Ministry of Domestic Affairs, with a note that the registration is voluntarily - cannot be forced upon.
- **Doing Agency:** Doing ministry that serves as a role overseeing agency and partnered with the NPO is in accordance with the ministry. If there is a non-incorporated NPO assistance or wishing to partner with ministries that act as doing agency, the ministry which acts as an agency doing in partnership with NPO is only allowed non-legal entities who have registered themselves to the Ministry of Domestic Affairs. For example, the Social Ministry will ask for NPO who received help to first have obtained Registered Certificate (SKT) from the Ministry of Domestic Affairs.

ROADMAP About NPO



Note:

- If a non NPO corporation partnering with the ministry (doing) it must register with the Ministry of Home Affairs.
- If the department partnered with the NPO, the NPO must be already registered at the Ministry of Home Affairs or Ministry of Justice and Human Rights.

B.3 Risk 3 and Recommendations

Risk 3: Monitoring & Evaluation on NPO as supervision system and sanctioning have not been implemented effectively.

Recommendation: Developing a supervision system and sanctioning by implementing regular Monitoring & Evaluation. Supervision needs to be done effectively by applying strong sanctions. Supervision is done through the development of a system of regular monitoring and evaluation, both within the ministry and across ministries, and are actively able to be applied by local

governments. This oversight needs to be done for NPO driven effectively implement the various obligations that are stipulated in the regulation.

Description of Issue	
<p>Monitoring & Evaluation on NPO as supervision system and sanctioning have not been implemented effectively.</p> <p>Relevant ministries have not maximizing strategies to monitor and evaluate the NPO. The Ministry has not been effective in calling for NPO to renew registration and notification activities and funding. The impact of the weak monitoring and evaluation has made a variety of abuses by the NPO can happen, suppose that the use of NPO is not consistent with the objectives of establishment; NPO misused to support the financing of terrorism; NPO used as a means of money laundering or other criminal acts, such as corruption, smuggling, fraud, violence, and embezzlement; NPO misused to finance separatist activities that threaten national disintegration. This occurs because the NPO tend to ignore the various obligations set out in regulation because of government control is weak, and mainly because of sanctions and enforcement are not firm.</p>	
What standard is applicable for this issue?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Ministry of Domestic Affairs • Ministry of Religious Affairs • Ministry of Social Affairs • Ministry of Manpower and Transmigration • PPATK • Ministry of Foreign Affairs 	<ul style="list-style-type: none"> • There should be a ministerial regulation to strengthen monitoring and supervision on NPOs it oversights. • There should be a sanction mechanism implemented by the ministry for NPOs [found] misuse. • There should be a supervision and evaluation procedure together with government agencies in supporting for NPO accountability and transparency.
How can the standard be achieved?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Ministry of Domestic Affairs • Ministry of Religious Affairs • Ministry of Social Affairs • Ministry of Manpower and Transmigration • PPATK • Ministry of Foreign Affairs 	<ol style="list-style-type: none"> 1. The strengthening of a ministry that serves as doing agency such as the Ministry of Social Affairs, so have the management, monitoring and supervision, supported by strengthening laws and regulations so that monitoring and sanctioning can be done in a fair and balanced. 2. Strengthening the implementation of regulations on the technical ministries (doing agency) in the oversight mechanisms (monitoring and evaluation) and partnership with NPO. 3. Simplify the mechanism / NPO registration procedures, among others, by applying for registration of non-incorporated NPO to the interior ministry, while being incorporated NPO (foundations and associations) to the Ministry of Law and Human Rights. 4. Strengthening information systems on the NPO in related government agencies to ensure easy access by interested parties. 5. Improving partnerships, monitoring and supervision of NPO, whether already registered or incorporated under the laws and who have not. 6. Socialize laws and regulations relating to NPO.

	<ol style="list-style-type: none"> 7. Carry out trainings on management of transparent and accountable finance to NPO. 8. To strengthen coordination between the relevant agencies in handling NPOs. 9. Improving coordination between the agencies and the builder NPO with PPATK and Police Criminal Investigation Body, 88 Densus Police in conducting anticipatory steps towards the possibility of a NPO which is used as a means to commit criminal acts such as to fund terrorism activities, fund the separatist activities, money laundering and other criminal acts such as corruption, smuggling, fraud, violence, and embezzlement.
How would you know if the standard is achieved?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Ministry of Domestic Affairs • Ministry of Religious Affairs • Ministry of Social Affairs • Ministry of Manpower and Transmigration • PPATK • Ministry of Foreign Affairs 	<ol style="list-style-type: none"> 1. A joint supervision and evaluation is established by government agencies in supporting NPO accountability and transparency 2. An accessible information system is established for relevant parties 3. A guideline established by the government to support NPO financial management with accountability and transparency 4. Coordination meetings established between agencies handling NPOs

B.4 Risk 4 and Recommendations

Risk 4: Supervision on Foreign NPO in Indonesia is not supported with firm sanctions.

Recommendation: Enhancing the effectiveness of supervision on foreign NPO in Indonesia.

Governments need to improve management oversight and sanctions supported legislation that foreign NPO operating in Indonesia to increase appreciation and recognition of authority and independence of the Indonesian community. This oversight needs to be done in coordination with other ministries and local government.

Description of Issue
<p>Supervision on Foreign NPO in Indonesia is not supported with firm sanctions.</p> <p>Foreign NPO are relatively free to operate in Indonesia. This freedom has been abused in some cases for purposes of harming the Nation of Indonesia, such as data collection of mineral resources on behalf of nonprofit research, supporting the separatist activities and into areas of conflict or natural disaster areas without permission, to mobilize domestic funds, foreign institutions to channel funds to foreign institutions own partners in Indonesia on behalf of disaster relief or humanitarian, and a variety of cases that do not conform with the implementation of the Memorandum of Understanding (MoU) with the ministry as partners.</p>
What standard is appropriate for this issue?

