



## **This document has been provided by the International Center for Not-for-Profit Law (ICNL).**

ICNL is the leading source for information on the legal environment for civil society and public participation. Since 1992, ICNL has served as a resource to civil society leaders, government officials, and the donor community in over 90 countries.

Visit ICNL's **Online Library** at  
<http://www.icnl.org/knowledge/library/index.php>  
for further resources and research from countries all over the world.

### Disclaimers

**Content.** The information provided herein is for general informational and educational purposes only. It is not intended and should not be construed to constitute legal advice. The information contained herein may not be applicable in all situations and may not, after the date of its presentation, even reflect the most current authority. Nothing contained herein should be relied or acted upon without the benefit of legal advice based upon the particular facts and circumstances presented, and nothing herein should be construed otherwise.

**Translations.** Translations by ICNL of any materials into other languages are intended solely as a convenience. Translation accuracy is not guaranteed nor implied. If any questions arise related to the accuracy of a translation, please refer to the original language official version of the document. Any discrepancies or differences created in the translation are not binding and have no legal effect for compliance or enforcement purposes.

**Warranty and Limitation of Liability.** Although ICNL uses reasonable efforts to include accurate and up-to-date information herein, ICNL makes no warranties or representations of any kind as to its accuracy, currency or completeness. You agree that access to and use of this document and the content thereof is at your own risk. ICNL disclaims all warranties of any kind, express or implied. Neither ICNL nor any party involved in creating, producing or delivering this document shall be liable for any damages whatsoever arising out of access to, use of or inability to use this document, or any errors or omissions in the content thereof.

Draft Report

Legal Environment  
of Third Sector Organizations  
in Indonesia

Trisakti University  
Chairman : Prof. Dr.Thoby Mutis

## Draft Report

# History of the Development and Law of Cooperatives, Association, and Labor Union in Indonesia

Prepared by : Maria Rosaline N.R.

## COOPERATIVE

### During Dutch Colonialism

1. In 1896 for the first time cooperatives were introduced by R. Aria Wiria Atmadja (local government officer). Aria changed Savings Bank into cooperative with the aim at helping civil servants from usurers, and he also created the system of keeping rice plants during harvest season in the rice barns which then developed into paddy credit cooperative.
2. In 1898 Aria's efforts then extended by De Walff Van Weterode but failed to develop attributed by prohibitions set up by Dutch Colonial Government.
3. In 1908, Boedi Oetomo founded cooperatives assisted by Serikat Islam.
4. In 1915 Cooperative Law was introduced for the first time by the Dutch Government entitled Verordening op de Cooperatieve Verenegingen (Koninklijk Besluit, 7 April 1915, Stb. 431). Cooperative failed to develop contributed by complicated establishment terms and conditions set up by colonial government.
5. Attributed to substantial protest and oppositions by people, Cooperative Commission was established, led by Dr. J. Boeke resulting in the birth of 1927 Cooperative Law called Regeling Inlandsche Cooperatieve Verenegingen (Stb. 1927-91). In which the establishment of cooperative was facilitated but exclusively at disposal of Indonesian natives only.
6. In 1930, Jawatan Koperasi under umbrella of Domestic Affairs Department was set up, however, the aforesaid cooperatives failed to compete with merchants facilitated by Dutch government.
7. In 1933 again cooperative regulations were issued called Algemene Regeling Op De Cooperatieve Verenegingen (S. 1933 - 108) superseding Cooperative Law of 1915. The ongoing regulations again hampered cooperatives.
8. In 1935 Jawatan Koperasi was handed over to the Economic Department.
9. In 1937 Koperasi Simpan Pinjam or Saving and Lending cooperative was founded with infused capital from government. The aim was to crush down sucking usurers and rice swappers to protect people from making debts.
10. In 1939 Jawatan Koperasi was extended in terms of its scope to become Jawatan Koperasi Perdagangan Dalam Negeri (Domestic Trade).

### Japanese Colonialism

In 1942 cooperative became facilitator for needs of Japanese army and later was named Kumiai functioning to collect war logistics with a result of the death of cooperative.

### Independence

1. In August 18, 1945 cooperative was included in UUD 1945 article 33 paragraph 1 with its elucidations.
2. July 12, 1947 the first cooperative congress was held in Tasikmalaya, West Java with a result that July 12 was constituted as Hari Koperasi (The Day of Cooperative).
3. In 1949 the government changed Cooperative Law 1927 named Regeling Inlandsche Cooperatieve Verenegingen (Stb. 1927-91) into Regeling Cooperatieve Verenegingen

1949 (Stb. 1949 – 179) containing Cooperative Law for Indigenous People. However, the government did not withdraw Cooperative Law of 1933 so as to result dualism of regulations.

4. In 1953 Indonesian Cooperative Movement held its second Congress with the end-result Dr. M. Hatta was inaugurated as the Father of Indonesian Cooperative.
5. In 1958 the government enacted Cooperative Law no.79, 1958 (Lembaran Negara 1958 – 139) holding on UUDS 1950 article 38 and withdrew cooperative regulation of 1933 (Stb. 1933 – 108) as well as cooperative regulations of 1949 (Stb. 1949 – 179).
6. In July 5, 1959 Presidential Decree was issued re-enacting UUD 1945 (Constitution). As follow up the government issued Peraturan Pemerintah No.60, 1959 to enact UU no.79, 1958, underlining :
  - The government constitutes its position as guardian, surveillance of the development of cooperatives in Indonesia by way of Jawatan Koperasi
  - The Jawatan Koperasi is assigned :
    - a) To develop cooperative organization in every aspect of economic sectors.
    - b) To hold guidance and counseling of cooperatives
    - c) To render assistance morally as well as materially.
    - d) To register and legalize Cooperative Legal Body status.
7. In 1960 Instruksi Presiden no.2, 1960 was issued i.e. instructing that in its endeavors to drive up the growth of cooperative movements, cooperation was indispensable between Jawatan Koperasi and public community accommodated in one institution named Badan Penggerak Koperasi (Bapengkop). The magnitude of government's interest and attention resulted in an impact over dependable cooperatives on government's subsidies. In addition to this political parties initiated their interventions in cooperatives. As a result, cooperatives lost their purity and integrity as democratic economic institutions.
8. In April 24, 1961 Musyawarah Nasional I (Munas I) was held in Surabaya which failed to repair the image of cooperative losing their basic ideals.
9. In August 2 – 10, 1965, Musyawarah Nasional II (Munas II) was held, which delivered UU no.14 1965 on Cooperative Principles (L.N. 1965 – 75). Regretably, however, the aforesaid UU still emanated political elements in managing cooperatives. Such ongoing conditions still persisted until the breaking out of Gerakan 30 September 1965 (G.30S PKI) aimed at overthrowing legal government and changing Pancasila ideology into another ideology. This movement was shortly crushed down, and Orde Baru government was born which was intensely willing to enact Pancasila and UUD 1945 purely and consistently.

