

# CSO Assessment Study: Legal and Political Environment for Developmental/Rural Development NGOs in Indonesia

By: Irvan T. Harja

Bina Desa Foundation  
October 2022



# Introduction

## Rationale and Research Objectives

There is no consensus regarding the standard definition of civil society organization (CSO). As stated by Mukkonen (2009), "One key issue is that a standard definition for the term 'Civil Society Organization' is absent from extant literature." Despite the absence of a standard definition of CSO, several parties have tried to define the meaning of CSO. Smismans (2008) defines CSOs as important actors who can realize participatory and responsive research dedicated to the real world. While Malena (2010) mentions CSOs, in a broader context, are defined as all non-profit organizations that are not related to government. CSOs are generally value-based organizations that rely, in whole or in part, on charitable donations and voluntary services. On the other hand, the United Nations (UN) defines CSOs as voluntary non-State entities, also not for profit, which are created by society in a social environment that is separate from the State and the market. CSOs represent a wide range of interests and relationships. They (CSOs) can include community-based organizations as well as non-governmental organizations (NGOs). Within the context of the United Nations Guidelines for Reporting Frameworks, CSOs do not cover businesses or for-profit associations (UNGP Reporting Framework).<sup>1</sup>

CSOs are an important pillar of democracy. CSOs participate in development, both in cities and in villages, especially in terms of community empowerment. There are at least three aspects of empowerment: *enabling* (creating an atmosphere that develops community potential), *empowering* (strengthening potential through concrete steps), and *protecting* (protecting the weak) (Noor, 2021, p. 87). In addition, CSOs play a role in filling independence and become a highly important national asset in the journey as a nation and State.

The existence of CSOs in Indonesia can be traced back to the colonial period of the Dutch East Indies. One of the CSOs that took part in the dynamics of the national movement at that time was the *Sarekat Islam*. In its development, CSOs are growing, followed by the number, type, distribution and varied scope of work, all of which fill the space of resistance to the colonial system. Until entering the gate of independence, various CSOs participated in realizing the ideals of national independence as enshrined in the 1945 Constitution.

In Indonesia, the term Civil Society Organization is generally associated with Non-Governmental Organizations (NGOs). As mentioned in Standard Norms and Regulations Number 3 concerning the Right to Freedom of Association and Organization of National Commission of Human Rights, from the

---

<sup>1</sup> CSO: Non-State, not-for-profit, voluntary entities formed by people in the social sphere that are separate from the State and the market. CSOs represent a wide range of interests and ties. They can include community-based organizations as well as non-governmental organizations (NGOs). In the context of the UN Guiding Principles Reporting Framework, CSOs do not include business or for-profit associations. <https://www.ungpreporting.org/glossary/civil-society-organizations-csos/>

legal entity aspect, CSOs can include associations, unions, clubs, cooperatives, non-governmental organizations (NGOs), foundations, associations, and many more, including organizations that have no legal entities.

At least three approaches can be implemented to understand the position of NGOs in Indonesia's socio-political formation. The first approach looks at NGOs from a vertical perspective. The vertical approach defines NGOs as independent, autonomous entities, not co-opted by the State, instead they tend to play a role as a means of controlling power outside the *trias politica*<sup>2</sup> institution. The vertical approach frames NGOs as organizations that contribute to the agenda of democracy, democratization and democratic struggle.

The second approach views NGOs from a horizontal perspective. This approach looks at the relationship of NGOs with other CSOs and individuals. This approach defines NGOs as components of civil society that contribute to social harmony, such as aspects of tolerance and pluralism. Therefore, the work carried out by NGOs leads to — to borrow Nurcholish Madjid's term — the formation of a “civil society”. According to Madjid, civil society means a just, open and democratic society based on piety to God Almighty.<sup>3</sup> This approach means that NGOs are supplements to the State, with the main agenda being to build a harmonious national culture through community work.

The third approach comes from Sujatmiko (2003). Applying Sujatmiko's approach means that to observe NGOs from two sides, vertically and horizontally. The vertical side represents the relationship with the State, while the horizontal side looks at the relationship between NGOs and the democratization process in society. Sujatmiko's opinion is contextual with the contemporary era, especially in the context of liberal democracy. In a democracy, public involvement in policy making and State oversight is necessary, and NGOs can play a role as a connector between the interests of civil society and the political community.