<ul style="list-style-type: none"> • Ministry of Foreign Affairs and other ministries: • Ministry of Law and Human Rights • Ministry of Social Affairs • Ministry of Religious Affairs • Ministry of Health • Ministry of Manpower • Ministry for Environment • Ministry of National Education 	<ul style="list-style-type: none"> • Government to develop the requirements, procedures, and licensing restrictions, and reporting funding, and location of courses for overseas NPO operating in Indonesia. • Government has a database of foreign NPO that can be accessed by ministries, local governments, and the public. • Embassies are expected to provide a list of NPOs of its countries that operate in Indonesia. Foreign NPO shall report to the embassy or the representative of his country if it wishes to operate in Indonesia. • To enhance monitoring and evaluation for foreign NPO operating in Indonesia.
How can the standard be achieved?	
<ul style="list-style-type: none"> • Ministry of Foreign Affairs and other ministries: • Ministry of Law and Human Rights • Ministry of Social Affairs • Ministry of Religious Affairs • Ministry of Health • Ministry of Manpower • Ministry for Environment • Ministry of National Education 	<ul style="list-style-type: none"> • Formulation of requirements, procedure, limitation of operational permit, transparency of activities and funding for foreign in Indonesia. • Prepare a database of foreign NPO to be managed by the Minister of Foreign Affairs. • Cooperate to supervise NPO with foreign embassies. • Cooperate to supervise with other ministries and regional governments. • Carry out monitoring and evaluation of foreign NPO.
How would you know if the standard has been achieved?	
<ul style="list-style-type: none"> • Ministry of Foreign Affairs and other ministries: • Ministry of Law and Human Rights • Ministry of Social Affairs • Ministry of Religious Affairs • Ministry of Health • Ministry of Manpower • Ministry for Environment • Ministry of National Education 	<ul style="list-style-type: none"> • Requirements, procedure and limit of operational permit are established for foreign NPO in Indonesia. • Foreign NPO operating in Indonesia must be fully registered in the database. • Sanctioning mechanism is established for foreign NPO that violates it.

B.5 Risk 5 and Recommendations

Risk 5: NPO Data Management and Updating that have not yet been compiled in an integrated database system at the ministries.

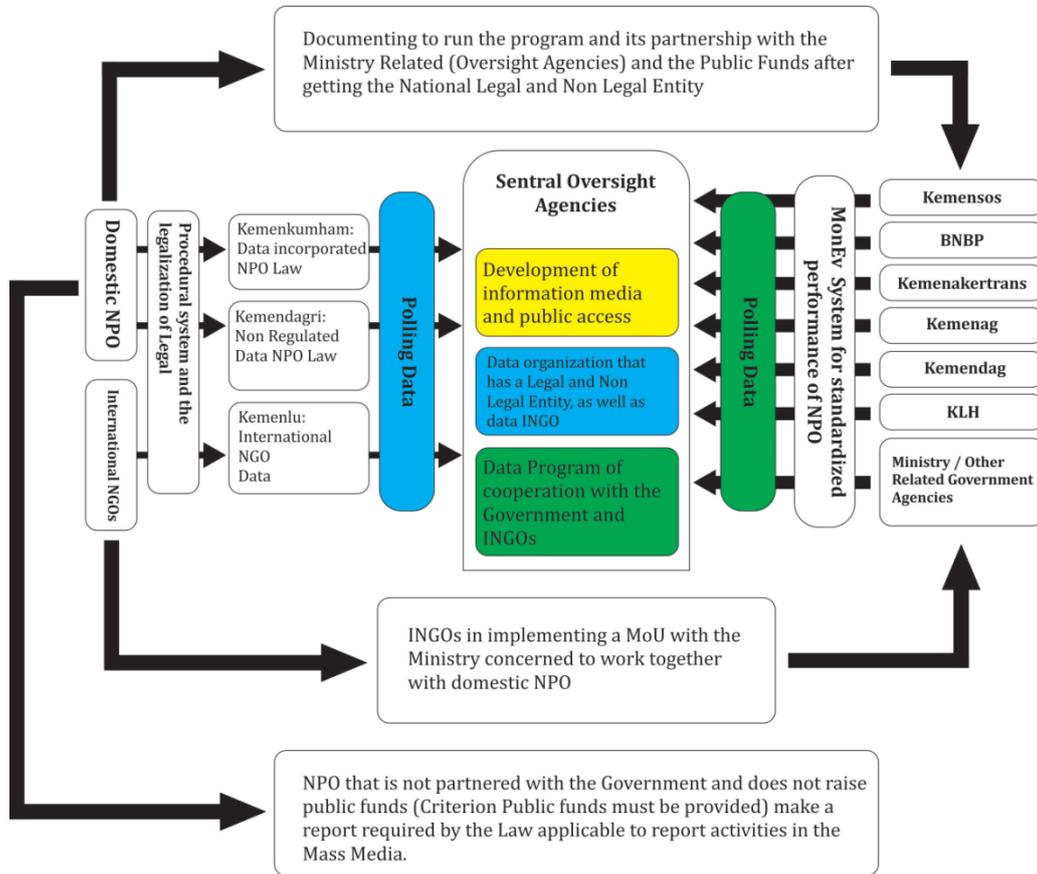
Recommendation: Enhancing NPO informational data management system. NPO data management needs to be upgraded to an integrated database which can be accessed by other ministries (central and regional) as well as by the NPO and the public. Databases supported by the application of information technology and the internet and publicly accessible website. Every ministry should have an online database of each and at the same time is integrated into a central information management NPO that manages poll data. The government needs to appoint a

ministry or government agency in charge of managing the polling data and monitor progress update data from each ministry.