#### **Era of 1966 up to present**

1. Orde Baru government strongly intended to bring cooperative image back in conformity with the spirit of article 33 UUD 1945. In the mean time Majelis Permusyawaratan Rakyat Sementara (MPRS) was established of which one of the decision made was TAP MPRS no. No.XXIII/MPRS/1966 on the renovation of basic economic policy, finance, and development. The role of cooperative was contained in Chapter V, article 42 and 43 of TAP MPRS mentioned above.
2. In July 17, 1966, Gerakan Koperasi Indonesia (Gerkopin) was holding Musyawarah Nasional in Jakarta constituting following items :
  - a) To reject and cancel all decisions and results of previous Munas Koperasi held in 1961 (Munas I) and 1965 (Munas II).
  - b) To extend appreciation and greatest thanks to MPRS.



trade was enacted. The birth of these two national movements exercised a substantial impacts on the development of labor unions.

2. In 1919 Persatuan Pergerakan Kaum Buruh (PPKB) was born.
3. During the course of 1920 to 1925 working strikes activities were launched substantially to demand improved living conditions of laborers. As a consequence the Dutch Colonial government prohibited the foregoing strikes by issuing Laws prohibiting working strikes (article 161 bis Buku Hukum Pidana) effective as of May 10, 1923.
4. In 1923 a number of Labor unions became members of International Federation of Trade Union (IFTU) headquartered in Moscow, Russia, as well as in Amsterdam, Netherlands.

### **The Colonial Era**

1. In 1930, SKBI (Serikat Kaum Buruh Indonesia) was liquidated by Colonial Government in suspicion of national movement activities
2. In 1940 Colonial government issued Ordonansi Regeling Arbeidsverhouding (ORA) governing the protection to be given to private companies laborers.
3. The developing labor unions were followed by the foundation of Gabungan Serikat Pekerja Partikelir (GSPPI) of Confederation of Private Companies Laborers of Indonesia.

### **During the course of Japanese occupation (1942 – 1945)**

All Labor Unions were banned or dismissed by Japanese Army since they were compelled to become forced laborers.

### **The Era of National Liberation**

1. An umbrella organization : Barisan Buruh Indonesia (BBI) was founded in September 19, 1945 such later broke down into 2 organizations with different focus i.e. politics and economics expecting that BBI became a political movement by erecting Partai Buruh Indonesia (PBI). At some later date, as of November 29, 1946, BBI changed into SOBSI (Sentral Organisasi Buruh Seluruh Indonesia) and participating in PKI rebellions in September 1948 and September 30, 1965.
2. In 1950 Indonesian government has shaped itself as Republik Indonesia Serikat (RIS) in the form of Liberal Government issuing a liberal regulation : Peraturan Menteri Perburuhan no.90 of 1955 governing the registrations of Labor Unions. The development of labor unions skyrocketed into a great number of ± 150 labor unions nationally and hundreds of labor unions regionally as well as Confederation of Labor unions focusing on political activities and thus not protecting and driving up the interests of laborers.
3. In 1956 an umbrella organization was established by Indonesian military under the name Badan Kerjasama Buruh Militer (BKS-BUMIL) activated in coordinating activities of labor unions.

### **The Era of Guided Democracy (1959 – 1965) (ORLA)**

1. In this stage, labor unions gained no developments. During the regime of Soekarno, the government proposed the establishment of Organisasi Persatuan Pekerja Indonesia (OPPI) but opposed by SOBSI which later joined PKI rebellion and was finally dismissed by 1965.
2. In 1961, Sekretariat Bersama Buruh (Sekber Buruh) or Co-Secretariate of Laborers was founded.

### **The Era of Orde Baru**

1. In 1966 aftermath of crushing down PKI rebellion in 1965, Orde Baru broke up led by president Soeharto.

2. Underpinning Orde Baru, Sekber Buruh accommodated unified laborers activities in the organization called Kesatuan Aksi Buruh Indonesia (KABI) which shoulder to shoulder with other Kesatuan Aksi organizations actively participated in firmly erecting Orde Baru.
3. KABI was combating in politics and Sekber Buruh in social and economics as well.
4. The on going spirit of laborers in simplifying and unifying labor unions kept developing.
5. In November 1, 1969 Sekber Buruh founded Majelis Permusyawaratan Buruh Indonesia (MPBI) with 21 labor federation members.
6. Getting into 1970's the government undertook to simplifying political parties by way of fusion which brought to the formation of two political parties namely Partai Demokrasi Indonesia and Partai Persatuan Indonesia and one professional group named Golongan Karya.
7. By the fusion of these political parties labor federation was no longer affiliated to any political parties since they were freed to constitute their basic philosophy, motivation, as well as policy.

### **The Birth of Federasi Buruh Seluruh Indonesia of Federation of all Indonesian Laborers**

1. Strong motivation in forming the accommodation of laborers activities was emanated from the Deklarasi Persatuan Buruh seluruh Indonesia in February 20, 1973 resulting in the founding Federasi Buruh Seluruh Indonesia (FBSI).
2. Labor Unions fusing themselves in FBSI consisted of 21 labor unions grouped into MPBI and then integrated and organized in 21 labor federations in terms of working field and profession.
3. Within the foregoing federation labor unions in their sectors or working field in one Serikat Buruh Lapangan Pekerjaan (SBLP) respectively and became member of FBSI.
4. SBSI was accredited domestically by way of Surat Keputusan Menteri Tenaga Kerja (Ministry of Manpower's Instruction) and by the congratulations abroad continued their activities in cooperation with :
  - International Labour Organization (ILO).
  - International Confederation of Free Trade Union (ICFTU).
  - World Federation of Trade Union (WFTU).
  - SP Jerman through Freidrich Ebert Stiftung (FES).
  - SP Amerika Serikat through Asian-American Free Labour Institute (AAFLI).
5. In 1984 together with ASEAN countries FBSI erected ASEAN Trade Union Council (ATUC).

### **Serikat Pekerja Seluruh Indonesia (SPSI)**

1. The second National Assembly of FBSI in November 23 – 30, 1985 changed the body of Federation into Unitaris (Unity) simplifying 21 SBLP into 9 Departments, and the name FBSI into SPSI as well.
2. Other than FBSI forming a Federation of 21 labor unions, the SPSI constituted a one single SP equipped with 9 Departments.
3. In their efforts in arousing identities of Indonesian laborers and enhancing prides of their services in nation building and national development inspired by Pancasila Industrial Relationship or Hubungan Industrial Pancasila (HIP) the government has constituted February 20 to be Hari Pekerja Indonesia or the Day of Indonesian Labor which date was previously the date of birth of FBSI in 1973 by way of Deklarasi Persatuan Buruh Seluruh Indonesia.