The collapse of the New Order (Orba) marked a new chapter in the dynamics of NGOs. The New Order regime co-opted almost all political and social institutions, including NGOs. Only a few NGOs were able to accommodate public aspirations during the New Order era. After the New Order era, the space for NGOs is expanding, along with political liberalization with the theme of “good governance” (good governance). The theme of good governance is based on the principles of participation, accountability and transparency. The political nature of good governance also supports a more dynamic NGO movement.

The presence of NGOs is increasingly relevant in the reform era, along with the neoliberalism agenda which has never been effective in answering the problem of poverty in urban and rural areas. The relevance of the existence of NGOs is also supported by their capabilities in empowering and

---

<sup>2</sup> Further information concerning this matter, see: Sujatmiko, I. G. (2001). Wacana “Civil Society” di Indonesia. *Jurnal Masyarakat*, 9.

<sup>3</sup> Further information concerning Civil Society, see: Bakti, A. F. (2005). Islam and Modernity: Nurcholish Madjid's Interpretation of Civil Society, Pluralism, Secularization, and Democracy. *Asian Journal of Social Science*, 33(3), 486–505. <http://www.jstor.org/stable/23654384>

advocating for the community. NGO activists tend to be in direct contact with grassroots communities intensively. NGOs are also usually operated by social activists who have experience and knowledge, both theoretical and empirical, so that the services provided to the community are more stable.

In its development, the social development work carried out by NGOs was not without obstacles. Indeed, good governance requires a participatory policy-making process. However, there are many cases where NGO inputs are not heard in the policy-making process. On the other hand, some parties feel that the political and legal environment has not supported the contribution of CSOs in development.

There have been many studies that describe the history and development of NGOs in Indonesia. However, there are still few studies assessing the legal and political environment of developmental NGOs in Indonesia. Therefore, this research aims to:

- provide a brief description of civil society organizations in Indonesia;
- assess the legal and political environment of developmental NGOs; and,
- present recommendations to empower and increase NGO participation in development in the country.

## Research Method

This study was conducted to provide an overview and assess a social indication or phenomenon, in this case the legal and political environment of developmental NGOs in Indonesia. This study employs descriptive research. Descriptive research presents a detailed picture of a particular situation, social setting or social relationship (Silalahi, 2010, p. 27).

To achieve the research objectives, the research method employed four data collection techniques:

- *Desktop Research*. Researchers undertook desktop research or literature studies by utilizing all available channels (online and offline) to obtain legal documents, regulations, policies, and other relevant information. A literature review was conducted to collect data and information on the legal and political environment of NGOs in Indonesia.
- *In-depth Interviews (IDI)*. To deepen the research topic, the researcher intended to conduct an in-depth interview (IDI) with three ministry representatives: the Ministry of Home Affairs (Kemendagri), the Ministry of Law and Human Rights (Kemenkumham), and the Ministry of National Development Planning/National Development Planning Agency (PPN/Bappenas). Unfortunately, only Bappenas were willing to be interviewed. In addition, IDI was also conducted with three NGO leaders and an academic.
- *Focus Group Discussions (FGDs)*. FGDs with first (age 40 years and above) and second generation (39 years and below) of CSO workers were conducted to identify the challenges that emerged

and were faced in the two different generations. Each FGD was attended by eight participants with CSO activist backgrounds.

- *Weighting.* The weighting is carried out as an assessment instrument for the legal and political environment of developmental NGOs. The weighting was carried out as a way to assess the opinion of NGO activists on the legal and political environment of developmental NGOs in Indonesia. The weighting instrument employs a questionnaire containing questions that represent all dimensions along with assessment indicators. Respondents were asked to give a score for each of the existing assessment indicators. All scores on the indicators are then calculated on average as the final result that represents the general opinion of all respondents. The average score of all indicators is then added up to determine the weight of each dimension and theme. For the efficiency of the data collection process, the weighting is carried out after each FGD process is complete. Thus, an assessment of the legal and political environment of development NGOs in Indonesia is carried out constructively.