Description of Issue	
<p>NPO Data Management and Updating that have not yet been compiled in an integrated database system at the ministries.</p> <p>The Ministry has not applied information technology and database software in the processing of information and data NPO. Data management and information management as well as updating NPO does not yet have an integrated database system. NPO data management is still fragmentary in their respective ministries in which there is no pooling of data management functions to process and analyze the entire data compilation NPO. NPO data availability in the central ministries and provincial level are still in the form of printed directories. The Ministry does not have a computer database that is connected to the Internet so the public can access information.</p>	
What standard is appropriate for this issue?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights, and other ministries: • Ministry of Domestic Affairs • Ministry of Social Affairs • Ministry of Religious Affairs • Ministry of Health • Ministry of Manpower and Transmigration • Ministry of Environment • Ministry of National Education 	<ul style="list-style-type: none"> • Establishment of information systems that manage NPO management information system-based integrated information technology in the form of an online database. • The database is designed to integrate the entire data NPO, easily accessed and updated by the ministry of oversight NPO (central and regional), and exposed to the public. • Any relevant ministries to manage and update data that monitored NPO. • NPO must be obligated to own a website which provides an updated information on its activities and financial report.
How can the standard be achieved?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights, and other ministries: • Ministry of Domestic Affairs • Ministry of Social Affairs • Ministry of Religious Affairs • Ministry of Health • Ministry of Manpower and Transmigration • Ministry of Environment • Ministry of National Education 	<ul style="list-style-type: none"> • Design NPO Information Management System • Making of a central database and databases in each ministry. • Entry of all NPO data in the database • Socializing and trainings on the management of database at the central ministries and regional • Socializing the database to the public. • Socializing to NPO to design and update its website. • Training on information technology and websites for NPO.
How would you know if the standard has been achieved?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights, and other ministries: • Ministry of Domestic Affairs • Ministry of Social Affairs • Ministry of Religious Affairs • Ministry of Health • Ministry of Manpower and Transmigration 	<ul style="list-style-type: none"> • Information on NPO managing database is accessible by other ministries and the public. • NPO data in Indonesia can be re-registered in the database. • The ministries can manage their own database but the data can be observed on the number of fixed NPOs in Indonesia. • NPO that have made their websites are registered

- Ministry of Environment
 - Ministry of National Education
- and states their activities and financial reports.

Flow-based NPO Information Management Integrated Database



B.6 Risk 6 and Recommendations

Risk 6: Public Information as disclosure of information for public is still minimum conducted by the government and the NPO itself.

Recommendation: Informing the public must be improved immediately yo develop disclosure of NPO information and its public accountability. Every NPO should be encouraged to inform the agency profile, inform activities and annual financial reports to the public, as part of efforts to encourage public accountability. This obligation is already stated in the legislation, but still a little NPO did it. This is relevant to public piping along with the publication of Law Number 14 Year 2008 on Disclosure of Public Information. The government also demanded to open presents its management information to the NPO and the public.

Description of Issue

Publik Information as disclosure of information for public is still minimum conducted by the government and the NPO itself.

Various important information regarding such NPO legislation of socialization, NPO data,

financial reports in the media, information on fundraising and other activities have not been actively informed by the government and NPO to the public. Along with the publication of Law Number 14 Year 2008 on Disclosure of Public Information, efforts to increase transparency and accountability of this NPO needs to be improved. Members of NPO majority considers that the responsibility was enough just be submitted to donor agencies. Only a large NPO that has begun to use public audit and publish their financial statements through annual reports, websites, and other mass media.

What standard is applicable for this issue?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Ministry of Domestic Affairs • Ministry of Religious Affairs • Ministry of Social Affairs • Ministry of Manpower and Transmigration • PPATK • Ministry of Foreign Affairs • Ministry of Communication and Information 	<p>An integrated information system between government agencies containing information on the status of incorporation, types of activities, transparency and accountability of NPO</p>
How can the standard is achieved?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Ministry of Domestic Affairs • Ministry of Religious Affairs • Ministry of Social Affairs • Ministry of Manpower and Transmigration • PPATK • Ministry of Foreign Affairs • Ministry of Communication and Information 	<ul style="list-style-type: none"> • Develop an integrated information system among government agencies related to status, type of activity as well as transparency and accountability NPO. • The annual coordination meeting between government agencies that deal with NPO to combine related NPO information. • Provide incentives or rewards to the NPO that has a system of accountability and transparency that is easily accessible by the public.
How would you know if the standard is achieved?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Ministry of Domestic Affairs • Ministry of Religious Affairs • Ministry of Social Affairs • Ministry of Manpower and Transmigration • PPATK • Ministry of Foreign Affairs • Ministry of Communication and Information 	<ol style="list-style-type: none"> 1. A joint database established on the status of incorporation and types of activities conducted by NPO that is accessible for public 2. An integrated information management sytem established between government agencies that handles NPO

B.7 Risk 7 and Recomendations

Risk 7: Protection for NPO as a strategy to minimize misuse is still not yet actively developed by the government and NPO.

Recommendation: Enhance protection for NPO as a strategy to minimize misuse of NPO and increase its accountability. Efforts to strengthen accountability and transparency should be accompanied with NPO especially increased protection while maintaining the freedom to organize, enhance the autonomy of NPO's dependence of foreign funds through increasing the ability of one NPO in mobilizing domestic public funds, to develop social protection for workers NPO, granting awards on good practices achieved, tax incentives, and various other incentives.