### **Federation of SPSI**

1. During the meeting of Musyawarah Nasional III SPSI in November 26, 1990, it was finalized to develop and to promote 9 Departments to 13 Sectors of which each possessed Chairman and Secretary elected by Munas.
2. Further Musyawarah Pimpinan II in October 3 – 8, 1994 SPSI launched efforts in reforming and restructuring organization by means of improving Statutes of SPSI. Within this context Unitaris was brought back to Federation, in which the positions of 13 sectors were promoted to the levels of Serikat Pekerja Lapangan Pekerjaan respectively. The name SPSI was changed into Federasi Serikat Pekerja Seluruh Indonesia with affiliations or members of 13 SPLP as follows :
  - SP Niaga, Bank, dan Asuransi.
  - SP Rokok, Tembakau, Makanan, dan Minuman
  - SP Logam, Elektronik, dan Mesin.
  - SP Bangunan dan Pekerjaan Umum.
  - SP Farmasi dan Kesehatan
  - SP Pariwisata.
  - SP Perkayuan dan Kehutanan.
  - SP Tekstil, Sandang, dan Kulit.
  - SP Kesatuan Pelaut Indonesia.
  - SP Transportasi Indonesia
  - SP Percetakan, Penerbitan, dan Media Informasi.
  - SP Kimia, Energi, dan Pertambangan.
  - SP Pertanian dan Perkebunan.
3. By doing so no longer one single labor union has existed in Indonesia, but 13 labor unions (SPLP) and 1 Federation (FSPSI) in their number.

### **The Era of Reformation**

1. The top climax of reformation movements was May 21, 1998 by the retirement of president Soeharto meaning the cessation of Era Orde Baru are succeeded by Vice President BJ Habibie as the third president of Indonesia.
2. The government then ratified ILO Convention in terms of freedom of organization and the protection of Right of Organization in 1948 (no.87) by Presidential Decree no. 83, 1998. Likewise was the issuance of Undang-Undang (Law) no.9, 1998 governing freedom of expression in public. On the other hand ILO Convention in terms of the Right of Organization and Negotiation no.98, 1949 was long previously ratified by Undnag-Undang (Law) no. 18, 1956. As a consequence a varied number of political parties were born and likewise were a great number of new labor unions.
3. Ending the year 1998, new labor unions which declared their existence and registered to the office of Ministry of Manpower, were 14 labor unions listed below as follows :
  - Federasi Serikat Pekerja Seluruh Indonesia (FSPSI).
  - Presidium DPP Reformasi FSPSI.
  - Federasi Serikat Buruh Demokrasi Seluruh Indonesia (FSBDSI).
  - Serikat Buruh Sejahtera Indonesia (SBSI).
  - Sarekat Buruh Muslimin Indonesia (SARBUMUSI).
  - Persaudaraan Pekerja Muslimin Indonesia (PPMI).
  - Gabungan Serikat Pekerja Merdeka Indonesia (GASPERMINDO).
  - Federasi Organisasi Pekerja Keuangan dan Perbankan Indonesia
  - Kesatuan Buruh Marhaenis (KBM).
  - Kesatuan Pekerja Nasional Indonesia (KPNI).
  - Ikatan Staf Indonesia PT. London Sumatera Indonesia.





- Indonesian association registered constitutes a legal body (article 2 paragraph 1)
- In its capacity as legal body, association in Indonesia should be registered and also meet legal body requirements as follows:
  - a) having own assets (article 3 paragraph 1)
  - b) their members assuming no personal responsibilities for bindings made by association (article 3 paragraph 2)
  - c) Association reserves its own rights and commitments and its legal actions are performed by the management as organ.
- Application for obtaining recognition as legal body is submitted by the management of association either in writing or orally to the Chairman of the Local Court where the association is founded attaching the names of board of management, its goal, and domicile of association as well as names and domiciles of its members.
- The status of association is obtained whenever the registration and the signing of statutes (article 16) has been done which statutes should comply with the procedures required in articles 13, 14 and 16, respectively.
- Further, association already recognized as legal body should be registered in a special registration book with the Committee of the Court and announced in the Statute Book (article 18 and 19).
- The recognition as legal body is refuted whenever it is factually evident that the goals of association are opposing public security, morals or the enactment law (article 8 paragraph 6)
- Indonesian association comes to end as dismissed by the decision made by general meeting of association members.

## Law and Regulations affecting Labor Union :

Prepared by : Yolanda Masnita S.

### Law defining or impacting upon governance of Labor Union

Based on the ILO Convention No.87, 1948, the government has legislated The Law of Labor Union no.21, 2002.

#### Incorporation

- ◆ Every worker/employee/labor has the right to become the member of any labor union.
- ◆ A labor union is established with the minimum of 10 members.
- ◆ A Labor Federation can be formed with every 5 labor unions.
- ◆ A Confederation can be composed by a minimum of 3 labor federations.

#### Registration

- ◆ The registration of a labor union is made as well as legislated in the office of Ministry of Manpower.

#### Internal Governance

- ◆ The composition of board in a Labor union is not regulated.
- ◆ The same as cooperative and foundation, it is mentioned that a labor union must have a constitution, within which the composition of board is mentioned based on the agreement among members.
- ◆ The accountability of the board of management is regulated as such that the financial report must be periodically reported to the members. However there is no regulation that labor union must report their financial statement to the government.
- ◆ The tasks and responsibilities of the board of management, and how the decision is made are self regulated and cited in the organization constitution.

#### Financial Aspect:

- ◆ The source of fund is mentioned in the law, which consist of :
  - a. Members' fee/contribution
  - b. Legal exertion
  - c. Local as well as foreign donation.
- ◆ Foreign donation must be reported to the Ministry of Manpower

### **Other Laws and Regulations regarding Labor matters:**

Law	Enacted in	Regulating
1951 (Law No.2, 1951)	Jakarta, 6 Jan 1951	Pekerjaan anak, orang muda dan wanita, waktu kerja dan waktu istirahat <i>Child, Youth, and Women Labor Working Hours and Break time</i>
1951 (Law No.4, 1951)	Jakarta, 6 Jan 1951	Pengawasan ketenaga kerjaan yang dilaksanakan oleh pejabat pengawas ketenagakerjaan (Kewenangan Mentri) <i>Supervision of work-labor exerted by the Ministry of Manpower</i>
1954 (Law No.69, 1954)	Jakarta, 28 May 1954	Perjanjian perburuhan antara serikat buruh dan majikan <i>Working Contracts of Labor Federation and Employers</i>
1957 (Law No.42, 1957)		Penyelesaian perselisihan di daerah, dipusat, angket, arbitrase, pihak yg berselisih, jenis perselisihan (hak dan kepentingan) <i>Settlement of Conflicts incurred regionally and centrally,</i>