Researchers (i.e. FGD participants) make an assessment tool to carry out weighting as a basis for assessing whether the legal and political environment of developmental NGOs in Indonesia is supportive, regulatory, or closed. The weighting consists of two domains: the legal framework and the political environment. Within the legal framework domain there are three dimensions: a) registration, b) funding, and, c) accountability mechanisms. While the domain of the political environment consists of four dimensions: a) freedom, b) information, c) partnership, and, d) participation. Each domain has a maximum score of 100. Each dimension consists of several indicators. To assess whether the domain of the legal environment and the domain of the political environment are supportive, regulatory, or closed, the researchers divide the rankings as follows:

- Score >70-100: supportive/open
- Score >40-70: regulatory/regulative
- Score 0-40: restrictive/closed

## **Research Scope and Limitation**

The scope of this research only describes the legal and political environment of developmental NGOs in Indonesia using selected indicators.

This study has limitation in terms of the number of in-depth interview sources: only one government representative, an academician, and three NGO leaders, all of which were conducted in DKI Jakarta.

In addition, the respondents involved in the weighting were sixteen NGO activists, not involving other stakeholders such as government officials, academics and beneficiaries of social services.

## CHAPTER 1: Non-Governmental Organization Introduction in Indonesia

### Brief history of civil society organization

The civil society movement found its revival momentum during the wave of democratization in Latin America and Eastern Europe in the 1980s and 1990s. The wave of democratization then spread to other countries led by authoritarian regimes, including Indonesia when it was under the control of the New Order. In its development, the civil society movement was embodied into a civil society organization (CSO) which has the aim of strengthening civil society to encourage the acceleration of democratic transition and development agendas outside of State actors and business groups.

CSOs have come to be known by many names, some call them *Organisasi Non-Pemerintahan* (Ornop) which is a direct translation of Non-Governmental Organizations (NGOs), a term used by the United Nations (UN) to refer to non-State organizations related to UN agencies and partner non-governmental organizations (Culla, 2006, pp. 63-64). In Indonesia, the popular term used is *Lembaga Swadaya Masyarakat* (LSM) or Non-Profit Organization.

In Indonesia, the development of NGOs began at least in the late 1960s and early 1970s, when the New Order began its reign. Although the New Order was able to maintain the stability of economic growth at seven to eight percent per year, the general condition of the community was shackled by poverty and on the other hand the space for community participation in development was greatly closed or restricted. Poverty conditions and closed government then become some of the reasons for NGOs in Indonesia to take part in the process of social and economic development.

The existence of NGOs cannot be separated from the paradigm of State development in the form of modernization theory which is based on growth rates. In the 1970s, the object of study by NGOs was problematic development programs. For instance, the Institute for Economic and Social Research, Education and Information (LP3ES), which was born in 1971, is an NGO that is critical of the Green Revolution program. According to Fakhri (1996), in the 1970s, NGOs were considered unable to offer alternative development paradigms and tended to only try to “update” and propose reactions to development methodologies and practices, without questioning the basic assumptions of modernization (Fakhri, 1996, p. 102).

The initial driving forces behind the development of NGOs in Indonesia were educated groups, students, academics and intellectuals who understand socio-economic problems. In subsequent developments, in the 1980s, NGOs began to grow that carried out empowerment and case advocacy work. NGOs have started to play an important role in society through their advocacy work, such as advocating for environmental issues in the form of waste and pollution (Ibrahim, 2006, p. 19). The emergence of CSOs that carry out empowerment, advocacy and bring transformative ideas is an

initial milestone for the independence of NGOs as non-State actors who are able to contribute ideas for alternative development from developmentalism implemented by the New Order (Fakih, 1996, p. 105).

Entering the 1990s, NGOs in Indonesia began to be faced with the issue of human rights. The strengthening of human rights issues faced by CSOs was a consequence of the advocacy work carried out, both environmental issues and agrarian conflicts, which were also common at that time. The emergence of human rights issues is in line with the increasingly authoritarian and repressive character of the New Order regime. This then contributed to the birth of the pro-democracy movement. In its development, NGOs have emerged that have the main agenda of advocating for human rights and democracy as an effort to restore civil and political rights of the people. The struggle of NGOs with issues of democracy and human rights then opens the door to other areas of advocacy — both for these NGOs and for other NGOs — such as the fulfilment and defense of the social and economic rights of the people. In the 1990s, NGOs started working on the defense and protection of socio-economic rights such as land rights, the right to decent work, gender equality and so on. NGOs have emerged as one of the actors fighting for the reform agenda.