Description of Issue	
Protection for NPO as a strategy to minimize misuse is still not yet actively developed by the government and NPO.	
<p>NPO Indonesia is still vulnerable to various practices of abuse, especially in the financial sector. Indonesia is relatively high dependence NPO funding from foreign donors, especially among NGOs. Protection for social workers association NPO also has not been developed in Indonesia in the fight for the protection of the rights of social workers NPO. NPO social protection of workers when plunged into the field is also not yet developed. NPO also need to get protection in the form of tax cuts. In addition to the development of protection, several awards (reward), and incentives also need to be given by the government.</p>	
What standard is applicable for this issue?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Bank Indonesia • Directorate General of Taxation • Donor Institutions • Agencies of the Law and • Other relevant ministries. 	<ul style="list-style-type: none"> • NPO must have the complete legality and supporting its financial accountability and its activities, as follows: <ul style="list-style-type: none"> ○ NPO has a list of legitimate proof marks on the legality of establishment in the Ministry of Law and Human Rights. ○ NPO required having a bank account in the name of the institution itself. ○ NPO required to have a Tax Payer Registration Number (NPWP), and to report its annual income on a regular basis. ○ Financial NPO audited by external auditors and published in the media (websites, newspapers, and others). ○ The results of such financial publications reported to the relevant ministries were watching it. • Donors are expected to create a common standard regarding the completeness of the above requirements as a condition for the NPO that receives funding assistance from them. • The annual report of financial non-profit NPO meets Indonesian accounting principles. • There are tax incentives for other parties, which contribute to the NPO. • Government promotes the establishment of associations of social workers who work in the NPO, and to promote their rights. • The government encourages domestic fundraising transparent by making clear rules. • Government rewards NPO which produces the works of "good practices"

	<ul style="list-style-type: none"> • There is a strong action for the NPO which was contrary to law, for example the freezing of accounts, enforcing penalties for perpetrators, and others.
How can the standard is achieved?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Bank Indonesia • Directorate General of Taxation • Donor Institutions • Agencies of the Law, and • Other relevant ministries 	<ul style="list-style-type: none"> • Socialization of NPO registration and procedural requirements to obtain proof of the legality of the government. • Making an agreement among donors about the completeness requirements for the NPO which is deemed worthy of receiving grants. • Socialization of the Accounting Principles for NPO Non-profit-making training and annual financial reports. • Socialization regulations on the granting of tax incentives. • Members of NPO propose establishment of the association of social workers. • Socialization regulations concerning public fundraising and reporting to the relevant ministries. • Ministry gave the award to NPO which is considered to have a good accountability. • NPO that does not comply with its obligations received sanction and punishment.
How would you know if the standard is achieved?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Bank Indonesia • Directorate General of Taxation • Donor Institutions • Agencies of the Law, and other relevant Ministries. 	<ul style="list-style-type: none"> • An increase in number of NPO registering with the government. • Donor institutions develop self-regulation on the requirements of granting funds to NPO. • Reports available on receivers of the tax incentive. • An establishment of social worker association in Indonesia. • Rules and clear mechanism available on the accountability of gathering public funds for NPO as well as for other organizations. • The ministry sponsoring the granting of awards for NPOs with good accountability. • Reports on NPO receiving sanctions or punishment available.

B.8 Risk 8 and Recommendations

Risk 8: Partnership between the Government, the public, and NPO has not been widely socialized.

Recommendation: Develop the Partnership between the Government, the Public and NPO.

Public participation is one effective way in enhancing good governance between government and NPO. Therefore it needs to be encouraged that the government together with the public and the media to actively supervise NPO. The government needs to build partnerships with the

NPO program, both at central and regional governments. The development of this partnership to encourage the process of internal democratization NPO self-governing through the efforts of one of them by strengthening the code of ethics and NPO code of conduct.

Description of Issue	
<p>Partnership between the Government, the public, and NPO has not been widely socialized.</p> <p>Reform era has been growing and expanding public participation in development. The position of the government no longer considered higher than the public, but their relationship has been interpreted as a partnership. Efforts have started to grow this partnership initiated by the government and NPO. The spirit of this partnership that needs to depankan as a paradigm of good governance in developing NPO and government. However, the development of this partnership needs to be improved, especially for growing self-regulation initiatives among NPO through the production code of ethics and code of conduct. This partnership also has not been socialized to different maximum NPO and government agencies at the regional level.</p>	
What is the standard appropriate for this issue?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Ministry of Domestic Affairs • Ministry of Religious Affairs • Ministry of Social Affairs • Ministry of Manpower and Transmigration • PPATK • Ministry of Foreign Affairs • Ministry of Communication and Information • Other Government agencies 	<ul style="list-style-type: none"> • Partnership established between the ministry and the NPOs it supervises and formulate it in NPO Code of Ethics and Code of Conduct. • The government supports NPO to develop its code of ethics according to each sector of NPO. • Mass media holds the role to publisize to the public on NPO's activities to boost its accountability.
How can the standard be achieved?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Ministry of Domestic Affairs • Ministry of Religious Affairs • Ministry of Social Affairs • Ministry of Manpower and Transmigration • PPATK • Ministry of Foreign Affairs • Ministry of Communication and Information • Ministry of Law and Human Rights • Ministry of Domestic Affairs • Ministry of Religious Affairs • Ministry of Social Affairs • Ministry of Manpower and Transmigration • PPATK • Ministry of Foreign Affairs 	<ul style="list-style-type: none"> • Developing partnership forum at the central and regional level as a dialog media and deliberation between the government, NPO, mass media, and the public. • A workshop between the relevant ministeries and NPO representatives, mass media, and the public to formulate NPO Code of Ethics. • Publication of the result of the formulation in the form of books, posters, and other creative medias. • Mass Media to publisize the activity as a way to inform the public.

<ul style="list-style-type: none"> • Ministry of Communication and Information • Other Government agencies 	
How would you know if the standard is achieved?	
<ul style="list-style-type: none"> • Ministry of Law and Human Rights • Ministry of Domestic Affairs • Ministry of Religious Affairs • Ministry of Social Affairs • Ministry of Manpower and Transmigration • PPATK • Ministry of Foreign Affairs • Ministry of Communication and Information • Other Government agencies 	<ul style="list-style-type: none"> • A Code of Ethic is established which have been mutually agreed. • Publication products distributed to NPOs and the public. • Mass media news clipped and to be re-discussed.