		<i>questionnaire, arbitrage, conflicting parties, nature of conflict (right and interest)</i>
1958 (e Book No.3, 1958)		Tenaga Kerja Asing yg bekerja di Indonesia harus mendapat izin dari menteri atau pejabat yg ditunjuk. Izin dapat diberikan dengan memperhatikan pasar kerja. <i>Work permits for foreign workers to be issued by the Minister of Manpower or the appointed officer to this end work permit will be given considering the work market.</i>
1961 (Ratification No. 106)	Jakarta, 25 Feb 1961	Istirahat mingguan dalam perdagangan dan kantor-kantor <i>Weekly off-days of trade and office activities.</i>
Tahun 1964 (e Book No.93, 1964)		Langkah PHK, ijin PHK lebih dari 10 org oleh P4P dan perorangan oleh P4D, syarat-syarat memperoleh ijin PHK <i>Requirement for obtaining approval for workers' dismissal</i>
Tahun 1969 (Ratification No.120)	Jakarta, 5 April 1969	Konvensi Hygiene dalam perniagaan dan kantor-kantor <i>Hygiene convention of trade and office.</i>
Tahun 1969 (e Book No.55, 1969)	Jkt, 19 Nov 69	Ketentuan pokok mengenai tenaga kerja, penyediaan, penyebaran dan pengguna tenaga kerja, pembinaan keahlian dan kejuruan, pembinaan perlindungan kerja, hubungan ketenagakerjaan <i>Principal regulations concerning work labor and supply of labors</i>
1970	Jkt, 2 Jan 70	Keselamatan kerja di tempat kerja <i>Work safety in work places</i>
, 1981 (e Book No.39, 1981)	Jkt, 31 July 1981	Setiap perusahaan wajib lapor keadaan tenaga kerja yg berada di perusahaannya <i>Obligations to report the current condition of labors in the companies.</i>
, 1984 (e Book No.29, 1984)		Penghapusan Diskriminasi terhadap wanita <i>The removal of discrimination for women workers</i>
, 1992 (e Book No.14, 1992)	Jkt, 17 Feb 1992	Setiap pekerja wajib diikutsertakan dalam program jaminan sosial tenaga tenaga kerja <i>Every worker is obliged to have social security program.</i>
5, 1997	Jkt, 3 Oct 1997	Kesempatan dan perlakuan sama, perencanaan tng kerja dan informasi ketenagakerjaan, hubungan industrial Pancasila, perlindungan, pengupahan dan kesejahteraan, pelatihan kerja, pelayanan penempatan, TKWNA, tenaga kerja di dalam hubungan kerja sector informal dan diluar hubungan kerja <i>Equal opportunities and treatments, Pancasila Industrial Relationship</i>
11, 1998 (e Book No.184, 1998)		Perubahan berlakunya UU No.25 Th 97 tentang ketenagakerjaan menjadi 3 Oktober 2000 <i>Changed of enactment of Law no.25, 1999 into October 2000</i>
19, 1999 (Ratification No. 105)	Jkt, 7 May 1999	Penghapusan Kerja Paksa <i>The Dismissal of Force Labor</i>
20, 1999 (Ratification No.138)	Jkt, 7 May 1999	Usia minimum untuk diperbolehkan kerja <i>The minimum age allowable to work</i>
21, 1999 (Ratification No.111)	Jkt, 7 May 1999	Diskriminasi dalam pekerjaan dan jabatan <i>Work discrimination.</i>
2000 (Ratification No. 182)	Jkt, 8 March 2000	Penghapusan bentuk-bentuk pekerjaan terburuk untuk anak <i>The removal of the nastiest works for children</i>
21, 2000	Jkt, 4 Aug 2000	Serikat Pekerja/Serikat Buruh <i>Labor Union</i>

### Reference

- Prof. Imam Soepomo, SH. *Hukum Perburuhan: Bidang Hubungan Kerja*. Cetakan ke-9. Jakarta:Djambatan, 2001.
- Sentanoe Kertonegoro. *Gerakan Serikat Pekerja (Trade Unionism)*. Cetakan kedua. Yayasan Tenaga Kerja Indonesia. 2000.

- Lalu Husni, SH, M.Hum. Pengantar Hukum Ketenagakerjaan Indonesia. Cetakan Kedua. PT Raja Grafindo Persada, Jakarta. 2001
- Hadi Setia Tunggal, SH. UU RI No.21 tahun 2000 tentang: Serikat Pekerja/Serikat Buruh. Cetakan Kedua. Harvarindo. 2001.
- Prof. Imam Soepomo, SH. Hukum Perburuhan: Undang-Undang dan Peraturan-peraturan. Djambatan, Jakarta. 2001
- RM Braganza. Disadur oleh Tati Krisnawaty. Foreign Domestic Helpers In Hongkong: Assistance Manual. Asian Migrant Centre. 1992.
- M. Syauffi Syamsuddin. Kebebasan Berserikat Era Ratifikasi Konvensi Dasar ILO. Asosiasi Hubungan Industrial Indonesia. Jakarta. 2001
- Kompas 20 April 2001. Kepemilikan Tanah, Hak Asasi Petani
- Noer Fauzi. Petani dan Penguasa: Dinamika Perjalanan Politik Agraria Indonesia. INSIST. Cetakan I. 1999.
- P Soeharnoko. Masalah Tenaga Kerja dan Perundang-Undangan. 2000
- Budi Harsono. Hukum Agraria Indonesia: Sejarah Pembentukan Undang-undang Pokok Agraria, Isi dan Pelaksanaannya. Cetakan keenam. Percetakan Anem Kosong Anem. 1995
- Ali Moertopo. Buruh dan Tani Dalam Pembangunan. Yayasan CSIS. Jakarta. Cetakan Pertama. 1975
- Payaman Simanjuntak. Peranan Serikat Pekerja Dan Paradigma Baru Hubungan Industrial di Indonesia. Cetakan Kedua. HIPSMI. Jakarta. 2000
- Sentanoe Kertonegoro. Kebebasan Berserikat. Yayasan Tenaga Kerja Indonesia. Cetakan Pertama. 1998
- Everett D. Hawkins. Labor Problems in A Newly Independent Country: The Case of Indonesia. UGM. Yogyakarta. 1977.
- Kuntowijoyo. Radikalisasi Sejarah: Esai-esai Sejarah. Cetakan Ketiga. Yayasan Bentang Budaya. Yogyakarta. 2002.
- Arifin Junaidi. Manajemen Organisasi Nirlaba. Cetakan Pertama. Perhimpunan Pengembangan Pesantren Dan Masyarakat (P3M). Jakarta. 1988
- Siswanto Sastrohadiwiryono. Manajemen Tenaga Kerja Indonesia: Pendekatan Administratif dan Operasional. Cetakan Pertama. PT Bumi Aksara. 2002
- J. Thomas Lindblad. Sejarah Ekonomi Modern Indonesia: Berbagai Tantangan Baru. Pustaka LP3ES Indsonasia. Cetakan Pertama. 2000.
- Website: [http://www.kode\\_etik\\_buruh.html](http://www.kode_etik_buruh.html)
- Website: <http://www.arupa.or.id> tentang Hukum dan Perkembangan Pertanian di Jawa

## Law and Regulations affecting Foundation :

Prepared by: Maria Rosaline Nindita Radyati

### Law defining or impacting upon governance of Foundation

Law of Foundation no.16, 6<sup>th</sup> August, 2001

#### Incorporation and Registration

- The requirement to establish a foundation is not only to have a notarial act, but also registered to the Minister of Justice and Human Right.
- Should the foundation locate not in the capital city, then the registration can be made to the Regional Head Office of the Department of Justice and Human Right.
- The minimum people required to establish a foundation is only one person.
- The purpose of setting up a foundation is regulated, i.e. should be for social service, humanity, and religion.
- All the foundations that had been established before the enactment of this law, is given 5 years of adjustment to the new law.