In 1997, Indonesia was hit by a monetary crisis that spread to an economic and political crisis. During 1997 to 1998, poverty and unemployment rates skyrocketed. The crisis situation triggered massive student demonstrations in major cities in Indonesia. The majority of NGOs support student demonstrations and the ongoing reform agenda. Eventually, President Suharto resigned in May 1998, after 32 years in power.

The fall of the New Order indicates that Indonesia is entering the gates of a democratic transition. The era of democratic transition was marked by the emergence of new NGOs in Indonesia. The post-New Order era is known as the reform era, an era where civil society movements strengthened. With the freedom of association, assembly, and expressing opinion opened, NGOs grew like mushrooms in the rainy season. In the reform era, both NGOs born during the New Order era and after competed with each other to be heard by the people (Ibrahim, 2006, p. 19). The question then is, what is the next role of NGOs so that Indonesia can truly become a democratic country?

In order to ensure the success of the reform agenda in the form of democratization of the State and the resolution of the economic crisis, NGOs have reaffirmed their alignment with civil society. The NGOs realize that the interests of the people cannot be accommodated in an authoritarian State order. Hence, full supervision of State actors must be definitely carried out by civil society itself. If during the New Order era, the work of NGOs was manifested in advocacy programs, in the reform era, NGOs must go beyond the work of a casuistic nature. NGOs are required to play a role in guarding the interests of civil society in the process of policy formulation and implementation. In addition, NGOs are also required to modernize themselves in terms of improving organizational governance which includes aspects of human and financial resources.

In the post-New Order developments, NGOs developed very rapidly, both in terms of the number and variety of issues that became the focus of their work. Institutionally, NGOs in Indonesia are also increasingly showing good governance to support social development work. In addition to the focus on various issues, the types of work of NGOs are also increasingly varied, ranging from building community capacity to participate in the process of making and evaluating policies, defending civil rights, social and economic empowerment of the community, educating the public regarding public issues through campaigns, and many more.

## Definitions and characteristics

Developmental NGOs have their own characteristics and differ from civil society organizations based on religion, ethnicity and culture. The characteristics of developmental NGOs are that their work is social development-oriented and knowledge-based. In contrast to religious or cultural organizations that are based on religious values and cultural identity.

In Indonesia, NGOs are known by various names. However, they are generally known as *Organisasi Non-Pemerintah (Ornop)* or *Lembaga Swadaya Masyarakat (LSM)*. Whatever the name, an NGO is defined as a group or organization in which the individuals in it have a common interest that is non-profit-oriented, the work is done voluntarily and organized with a variety of scopes of work, some at local, national and international levels. NGOs play a role in various humanitarian services and functions, convey the aspirations of the community or citizens to the government, monitor policies, and encourage political participation (The PRAKARSA, 2021, p. 8).

For the government, NGOs are defined as community organizations (Ormas) in general. Through Law Number 16 of 2017 (UU 16/17), Community Organizations, hereinafter referred to as Ormas, are organizations established and formed by the community voluntarily based on common aspirations, desires, needs, interests, activities, and goals to participate in development for the sake of achieving the goals of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia (Article 1 of Law 16/17).

The various definitions of NGOs make the identification of characteristics and categorization of NGOs in Indonesia also increasingly diverse. To understand the characteristics of NGOs in relation to the relationship between NGOs and the government and society, Philip Eldridge (1995) divides NGOs into three categories: a) CSOs that are oriented towards high-level cooperation (high level partnership: grassroots development), b) CSOs that are oriented to high-level politics (high level politics: grassroots mobilization), and, c) CSOs that are oriented to strengthening grassroots (empowerment at the grassroots).

- *High Level Partnership: Grassroots Development.* NGOs in this category are organizations that have a tendency to implement a collaborative agenda on government development programs



and policies to ensure that these programs and policies run in a participatory and grassroots way. This type of NGO usually places more emphasis on matters directly related to technical policies rather than advocacy or substance.