Chapter V: Conclusion

Domestic Study of NPO sector consists of four stages: Sector Survey, Assessment to Regulatory Framework, Analysis and Recommendations, and Final Report. All stages have been carried out by the Local Assessment Team (LAT) which is assisted by the Secretariat of the LAT. Following the conclusion of each phase:

NPO Sector Survey

This survey sector is the first step from Non-Profit Organization (NPO) Domestic Review with the objective to obtain general representation or profile of NPOs and the risks that influence them. Total NPO in Indonesia that the government is officially registered in 50% NPO Almost 21 569 are in Java, and 25% were on the island of Sumatra, the rest scattered in other islands. Based on the province, most NPO located in Jakarta (22%), East Java (9.5%), Central Java (7%), Indonesia (6.8%), and Lampung (6.5%). NPO, the majority (99%) legal entities, foundations and the rest (1%) associations.

Problems found are still there are thousands of NPO are not yet registered with the government and the NPO has not applied the data management of information technology such as databases and the Internet. NPO activities in terms of supervision, monitoring and evaluation across ministries have not been going well. Supervision of foreign NPO also has not run effectively. Preview amounts of revenues and expenditures NPO still difficult to obtain because there was no data collection efforts in this regard. However, funds flowing into the NPO are one of the main sources of international donors. Estimates of funds received and disbursed NPO in Indonesia is estimated hundreds of billions to trillions of rupiah per year. NPO dependence on donors, especially NGOs abroad deemed high enough. On the other hand, fundraising in the country also started to develop properly.

NPO vulnerabilities can be grouped into three parts: the vulnerability of the legal, financial and human resources and organizational capacity. Vulnerability concerns the legality of the finding that estimated there are still tens of thousands of NPO that has not been recorded in Indonesia. Application of sanctions has not been firmly against the negligent NPO complete legality. Financial vulnerability of NGOs is still considered a high dependence on foreign donors, fundraising in the country has not been up to, there are still many who do not have a TIN NPO, NPO does not have a bank account on behalf of the NPO itself, just a little NPO open its financial statements to inform the public. Susceptibility of human resources and organizational capacity related to NPO leadership which is still weak and the deviation of program implementation.

Nature of abuse found in NPO is used to fund the program for another program, abuse purchases of goods and services, funds used for private purposes. The aim is generally to the misuse of personal or organizational interests, for example, to cover operating expenses and honoraria, avoiding the oversight of public criticism, and avoid government oversight. The cause of abuse is primarily from internal factors such as weak organizational capacity of accounting, accounts on behalf of the NPO is

still personal, weak capacity of internal control and transparency, not all funders to apply strict supervision, and weak oversight and sanctions from the government.

Perceptions about the abuse that was found was suspected government will control the NPO, on suspicion of encouraging transparency and accountability, accountability is seen only for big donors, the government is deemed not necessary to ask the financial statements, and NPO abroad is relatively easy to enter Indonesia.

Assessment Framework Laws and Regulations

This activity aims to assess the effectiveness of the framework legislation NPO today. Assessment regulations will divide into six objectives and each objective will be assessed seven indicators. The assessment result will be entered into the Rating Valuation Effectiveness: Effective (score 4), Most Effective (score 3), Most Effective (score 2), and Not Effective (score 1). NPO Indonesia is currently governed by a regulatory framework that consists of 15 of Law, Government Regulation of approximately 5, and 7 Regulation of the Minister and the Minister. NPO-related government agencies as many as seven ministries and three non-ministerial government institutions.

Regulatory framework is the assessment result of the merger of three groups of assessors, there was no regulatory framework objective assessment results can be categorized as effective (value 4) as well as most effective (score 3). The main weakness is the weakness in the government realize the level of monitoring and evaluation across ministries, and there are still among the NPO has not been uniformly implement its public accountability obligations and activities related to financial transparency.

General conclusions combined results of the assessment is regulatory framework of the six objectives of legislation is only partially effective (average value 2.47). Government group considered that the regulatory framework already Mostly Effective (2.74), but only found this NPO Group Most Effective (2.24). The combination group also produces the Government and NPO Most Effective assessment only (2, 43).

The assessment of each of the six objectives, as follows:

- **Only two Objectives (NPO Establishing and Protecting the NPO) received an Effective rating Majority.** Established NPO (2.95) and Protect NPO (2.67) have higher rates than other purposes.
- **Four Objectives (Identify NPO, Concerns Identify, Investigate Concerns, Reduce Risk) only get a rating Most Effective.** Based on the average value generated, it turns out four objectives considered to Most Effective. Identifying and Reducing Risk NPO both had an average rating of 2.48. Identifying anxiety score 2.00 and 2.24 Investigate Concerns.

Key Risk Analysis and Recommendations

Based on the analysis of LAT, was found at least eight risks which can be made NPO sector strategic issues that need serious attention from government agencies.

1. **There is complexity and disharmony NPO legislation in Indonesia who are less able to create an effective legal system.**
Recommendation: Mapping NPO legislation of Indonesia should be comprehensive to address

the complexity of the rules. This comprehensive mapping with the involvement of relevant ministries and other competent stakeholders.

2. Registration and validation of legal entity has not been arranged well in cross-ministerial level.

Recommendation: Simplifying the registration and approval of legal entity. Creating a "roadmap" for the purpose of simplifying the mechanisms and procedures NPO registration, so the role of the Ministry of starting and doing agency clearly divided³.

3. Monitoring & Evaluation of the NPO as a system of supervision and sanctions has not been implemented effectively.

Recommendation: Government needs to develop a compact and effective NPO registration procedure, so as to create a synergized segregation of duties and roles involving data collection and monitoring among ministries. The government will further socialize its implementation to regional governments. Registration and supervision of overseas NPOs, implementation for the registration through a cross-ministerial coordinated by the ministry of foreign affairs.

4. Increasing the effectiveness of supervision of overseas NPO in Indonesia.

Recommendation: Governments need to improve management for oversight and sanctions supported by drafting regulations so that foreign NPOs operating in Indonesia will increase their appreciation and recognition of authority and independency of the Indonesian community. This oversight needs to be done in coordination with other ministries and regional governments.