#### Internal Governance:

- The composition of board is regulated under this law, which should consist of : (1) The founder; (2) The Board of Management; and (3) The Board of Supervisor.
- It is also cited that the Board of Management should consist of : the chairman, a secretary, and a treasurer.
- The highest authority should be in the hand of the founders. They have the authority to select as well as discharge the member of the board of management and supervisor.
- The policy of the foundation is composed by the founders and should be written in the foundation constitution.
- The process of decision making is through the founders' meeting.
- The source of fund for the foundation according to this law consist of:
  1. The founders
  2. Local as well as foreign donation
  3. Waqf
  4. Bequest
  5. Other legal source of fund.
- A foundation is allowed to have some income generated activities, however, the money received can not be distributed to the members of the board as well as the founders.
- The members of the boards are not allowed to get salary.
- It is regulated that 75% of the total assets should be used purely for social activities, while the rest can be used for related activities in accordance with the mission and objectives of the foundation.
- The accountability of foundation is regulated by : acquiring foundation to publish the financial annual report in the local newspapers if it has total assets more than or equal to Rp.20 billion (± US\$18 million). Should the assets be less, the foundation is obliged to announce the report internally.
- When the foundation receives donation more than or equal to Rp. 500 ~~billion~~ <sup>million</sup> (± US\$45,000 ~~million~~), it is obliged to make public announcement.
- The audit of financial reports should be done by public accountant, and reported to the associated minister office as well as to the founders.

#### Taxation:

- The foundation is required to pay income tax. While the donation received is not taxed.

## **Law and Regulations affecting Cooperative :**

Prepared by : Maria Rosaline Nindita Radyati

### **Law defining or impacting upon governance of the Cooperative**

The Law of Cooperatives no. 25, 1992:

In this law, the government regulates the incorporation, registration, and internal governance of cooperative such as : the composition of the board, the tasks, responsibilities and answerability.

#### **Incorporation:**

- ❖ There are two types of cooperatives, which are : Primary Cooperative and Secondary Cooperative. In article 6, it is mentioned that: The members of primary cooperatives are required at the minimum of 20 people, while for secondary cooperatives, the members consist of minimum 3 cooperatives.
- ❖ In Article 8 : it is mentioned that Cooperatives has to make a Constitution that regulates internal organization, i.e. everything that relates to : membership, member's meeting, capital, management, distribution of patronage refund, etc.

#### **Registration :**

- ❖ In article 9 and 10 regulate that the legalization of cooperative is given by the Minister of Cooperatives.

#### **Internal Governance:**

- ❖ The requirement and composition of Board is regulated in article 21, i.e. (a) Members' meeting; (b) Board of Management ; and (c) Board of Supervisor.
- ❖ The members are considered as the shareholders as well as the service users.
- ❖ Every member has the same right to elect and to be elected as a Board of Management or Supervisor.
- ❖ Transparency : all members have the right to get any information regarding the development of cooperative.
- ❖ The obligations and responsibilities of Boards are regulated in details in some articles, which are mentioned below:
  1. The highest authority is in the Members' Meeting (article 22)
  2. The members' meeting decision is made by a consensus, if not, by voting. (article 24)
  3. The Accountability of the Board of Management is reported in the members' meeting (article 25)
  4. The frequency of members' meeting is once a year (article 26).
  5. The Board of Management election is made in the members' meeting, with 5 years period of duty. (article 29).
  6. Article 30 regulates that the Board of Management has the right to recruit a manager that will have to be responsible to the Board.
  7. The Board of supervisor has a responsibility to the Members' meeting (article 38).
  8. The duty of the Board of Supervisor is regulated in article 39.
  9. Cooperative has to be audited by an independent auditor from public accountant. (article 40).

#### **Taxation :**

- a. It is regulated that as soon as cooperative registered to the government and has been running for one year, cooperative must be registered to the Tax Office.

- b. The tax laws for cooperatives are: PPH (Income Tax) no.17,2000
  - i) PPH article 21 (Pajak Penghasilan Karyawan) (Income Tax article no.21) about Employee's Income tax.
  - ii) PPH article 23 (Pajak Penghasilan atas bunga simpanan anggota) : Income tax on interest from member's saving.
  - iii) PPH article 26 (Pajak atas pembayaran imbalan jasa kepada pihak lain yang merupakan wajib pajak luar negeri) : Income tax on fees to other party which is foreigner.
  - iv) PPH article 25 dan 29 (Pajak Pendapatan) : Income Tax earned by cooperatives
- c. In chapter 1 of this Law of Cooperative, it is mentioned that cooperative is considered as a Corporate Body, which means that in terms of paying tax, cooperative is treated like any other for-profit organization, i.e. has an obligation to pay income tax.
- d. There are some of cooperative's income which are **not** object of tax law, i.e.
  - 1. Bequest
  - 2. Dividend or profit received by cooperative as a shareholder in Indonesia's business organizations with the condition of:
    - a. Dividend originated from retained earnings.
    - b. Cooperative has a minimum share of 25%
    - c. Cooperative has other business activities besides the ownership of the shares.

#### **Other Laws and Regulations Affecting Cooperative Governance:**

1. Government Regulation no. 17, 1994 regarding: The Dissolution of Cooperatives. The Ministry of Cooperative has the right to dissolve cooperative under the conditions as follows:
  1. Cooperative has failed to comply with the Cooperative Law.
  2. Cooperative is considered as breaking the law and order, and ethics.
  3. Cooperative has bankrupted.
  4. Cooperative has not been doing any activities for 2 years.
2. Government Regulation no.14, 1994 concerning : The Requirement and Arrangement of Legalization process and Alteration of Cooperative Constitution.
3. Government Regulation no. 25, 2000, concerning The Regional Government Authority as a Regional Autonomy. Here is stated that the Regional Government has some obligations i.e.
  - a. Formulating The manual of Accountancy for Cooperative
  - b. Formulating The manual for capital investment in Cooperative
  - c. Facilitating the development of distribution system in cooperatives.
  - d. Facilitating the cooperation between cooperatives and middle and small scale entrepreneurs and other business organizations.