- *High Level Politics: Grassroots Mobilization.* In this category, NGOs are seen as organizations that are active in political activities. This type of NGO usually focuses on substantive work at the level of ideas based on a socio-radical theoretical framework that is outlined in critical actions to ensure that the government exercises power in accordance with the ideal State philosophy. This type of NGO restricts itself from being directly involved in the implementation of development policy programs carried out by the government. The cooperation with the government is usually only in the form of research, training, and community empowerment. This type of NGO emphasizes the role of community defenders, both in efforts to protect and freedom of movement to ensure that the interests of the community are accommodated in a policy. Hence, it is not uncommon for this type of NGO to mobilize grassroots masses to oppose various policies that are considered detrimental to the community.
- *Grassroots Strengthening (Empowerment at the Grassroots).* This type of NGO usually focuses on raising awareness and empowering grassroots communities. This type of NGO can be called a combination of the previous two types, which emphasizes grassroots strengthening and is also not always interested in collaborating with the government. However, there are still differences, namely that this type of NGO does not have an agenda to carry out political movements like the second type, in the sense that this type does not have the orientation to move to change policies at the political level. Thus, it is not uncommon for NGOs with these three characteristics to always avoid programs that are political in nature. This type of NGO believes that change will only occur as a result of increasing community independence and capacity.

## NGOs at a glance in Indonesia

The Ministry of Home Affairs noted that the results of the data recapitulation of civil society organizations up to 11 January 2022, the total number of registered CSOs in Indonesia is 512,997, consisting of 2,604 CSOs that have a Certificate of Registration (SKT) with expiry date of 1 August 2022; as many as 202,903 CSOs incorporated as associations; 307,434 CSOs incorporated as foundations; and 56 foreign CSOs. Meanwhile, the number of non-legal organizations<sup>4</sup> registered with the Ministry of Home Affairs as of 2 June 2022 is 2,322.

In general, the Ministry of Home Affairs divides CSOs into two categories, namely Legal Entity Organizations and Non-Legal Organizations.<sup>4</sup> In contrast to the Ministry of Home Affairs, to be more specific, through Standard Norms and Regulation No. 3 concerning the Right to Freedom of Association and Organization, Human Rights National Commission categorizes CSOs into several types, namely:

---

<sup>4</sup> Non-legal organization is an unregistered organization in Ministry of Home Affairs and Ministry of Justice and Human Rights.

- Religious organizations function as channels to manifest the fundamental right to freedom of religion or belief.
- Political parties are associations whose one purpose is to participate in the management of public affairs, including through the presentation of candidates for free and democratic elections.
- Labor union is an organization in which workers seek to promote and defend their common interests.
- Human rights defenders are people who act individually or in association with others to promote and seek the protection and realization of human rights and fundamental freedoms at the local, national and international levels.
- Non-governmental organizations are established to achieve certain goals, especially social, with various types and forms, including various legal entities.

In terms of legality, non-profit CSOs consist of six categories, namely: a) associations, for membership-based; b) a non-member foundation, usually on a property basis; c) a limited company that is not intended for profit; (d) trust, a legal instrument used to set aside money or property from one person for the benefit of one or more people or organizations, or commonly known as philanthropy; e) charity, the legal form for voluntary organizations that is common in the UK and some Commonwealth countries; and, f) special forms, such as companies for the public interest, funds, study centers/institutions, and others (KOMNAS HAM, 2020, p. 19).

NGOs in Indonesia have different ranges of work. There are NGOs whose work areas are national, provincial and district/city. It is possible that provincial or district/city level NGOs are branches or coalitions of larger NGOs.

PRAKARSA (2021) describes the characteristics of NGOs based on their operational level, namely Community-Based Organizations (Local) or Regional Level, National Organizations and International Organizations. Local level NGOs (provincial/district/city) have programs aimed at local communities in order to have a direct impact on local communities. Meanwhile, the characteristic of national NGOs is that they cover problems on a national scale. In operating, national NGOs generally involve local NGOs. Meanwhile, international NGOs have the characteristic of working with NGOs at regional and national levels which are non-binding. In carrying out their programs, international NGOs usually involve local NGOs with issues that include global issues or international standards (The PRAKARSA, 2021, p. 25).