5. NPO database has not been managed in an integrated manner.

Recommendation: Development of management information systems data management for NPO. NPO data management needs to be upgraded to an integrated database which can be accessed by other ministries (central and regional) as well as by the NPO and the public. Databases supported by the application of information technology, the internet and publicly accessible websites. Each ministry should have an online database and once integrated into a central information management for NPO that manages polling of data. The government needs to appoint a ministry or government agency in charge of managing the polling data and monitor data progress update (update) from each ministry.

6. Government and NPO have not applied the principles of disclosure of information effectively.

Recommendation: Increase the effectiveness of the disclosure of information by the government and the NPO. Develop an integrated information system between relevant government agencies with institutional status, type of activity as well as transparency and accountability of NPO. The annual coordination meeting between government agencies that deal with NPO to combine related information.

7. Protection and support for NPO toward independence and public accountability is still actively carried out by the government.

Recommendation: Increased protection for the NPO as a strategy to minimize the abuse of NPO and increase accountability. Socialization NPO registration and procedural requirements to

obtain proof of legality of government. Consensus among donors regarding the completeness requirements for the NPO which is deemed worthy of receiving grants. Socialization of the Accounting Principles for Non-profit-making training NPO annual reports and financial.

8. Partnership government and the NPO has not optimally.

Recommendation: The development of partnerships between government and NPO.

Development of partnership forums at national and local levels as a forum for dialogue and consultation between government, NPO, mass media and the public. The Government encourages and facilitates the NPO and the public to formulate a code of ethics and code of conduct NPO.

Final Report

Preparation of this report conducted by members of the LAT and has conducted workshops to discuss and simultaneously edit this report in Bogor on December 2 to 3 June 2010.

Attachment

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Activities List

- 17 to 19 November 2008, Seminar on Domestic NPO Sector Review, Ministry of Foreign Affairs, Novotel, Bogor
- 15 July 2009, First Meeting to form the LAT, INTRAC Jakarta
- 28-31 July 2009, NPO Domestic Training Review was attended by 9 and 7 NPO Government Agencies, Hotel Mercure Ancol, Jakarta
- 19 August 2009, Meeting LAT, INTRAC, Jakarta
- 27 October 2009, Meeting LAT, INTRAC, Jakarta
- 24 November 2009, Meeting LAT, INTRAC, Jakarta
- 06 January 2010, Meeting LAT, INTRAC, Jakarta
- 26 January 2010, Meeting LAT, INTRAC, Jakarta
- 09 February 2010, Meeting LAT, INTRAC, Jakarta
- 13 April 2010, Meeting LAT, INTRAC, Jakarta
- 21 to 23 April 2010, Validation Workshop I, Hotel Salak, Bogor
- 05 May 2010, Meeting LAT, INTRAC, Jakarta
- 12 May 2010, Meeting LAT, INTRAC, Jakarta
- 26 May 2010, Meeting LAT, INTRAC, Jakarta
- 02-03 June 2010, Workshop on Editing, Hotel Salak, Bogor
- 07 July 2010, Launch of Domestic Book Review, INTRAC, Jakarta

Field Visits, Field Assessment Framework

No	Visited Regulator/NPO	LAT Team	Legal Regulations	Location	Visit Time
Regulator/Board of Trustees					
1	Directorate of Civil Affairs, Directorate General of Public Law Administration, Ministry of Law and Human Rights	Ministry of Home Affairs and Muhammadiyah	<ol style="list-style-type: none"> 1. Stadblaad 1870-64 on Legal Society 2. Foundation Law No. 28 year 2004 junto Act No 16 of 2001 3. Indonesian Government Regulation No. 63 Year 2008 on Implementation of Law Foundation 	Ministry of Law and Human Rights Jl. HR.Rasuna Said Kav. 6-7. Kuningan, Jakarta Selatan	22 February 2010
2	Directorate of Social Organization Facilities, Directorate General of National Unity, Ministry of Home Affairs	Ministry of Law and Human Rights and PSHK	<ol style="list-style-type: none"> 1. Act. 8 of 1985 on Community Organizations 2. Government Regulation no. 18 of 1986 concerning the implementation of Law No. 8 of 1985 on Social Organization 3. Regulation of the Minister of Home Affairs (Permendagri) No.38/2008 on Acceptance and Community Organizations Relief From and to the Foreign Party 	Ministry of Home Affairs, Jl. Medan Merdeka Utara No. 7, Jakarta	22 February 2010
3	Directorate of Social Institution Empowerment of the Community, Directorate of Social Empowerment,	Ministry of Religion and Dompet Dhuafa	<ol style="list-style-type: none"> 1. Act. 11 of 2009 on Social Welfare 2. Act. 9 In 1961, the collection of money or goods 	Ministry of Social Affairs Jl. Salemba Raya No. 28 Jakarta 10430	23 February 2010

	Ministry of Social Affairs		<p>neighbor</p> <ol style="list-style-type: none"> 3. Government Regulation No. 29 of 1980 on the Implementation of Collecting Donations 4. Decree of the Minister of Social Affairs No. 1/HUK/1995 about Collecting Donations For Disaster Victims 5. Decree of the Minister of Social Affairs on the Implementation of Number 56/HUK/1995 Collection Donated by the Community 		
4	Center for Data, Information and Public Relations, National Agency for Disaster Handling	TII LAT Secretariat	<ol style="list-style-type: none"> 1. Act. 24 of 2007 on Disaster Management 2. Government Regulation No. 21 of 2008 on the Implementation of Disaster Management 	BNPB, Jl. Ir. Juanda No.36 Jakarta	23 February 2010
5	Directorate of Consumer Protection, Directorate General of Domestic Trade	LAT Secretariat and PPAATK	<ol style="list-style-type: none"> 1. Act. 8 / 1999 on Consumer Protection 2. Government Regulation no. 59 of 2001 on Consumer Protection Agency-Governmental Organizations 3. Decree of the Minister of Industry and Trade (Kepmenperindag) No. 	Ministry of Trade Jl. M.I. Ridwan Rais No. 5 Jakarta	24 February 2010