#### **Administrative arrangements for enforcing the legal environment :**

The government, through the Regional Government, has the role of only monitoring cooperative but not supervising on how cooperatives carry out the Law of Cooperative.

#### **How the compliance of Cooperative with these requirements are checked :**

During New Order Era (1965 – 1997) the monitoring activities usually carried out by civil servant from the office of Coordinating Minister of Cooperatives, by attending the



cooperatives' members' meeting. However, during the Reformation era, the attendance of people from government in the members' meeting is rarely found.

#### Are organisations penalised for non-compliance?

Even it is mentioned in the Law of Cooperative and in the Government Regulation that the government can dissolve the cooperative under some conditions, however the government has never been doing such action. As long as any change in cooperative business has been approved by the members' meeting, than the government never intervene.

#### Law and Regulations affecting the Provision of Services

The regulations about the prerequisite to organize some public services such as health care, are made by the Ministry of Health, while for public education services are made by the Ministry of Education, and any other services are regulated by the government depends on the kind of services provided by the cooperatives.

#### Independent Self-Regulatory Scheme

As the guidance in operation, cooperative in Indonesia has some self-regulatory scheme, i.e.:

##### **1. ICA Co-operative Identity Statement (ICIS)**

This statement is legalized in the ICA Congress in Manchester 1995 and has become the international consensus since then. It contents the principles of cooperatives that distinguish cooperatives from any other business organizations.

The cooperative principles are:

1. Volunteer and Open membership
2. Members' Democratic control
3. Members' Economic participation
4. Freedom and Autonomy
5. Education, Training, and Information
6. Cooperation among cooperatives
7. Community and Environment Concern

##### **2. Value-Based Professional Management in Co-operatives.**

This manual for cooperative training was suggested in a seminar in Pune, India on 31<sup>st</sup> August – 11<sup>th</sup> September 1998 organized by ICA ROAP (International Co-operatives Association Regional Office for Asia and The Pacific). Until now this statement is still a draft, however, Ibnu Soedjono (the Chairman of the Institute of The Development Study of Cooperatives in Indonesia (LSP2I) and an expert in Cooperatives), has made a book with the same title to give some input to cooperatives in Indonesia about the Cooperative Business Ethics.

#### Cooperatives Business Ethics regulates cooperative ethics toward :

- a. The members, concerning that the prominent benefit and services provided by cooperatives should be aimed for the members. Any other services provided not to the members, should be discussed in the members' meeting.
- b. The customer: in delivering services, cooperative should be honest, efficient, polite, and sensitive to any complain from the customers.
- c. The Employee: cooperative should be able to give adequate wages without any discrimination, and open for employee's opinion.
- d. The Government: cooperative must have the responsibility to pay taxes on time, and must be transparent in reporting financial statements.
- e. The Community: cooperatives in carrying out activities should maintain clean environment, and protect the marginal groups especially women.

### 3. Development Ladder Assessment :

This is a manual for assessing cooperative performance is initiated by ICA-INCODAP. This manual is now being put into test for some cooperatives in East Java, Sumatra, Kalimantan, and North Sulawesi.

#### Refference:

- Ali, Chidir, *Badan Hukum*, 1999, Penerbit Alumni, Bandung
- Bohari, *Pengantar Hukum Pajak*, 1993, Rajawali Press, Jakarta
- Chatamarrasjid, SH., MH., *Tujuan Sosial Yayasan dan Kegiatan Usaha Bertujuan Laba*”, 2000, Penerbit PT. Citra Aditya Bakti, Jakarta
- Djohan, Djabaruddin, *Setengah Abad Pasang Surut Gerakan Koperasi Indonesia : 12 Juli 1947 – 12 Juli 1997*, Dekopin, 1997, Jakarta
- Hadikusuma, R.T. Sutantya Rahardja, *Hukum Koperasi Indonesia*, 2000, Rajawali Press, Jakarta.
- Dr., Drs, H. Mohammad Zain, Ak. Dan Drs. H. Dodo Syarief Hidayat, 2001, PT. Citra Adytia Bakti, Jakarta
- Kaslan A. Tohir, *Peladjaran Koperasi*, 1964, Balai Pustaka, Jakarta
- Lokakarya Nasional : Penguatan Koperasi Melalui Pembaruan UU Koperasi dan Kebijakan Pelatihan Koperasi*, 2001, LSP2I, Jakarta
- L. Boedi Wahyono- Suyud Margono, *Hukum Yayasan antara Fungsi Karitatif atau Komersial*: 2001, CV. Novindo Pustaka Mandiri, Jakarta
- R. Ali Rido, *Badan Hukum dan Kedudukan Badan Hukum Perseroan, Perkumpulan, Koperasi, Yayasan, Wakaf*, 2001, PT Alumni, Bandung
- R.T. Sutantya Rahardja Hadhikusuma, *Hukum Koperasi Indonesia*, 2000, PT Raja Grafindo Persada, Jakarta
- Soedjono, Ibnoe, *Jatidiri Koperasi*, 2002, LSP2I, Jakarta
- Soedjono, Ibnoe, *Manajemen Profesional Berdasarkan Nilai-Nilai dalam Koperasi*, 2002, LSP2I, Jakarta.
- Thoby Mutis, *Pengembangan Koperasi*, 2000, Gramedia, Jakarta
- Peraturan-Peraturan Perpajakan tahun 2001*, 2001, Citra Umbara, Bandung.
- UU No. 25 th. 1992 tentang Perkoperasian*, 1992, Sinar Grafika, Jakarta
- UU No. 16, 2001, tentang Yayasan,*, 2001, Sinar Grafika, Jakarta
- “Undang-undang Republik Indonesia No.: 21 Th. 2000 tentang Serikat Pekerja/Serikat Buruh, dihimpun Hadi Setia Tunggal, SH., Harvarindo, 2000
- [www.asianphilanthropy.org](http://www.asianphilanthropy.org)

A draft Report

**Research Findings**  
**The Key Informants and Organizational Surveys**  
Prepared by : Jeffry Anwar, Maria Rosaline NR, Yolanda Masnita

**Background and Goals**

These piloting surveys of Key Informants and Organizations are part of the grand scheme of the Asian Third Sector Organizations Governance comparative study. Using the given survey tools, each country needs to conduct these piloting survey individually. The survey results will be used to further improved the survey tools to suit with each country specific condition and situations.

**Processes:**

The Indonesian team conducted the Key Informants Survey (KIS) and Organization Survey (OS) from 15 September-20 November 2002. Fifteen respected and knowledgeable experts of third sectors organization and four organizations were interviewed during that period. The interviews were taking place in Jakarta, Bandung and Yogyakarta. We made trips to be able to conduct these interviews surrounding the key informants' tight schedules. Some interviews were carried on at the Key Informants' offices and the rests were at several NGOs seminars and meetings supported by Ford Foundation, TIFA Foundations and Unitarian Services of Canada (USC) Satunama. Unfortunately, we could not tape recording all the interview sessions since some of the key informants asked us not to do it due to confidentiality reasons.