Local NGOs in Indonesia have a tendency to work across localities. Although domiciled in district/city A, several local NGOs also operate in district/city B. However, related to networks, according to the Scanlon and Alawiyah study (undated), less than two thirds of local NGOs are in coalition with other NGOs and national NGOs. This indicates that the interaction between NGOs (cross-level) is relatively

less intense. Scanlon and Alawiyah also wrote that interactions between NGOs and with government institutions are generally short term. The same study also found that the location of NGOs also influenced the level of NGO interaction, with those located far from the provincial capital city having the lowest likelihood of interacting with national NGOs than (local) NGOs located closer to the provincial capital (Scanlon and Alawiyah, without year, p. 10).

A study of NGO network analysis in Indonesia conducted by Lassa and Li (undated) explains that some NGOs play the role of “resource hubs” and others as “brokers” or “financial resources”. Resources hubs are — but are not limited to — NGO leaders, such as key figures within the NGO, or public opinion builders, as well as individuals with skills in building and developing network ecosystems who have access to specific information or consultations. Resources hubs can come from international/foreign donor agencies, national and local NGOs. Meanwhile, financial resources are those who play a role in connecting individuals and linking organizations related to finance (Lassa and Li, n.d., p. 4). The results of the same study also formulate the hypothesis that the results of the interpretation of the network ecosystem model that are carried out, the possibility of building collective action between NGOs, donors, local governments and the private sector to achieve certain goals is difficult (Lassa and Li, without year, p. 9).

## CHAPTER 2: Legal Framework of Developmental NGOs in Indonesia

The national development paradigm in the reform era relies on a growth approach which is measured by the extent to which the economic growth rate grows. Apart from relying on household consumption, economic growth requires an element of investment as one of the dominant directions in national development. The great design of macroeconomics to sustain investment flows is the law of the market mechanism. Therefore, the role of the private sector is greatly dominant. It is assumed that investment will stimulate national industrial development, create jobs — both in urban and rural areas — and ultimately create general prosperity. However, national development projects that include the creation of growth facilities and infrastructure, from policy models to the implementation of infrastructure development, also have the potential to carry risks to the environment and human rights. In the midst of the complexity of the development phenomenon, NGOs are present as a balancing element between the interests of the State, the market and civil society.

Regulation and deregulation to accommodate investment interests sometimes creates social excesses. For instance, the process of land acquisition to the construction of buildings on land sometimes creates agrarian conflicts. According to the records of the Agrarian Reform Consortium (KPA) (2021), during 2020 there were 241 agrarian conflicts in 30 provinces originating from the plantation sector (122 conflicts), forestry (41 conflicts), infrastructure development (30 conflicts), property (20 conflicts), mining (12 conflicts), military facilities (11 conflicts), coastal and small islands (3 conflicts), and agribusiness (2 conflicts).

Agrarian conflicts are a paradoxical mirror of development ethics. On the one hand, it means that the realization of investment is positive for economic growth, but on the other hand, it deprives individuals or groups of individuals of their rights to land and food rights. As is well known, agrarian resources play a function as productive resources: a means of earning income, a function of conservative resources, and a means of supporting living ecosystems. In the context of this development ambivalence, NGOs exist as defenders of human rights, who seek to ensure that investments run without oppression.

Developmental NGOs are not only present as “fire-fighters”; many of them also carry out empowerment work. It must be admitted that it is impossible for the government to take care of the needs of all the people alone. For instance, in tackling the COVID-19 pandemic, grassroots initiatives pushed by a number of NGOs for the prevention and control of the virus have an extremely strong role in suppressing the rate of transmission of the outbreak. Likewise with other grassroots initiatives, such as poverty alleviation, farmer empowerment, improving labor welfare, providing legal assistance, defending the rights of marginalized groups (people with disabilities, elderly, women) and so on, are examples of how NGOs fill voids in national development.

## **Description of Developmental NGO**

In Indonesia, according to the Ministry of Home Affairs, there are two types of NGOs in terms of legal entities: Associations and Foundations. The policy on foundations is regulated in Law Number 28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations. Meanwhile, the association still refers to the Staatsblad 1870 No. 64 concerning Associations with Legal Entities and Book III Chapter IX of the Civil Code. Foundation is defined as a legal entity consisting of assets that are separated and intended to achieve certain goals in the social, religious and humanitarian fields, which has no members. As an association can be a legal entity and not a legal entity which includes an alliance, cooperatives and associations that support each other.