			302/MPP/Kep/10/2001 About Registration Agency for Consumer Protection Non-Governmental Organizations		
6	Empowerment and Labor Inspection Directorate, Directorate General of Labor Inspection, Ministry of Manpower and Transmigration	Ministry of Foreign Affairs KIPS and LAT Secretariat	1. Act. 21 of 2000 on Trade Unions	Ministry of Manpower and Transmigration Jl. Jend. Gatot Subroto Kav. 51 Jakarta	24 February 2010
7	Directorate General of Tax, Ministry of Finance	PPATK and FITRA	1. Act. 36 Year 2008 on Fourth Amendment to Law Number 7 Year 1983 on Income Tax	Headquarters Directorate General of Tax Jl. Jenderal Gatot Subroto No. 40-42 Jakarta Selatan 12190	25 February 2010
8	Center for Reporting and Analysis of Financial Transaction	FITRA and LAT Secretariat	1. Act. 25 of 2003 on Money Laundering (amendment No. 15 of 2002)	Jl. Ir. H. Juanda No. 35 Jakarta	25 February 2010
9	Bureau of Legal, General Secretariat. Ministry of Religion	Ministry of Social Affairs and DNIKS	1. Act. 38 of 1999 on Zakat 2. Decree of the Minister of Religion No. 373 Year 2003 TTG Implementation Act NO 38 Year 1999 About Zakat Management 3. Act. 41 of 2004 on Endowments 4. Government Regulation no. 42 of 2006 on Management of Endowments	Ministry of Religion, Jl. Lapangan Banteng Barat No. 3-4 Jakarta	25 February 2010
NPO					
10	Dompot Dhuafa	LAT Secretariat	1. Act. 38 of 1999 on Zakat 2. Decree of the Minister of	Wisma Nugra Santana Lt. 17 Jl. Jend. Sudirman Kav. 7 - 8 Jakarta	1 March 2010

			<p>Religion No. 373 Year 2003 TTG Implementation Act NO 38 Year 1999 About Zakat Management</p> <ol style="list-style-type: none"> 3. Act. 41 of 2004 on Endowments 4. Government Regulation no. 42 of 2006 on Management of Endowments 5. Act. 36 Year 2008 on Fourth Amendment to Law Number 7 Year 1983 on Income Tax 	<p>Pusat Telp. 021 251 0722 (hunting) // Fax. 021 251 0613</p>	
11	DNIKS	Muhammadiyah and LAT Secretariat	<ol style="list-style-type: none"> 1. Act. 11 of 2009 on Social Welfare 2. Act. 9 Year 1961 concerning the collection of money or goods 3. Government Regulation No. 29 of 1980 on the Implementation of Collecting Donations 4. Decree of the Minister of Social Affairs No. 1/HUK/1995 about Collecting Donations For Disaster Victims 5. Decree of the Minister of Social Affairs on the Implementation of Number 56/HUK/1995 Collection Donated by the Community 6. Act. 36 Year 	<p>DNIKS Jl. Tanah Abang Timur No. 15 Jakarta Pusat</p>	1 March 2010

			2008 on Fourth Amendment to Law Number 7 Year 1983 on Income Tax		
12	Muhammadiyah	Ministry of Religion and Dompot Duafa	<ol style="list-style-type: none"> 1. Act. 8 of 1985 on Community Organizations 2. Government Regulation no. 18 of 1986 concerning the implementation of Law No. 8 of 1985 on Social Organization 3. Regulation of the Minister of Home Affairs (Permendagri) No.38/2008 on Acceptance and Community Organizations Relief From and To the Foreign Party 4. Act. 36 Year 2008 on Fourth Amendment to Law Number 7 Year 1983 on Income Tax 	<p>Secretariat of Central Management Board of Muhammadiyah, Jakarta: Gedung Dakwah Muhammadiyah, Jl. Menteng Raya No.62 Jakarta 10340</p> <p>Telp. +62 21 3903021 Fax. +62 21 3903024</p> <p>Secretariat of Central Management Board of Muhammadiyah, Yogyakarta: Jl. Cik Ditiro No. 23 Yogyakarta 55262</p> <p>Telp. +62 274 553132 Fax.(+62 274 553137</p>	2 March 2010
13	Indonesian Center for Law and Policy Studies	PPATK and FITRA	<ol style="list-style-type: none"> 1. Stadblaad 1870-64 on Legal Society 2. Foundation Law No. 28 year 2004 junto Act No 16 of 2001 3. Indonesian Government Regulation No. 63 Year 2008 on Implementation of Law Foundation 4. Act. 36 Year 2008 on Fourth Amendment to Law Number 7 	Puri Imperium Office Plaza UG 11-12, Jl. Kuningan Madya kav 5-6, Jakarta	2 March 2010