The fifteen key informants are:

- 1) Nana Sukarna (SAWARUNG)
- 2) Eka Chandra (AKATIGA)
- 3) Darwina (TIFA Foundation)
- 4) Rustam Ibrahim (LP3ES)
- 5) Agustiana (Pasundan Farmer Union)
- 6) Lusi Herlina (KPPM)
- 7) Adi Santika – from the office of Ministry of Justice and Human Right
- 8) Ismartono – KWI :
- 9) ~~Lusi Herlina – KPPM~~ : **Abat Elias (BK31)**
- 10) Ilhamsyah – FNPBI
- 11) Abdi Suryaningati – YAPIKA
- 12) JM Sidhu – YBS Lembata
- 13) Wicaksono – URDI
- 14) TB Nazmudin – Forum for Corporate Governance Indonesia
- 15) Bambang Ismawan – Bina Swadaya

Four organizations were visited for conducting the organizational survey. Those organizations are, Rifka Anissa (Women Advocacy Center) and USC Satunama both are in Yogyakarta, Bina Swadaya, BK3I, and FCGL. Besides interviews with directors of those organizations, we also talked to executive staffs suggested by the directors to have more detail information and other additional sources such as organizational profile, annual reports, bulletin etc. needed for the survey.

## **The Results:**

### **A. Key Informants Questioners**

1. The term of Third Sector Organization is rarely used to name non-government organizations (NGOs), co-operatives, associations, unions, and peoples organizations in Indonesia. Most of the key informants just knew the terms when we conducted interviews. The others acknowledged the term as they attended in the last workshop held by Trisakti University at Ciputra Hotel, Jakarta. A few argued that the terms is recently introduced by Western development institutions along with other conceptions of civil society, good governance. Introduction of these concepts is suspected as means to shape, control, and domesticate the increasing social movements for social transformation which are organized by many peoples organizations at the grassroots level in Indonesia and the other Asian countries.
2. Judgments for the organizations which have good performance are bounded and very subjective. Most of the informants believe that their own organizations have better performance than the others. In reference to the other organizations with good performance, key informants bounded to his or her friends they know serve as director or as board members. Some consider durability of an organization is significant and shows the good performance of the organization.
3. Understanding about good governance varied from one to another key informant. Some interpreted good governance as the condition in which each major these following entities: market, state and civil society, are in same line in term of power and structure. The balance relationships of those three entities have to be in balance to be said as good governance. The others interpreted good governance as the internal condition of an organization. Each decision making unit of an organization has to have a balance structure, good relation and interaction towards the organizational missions and goals.
4. Indicators for good governance have interpreted differently as each key informant refers to different reality in their mind. However, three major aspects are required to be established. The organization has to have a separate structure of policy making unit and managerial task. These two units have to be established as an individual unit in the organization. Interactions among those units have to be defined clearly in the basic principle of the organization. Beside a clear distinction of internal organizational structure, responsibility issues is also becoming an

important indicator of good governance of an organization. In this case, there two different corners: to stakeholders or to constituent in which the organization has to responsible. For a membership-based organization is agreed that the organization has to responsible to its members. However, for non-membership-based organization, some informants argued that the organization is to be accountable to its stakeholder (board) and especially to its funding agency. The other informants believe that the group of peoples who are stated in its organization vision to receive major services from the organization or its constituent has to have major benefits from the organization. Therefore, the organization has to accountable to these peoples.

5. Third sectors organizations laws and government policies such as Foundation Laws 2001, Labor Union Laws 2000, Tax Laws 2001, Government Policy on Terrorism 2002, and Local Government Laws 1999 now are considered as the major influencing factors for existence the organizations. In the past, For example, during the Soeharto Regime government, NGOs and LSMs received pressures from the government as the organizations were seen as anti-government or playing subversive social and political movements against the government. Repressive policies and actions from the government were produced during that regime era. During this transition era, some NGOs and LSMs are taking initiatives to develop self-regulating mechanism to make better image of the organization along with an increasing demand for more transparency and accountable of the third sectors organizations from funding agency and from the public. For example, Sawarung provide model of self-regulating mechanism by its associate organizations. LP3ES and its network organization is trying to establish a code of conduct of NGOs implemented by its network organization. TIFA foundation with USC Satunama is promoting the notion of NGOs' certifying body.
6. Another important findings are related to some technical aspect for better design of the questioners:
  - a. Most of the key informants rank the answer for questions no 6 and 7. Suggestion from our experience in piloting, is that we should design the excel with additional column for ranking.
  - b. We should put extra work to re-categorizing and recoding for the open ended questions no. 7, 9, and 12.

Some input for improvement of Organizational Questioners:

1. Would you explain more the meaning of "Formal members" ? Do you mean: staff or non staff member or organization member?
2. Would you also provide the operational definition of the concept of "Traditional Constituent ?"
3. We found that there have been some biases understanding about the term of Constituent among the organization we piloting. To NGO, LSM or Ornop, constituent has been perceived as people or group of people being served by the organizations. However, current discussion among LSMs concluded that

constituent is their **partners or subject** for social movement and not an object to be served.

4. It will be better for you to realize that the notion of Membership-based organization in Indonesia not only consists of peoples but also organizations, such as : all members of BK3I consist of organizations (co-operatives); SAWARUNG (NGO Forum) has NGOs as its members; FNPBI (Labor Union) has groups of people as members.
5. Would you also elaborate more about the term of "Foreign Funding"? Should we differentiate between the funding agency located in Indonesia and funding agency in foreign country ? Because some of the informants were confuse about that question.
6. Some confusion arises about question no.3.4. In Indonesia, some funding comes through government but actually not from government, such as JPS (Social Safety Net Program) : executed by the government, but the money came from USAID. How should we categorize this case ?
7. We would suggest that question no.4.5 may need to be splitted into 4.5a for question asking close friend and 4.5b for asking about family. Because we found that some organizations have many close friends (and they think it is better to have close friends as members), but do not have any family as members.
8. It might be better if question no.4.3d can also be divided into two questions about elected leader and appointed leader.
9. Would you explain more about "minority group"? Because in Indonesia, minority can be understood as : Chinese people or/and Christian people.

**Draft report on Key Informant Survey :**  
**Prepared by : Maria Rosaline N.R. & Yolanda M. Siagian**

1. There are many types of third sector organisations known variously as civil society organisations, NGOs, voluntary organisations, LSMs, social organisations, religious organisations, unions, cooperatives etc. **What types of third sector organisations are you familiar with?**

These are some organizations mentioned by the key informants:

1. LSM (Self Reliant Organization) (7 informants)
2. Religious Organization (2 informants)
3. Social Organization (2 informants)
4. Volunteer Organization (2 informants)
5. Labor Union (1 informant)
6. NGO (1 informant)
7. Association (3 informants)
8. Cooperative (3 informants)

It can be seen that LSM (Self Reliant Organization) is the most popular TSO among our key informants, following that are Cooperative and Association as the second, Social Organization, Religious organization and Volunteer organization are the third most popular. In Indonesia, in fact, there are many types of Associations i.e. : Perkumpulan, Perhimpunan, Paguyuban, Asosiasi, Himpunan, Gabungan, Ikatan, Persatuan, Kerukunan, etc, however only 3 informants mentioned Association.

2. **Can you name two/three third sector organisations that, in your opinion, are doing a good job/performing well?**

There are 18 organizations are considered good performing, which are:

1. Nurani Dunia
2. ELSAM (2 informants) (The Institute of Policy Research and Advocacy)
3. Tim Relawan untuk Kemanusiaan
4. FNPBI (Front Nasional Persatuan Buruh Indonesia) (2 informants)
5. SPSU (Serikat Petani Sumatra Utara) (Farmer Association in North Sumatra)
6. YCM (Yayasan Citra Mandiri di Mentawai)
7. ASPUK (Asosiasi Perempuan Usaha Kecil) (Women Association)
8. Masyarakat Belajar Sumatra (Learning Community in Sumatra)
9. PBHI
10. PKBI
11. Yayasan KEHATI
12. LP3ES (3 informants)
13. Bina Swadaya (2 informants)
14. Dian Desa – Yogyakarta (4 informants)
15. Yayasan Purba & Arta – Semarang
16. Yayasan Indonesia Sejahtera – Solo
17. Care International
18. Forum for Corporate Governance (FCGI)

Dian Desa is mentioned by 4 key informants to have a high performance. It is an organization that has aim in enhancing welfare of rural community by empowering appropriate technology.

LP3ES is an Institute for Social and Economic Research, Education, and Information that has produced relatively a lot of book that help people carry out Social and Economic Research. ELSAM is an organization is an advocacy policy organization which exists since August 1993 in Jakarta. Its main goal is participating in the efforts to enhance and protect civil, political, as well as human rights. This organization is mentioned by 2 key informants

**3. There is a growing interest in the governance of third sector organisations. What does the term 'governance' mean to you?**

Almost all key informant have their own very good and long explanation about governance of TSO.

1. The Management of Legislative, executive, and judicative.
2. Organizing system, i.e. : how the system works.
3. The management of organization from all aspects of organization, i.e. : the management of organization structure, organization hierarchy and organization resources (such as capital, facilities, and assets)
4. The management of organization, *tata-kepengurusan*, *tata-manajemen* in the organization.
5. The process of the entire management of organization.
6. Guiding and facilitating
7. The management of organization in relation with the stakeholders.
8. The mechanism of *penyelenggaraan* organisasi.
9. The process of providing services to the members/constituents and stakeholders.
10. The principles that regulates interactions internally, within organizations and externally, with the stakeholders.

There are some local terminologies used by some key informants that can not be translated precisely in English, which are : *tata-kepengurusan*, *tata-manajemen*, and *penyelenggaraan organisasi*.

**4. Some third sector organisations are considered better governed than others. What would you consider to be indicators of good governance?**

There is quite a long list of good indicators of good governance, as follows:

1. Trust from the community towards the organization.
2. The welfare of the members of the organization.
3. Positive impact experienced by the constituents.
4. Clear Vision and Mission
5. Good procedures and organization priority
6. Transparency
7. Accountability
8. Consistency in running the program
9. How big is the organization's involvement in defending community.
10. Democracy
11. Stakeholder's participation
12. Equality, non-discriminative.
13. The existence of evaluation system and reflection
14. Good communication
15. The willingness to help each other in the organization
16. The representative from community in the Board of Supervisor or Board of Trustee.



17. Efficiency and effectiveness
18. Independency in decision making
19. Financially independent
20. Effective interaction with other organizations
21. Forming of cadres
22. Financial Sustainability
23. Human Resources Sustainability
24. Create services to community
25. Fairness.

**5. What external factors, do you think, (positively and/or negatively) affect the governance process of third sector organisations?**

1. Social, politic, and economy condition
2. Moral values in the community
3. Working commitment
4. The democracy nature
5. The fast information system and media
6. Corruption system
7. Patriarchy Culture
8. The fading of trust from the community to the NGO
9. The pressure from political enemy
10. The influence from donor agency
11. Law enforcement
12. Critics from community to the organization
13. Friendly but critical environment in the organization.
14. The acknowledgement of the organization existence
15. The awareness of the importance of accountability and good governance
16. The variety of NGO
17. The common understanding and knowledge about good governance
18. The support or barrier from the government
19. Good relation with business organizations as one of the stakeholders.
20. The obedience to Laws
21. The discipline culture in the community
22. Clean justice system.
23. Bureaucracy which is not money oriented.

## DATA COLLECTED

### SOME INITIATIVES OF SELF-REGULATING MECHANISM ESTABLISHED AMONG NGOS IN INDONESIA

PREPARED BY: JEFFRY ANWAR

- Bina Desa and eleven LSM created a code of ethics for partnership as an effort to make self-regulating mechanism among them-selves as well as guidance to interact with other third sector organizations, private business and government. However, the code of ethics is still hard to be implemented.
- LP3ES is working on the creation code of conduct for LSM and setting-up association of LS who working in the field community-based, social, and economic development programs.
- Zakat Institute of Management (IMZ), Jakarta Chapter is trying to establish a standardize rating system for Islamic philanthropic organization.
- USC Satunama, in Yogyakarta is also developing a certification program and accreditation system of management for LSM. The program and the system can be used to improve the performance management of LSM and increase the public, donor trust and accountability upon the LSM.
- The NGOs coalition against the Foundation Laws were created to propose an alternative draft of the Foundation Laws in order to ensure that the Laws is accommodating the needs of civil society organizations for continuing democratization processes in Indonesia
- PIRAC conducted a public discussion to find the most suitable legal form for LSM in April 2002.
- TIFA, ~~YAPIS~~, and CETRO conducted a seminar to expose the positive and negative aspects of the implementation of the Foundation Laws no. 16 2001.
- YAPIKKA and TIFA conducted discussions with civil society organizations in six provinces as anticipation of those organization towards the implementation of the Laws of Foundation.
- PIRAC conducted workshop to formulate the concept of accountability and transparency among LSM.
- The Consortium of NGO for Civil Society Development (KPMN) is conducting a systematic effort to improve transparency and accountability of its members to their local constituents.
- CECT-USAKT and PIRAC conducted a workshop to identify the discourse, theme, and practice of third sector governance as an effort to adopt and modify major generic conception about third sector, third sector organization, governance, accountability and performance to suit with local contexts
- SAWARUNG is promoting activities towards local good governance initiatives among a diverse stakeholders of LSM, NGOs, CSO, Government, and private sectors