			Year 1983 on Income Tax		
14	Indonesian Consumers Foundation	LAT Secretariat	<ol style="list-style-type: none"> 1. Act. 8 / 1999 on Consumer Protection 2. Government Regulation no. 59 of 2001 on Consumer Protection Agency- Governmental Organizations 3. Decree of the Minister of Industry and Trade (Kepmenperinda g) No. 302/MPP/Kep/1 0/2001 About Registration Agency for Consumer Protection Non- Governmental Organizations 4. Act. 36 Year 2008 on Fourth Amendment to Law Number 7 Year 1983 on Income Tax 	Pancoran Barat VII No. 1 Duren Tiga, Jakarta 12760 T. +62-21-798 1858 F. +62-21-798 1038	3 March 2010
15	Indonesian Confederation of Welfare Labor Unions (KSBSI) Contact Person: Rekson Silaban President of KSBSI Phone: +628129114686 Email: reksonsilaban@hotmail .com	State Secretariat and Secretariat	<ol style="list-style-type: none"> 1. Act. 21 of 2000 on Trade Unions 	Jl. Cipinang Muara Raya No. 33 Jatinegara - Jakarta Timur Indonesia 13420 Phone: (6221) 709 84671 Fax: (6221) 857 76 46	3 March 2010
16	Indonesian Disaster Management Communities (MPBI) Faisal Djalal, General Secretary	Fitra and LAT Secretariat	<ol style="list-style-type: none"> 1. Act. 24 of 2007 on Disaster Management 2. Government Regulation No. 21 of 2008 on the 	Jl. Kebon Sirih No. 5G Jakarta Pusat 10340 Telp/Fax: +62-21- 3103535, +62-21- 3147321	2 March 2010

			Implementation of Disaster Management 3. Act. 36 Year 2008 on Fourth Amendment to Law Number 7 Year 1983 on Income Tax		
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List of Resource Persons at the time of Sector Survey Visits

1. Drs.Denty Ierdan,MM, Masykur, Ministry of Home Affairs, Jakarta, Interview on October 6, 2009
2. Fathona, Ministry of Foreign Affairs of the Directorate of Cultural Affairs and the International Organization of Developing Countries, Jakarta, Sent via fax 30 September 2009
3. Pontus Sitorus, Drs.H.Sofyan Sulaiman, Drs.Murni, Aryadi Satiawira, Supartini, Parwadi, E.Rifai, Ministry of Religious Affairs, Jakarta, 02 October 2009
4. Nur Ali, Ministry of Law and Human Rights, Jakarta, 05 October 2009
5. Gatot, Ministry of Trade, Jakarta, Interview on 05 February 2010
6. Drs.Noor Effendi, Wiendyati Muchtar, Ministry of Social Affairs, Jakarta, Interview on 07 October 2009
7. Dr. Guritno, Saifullah, Ministry of Manpower and Transmigration, Jakarta, Interview on 08 December 2009
8. BNPB, Jakarta, Interview on 01 October 2009
9. Drs. Suhardi Suryadi, LP3ES, Jakarta, Interview on 16 September 2009
10. Dr.Asep Suryahadi, The SMERU Research Institute, Jakarta, 14 September 2009
11. Amalia Sustikarini MILP, CERIC FISIP UI, Jakarta, Interview on 15 September 2009
12. Fransisca Fitri, YAPPIKA, Jakarta, Interview on 11 September 2009

List of Resource Persons at the time of the Field Visit Regulatory Framework

1. Nur Ali, Ministry of Law and Human Rights, Jakarta, Interview on 22 February 2010
2. Syabnikmat Nizam, Malik Ibrahim, Ministry of Home Affairs, Jakarta, Interview on 22 February 2010
3. Drs. Noor Effendi, Wiendyati Muchtar, Ministry of Social Affairs, Jakarta, Interview on 23 February 2010
4. Tarigan, BNPB, Jakarta, Interview on 23 February 2010
5. Wahyu Hidayat,SH, Ministry of Trade, Jakarta, Interview on 24 February 2010
6. Andi Syahrul Pangerang, Ministry of Manpower and Transmigration, Jakarta, Interview on 24 Februari 2010
7. Budi Susanto, Taufik, Director General of Taxation Ministry of Finance, Jakarta, Interview on 25 February 2010
8. Azamul Fadhly Noor, PPATK, Jakarta, Interview on 25 February 2010
9. DR. H. Nasrun Harden,MA dan Dr. H. Sumuran Harahap,MH, Jakarta, Interview on 25 February 2010

10. Muhammad Arifin P, Dompot Dhuafa, Jakarta, Interview on 01 March 2010
11. Dra.Cerdik Tarigan, Dr.Damanhuri Rosadi, Drs H Chairudin, DNIKS, Jakarta, Interview on 01 March 2010
12. Goodwil Zubir, Maizah Dt Taufan, Rutuy M Saleh, Achmad S, Irwan Baadilk, Muhammadiyah, Jakarta, Interview on 02 March 2010
13. Eryanto Nugroho, PSHK, Jakarta, Interview on 02 March 2010
14. Sudaryatmo, YLKI, Jakarta, Interview on 03 March 2010
15. Rekson Silaban, KSBSI, Jakarta, Interview on 03 March 2010
16. Faisal Djalal, MPBI, Jakarta, Interview on 02 March 2010
17. Dinas Sosial Jatim, Surabaya, Interview on 22 March 2010
18. Dr. Tjuk K.Sukiadi, BK3S, Surabaya, Interview on 22 March 2010
19. Maman Sulaiman, Endang Jumali, Regional Office of the Ministry of Domestic West Java, Bandung, Interview on 23 March 2010
20. Nur Effendi, dr.Pamungkas Kusuma, Melati, Rumah Zakat, Bandung, Interview on 23 March 2010
21. M. Maulud Munif, Regional Office of the Ministry of Domestic Solo, Interview on 24 March 2010
22. Encep Moch Kham, BAZDA, Solo, Interview on 24 March 2010
23. Drs. Muh Hardi Sanusi, Muchtar P, Regional Office of the Ministry of Domestic South Sulawesi, Makasar, Interview on 18 March 2010
24. Khudri Arsyad, FIK ORNOP, Makasar, Interview on 18 March 2010
25. Dwi Kuntoro, Office of Manpower and Transmigration, Jakarta Province, Jakarta, Interview on 05 April 2010
26. Bambang Wirahyoso, Karyo, SPN, Jakarta, Interview on 05 April 2010
27. Dra. Melantin Ginting, Regional Office of the Ministry of Domestic North Sumatra, Medan, Interview on 29 March 2010
28. Elfenda, FITRA Sumut, Medan, Interview on 29 March 2010