The categorization of NGO types to associations and foundations has limitations in knowing the scope and typologies of CSOs in Indonesia. In practice, there are various types of NGOs in Indonesia whose regulations are outside the legal framework of the CSO Law, Law 28/2004, and Staatsblad 1870 No. 64. For example, labor unions, which are regulated in Law Number 21 of 2000 concerning Trade Unions/Labor Unions. Likewise with cooperatives, this refers to Law Number 17 of 2012 concerning Cooperatives. Therefore, to identify the scope and types of NGOs, it is necessary to conduct a sectoral analysis of the types of NGOs in question. In addition, considering that the types of NGOs recorded by the Ministry of Home Affairs are limited to foundations and associations, it is difficult to know the exact number of NGOs in Indonesia. Given that there is a gap in the definition between Community Organizations referring to Law 16/17 and the notion of NGOs referring to various literatures, efforts to define the scope and types of civil society organizations require flexibility, not limited to the legal framework of Law 16/17 alone.

NGOs in Indonesia have a wide range and type of organization. To map the scope and type of organization, it is necessary to pay attention to the role, services and reach of each type of NGO. There are at least six types of NGOs in Indonesia with the following scope of operations:

Table 1: Types and Scopes of CSO

Types of CSO	Scopes
Foundation	Social, religious, and humanitarian fields
Association	Depends on the statutes or regulations of the association. Found in the social, religious, humanitarian, economic, cultural fields.
Unions (entrepreneurs, labors, farmers and fishers)	Sectoral interests and union members
Cooperative (Coop)	Economic, social and cultural fields. Divided into primary cooperatives (individuals) and secondary cooperatives (cooperative legal entities).
Sectoral Associations/Communities	Family in nature, to foster unity and harmony among its members. Covering various fields: social, economic, cultural, religious, ethnic and humanitarian
Foreign NGOs	Social, religious, and humanitarian fields. Attached to the legal entity of the foundation.

Source: various sources (processed)

The first characteristic of developmental NGOs is their role in policy advocacy. Policy advocacy is carried out through many channels such as political lobbying, involvement in the formation of a policy, lawsuits against a policy, and public campaigns related to the content of a policy. Policy advocacy through political lobbying is usually carried out after finding evidence of the adverse impact or potential of a policy. While involvement in the formation of a policy is carried out by NGOs, either through invitations received from policy makers or there are regulations that require the involvement of civil society representatives in the formulation of a policy, for example, the involvement of labor unions in tripartite institutions and wage councils, both national and regional. In addition, before issuing a policy or regulation product, policy makers usually conduct public consultations, in which NGOs play a function as assistants to the beneficiary citizens of a policy or regulation product. NGOs also often file lawsuits against policy products that are deemed inconsistent with the constitution or have a detrimental impact on the groups they represent, for example, the lawsuit of a number of NGO alliances against Law Number 11/2020 concerning Job Creation to the Constitutional Court. Usually, the policy advocacy work carried out is accompanied by public campaign activities to gain public support.

Another role played by developmental NGOs is the provision of community empowerment services. Empowerment is usually carried out at the local level; therefore, it directly targets certain community groups. As an illustration of empowerment by NGOs is the formation and development of community organizations such as labor cooperatives, farmers' cooperatives, fishers' cooperatives or other forms of organization. An example of empowerment services provided by NGOs is the establishment of the *Sauyunan Perempuan Farmer Binangkit* (SPPB) organization consisting of cross-village women farmers in Cianjur, West Java as a result of the NGO empowerment program of the Bina Desa Foundation. Women farmers who are members of SPPB are empowered to give birth to

various initiatives for food production activities and agriculture-based advocacy with a gender justice perspective (Binadesa.org, 29/06/20).

Community empowerment is an example of an NGO's efforts to increase the dignity of the lower levels of society. NGOs are a form of accommodation for the interests of civil society, as well as a bridge in the struggle and defense of the interests of the people from the excesses of development. Since NGOs are supported by strong solidarity and collectivism, they can be mediators of development policies or programs. In other words, NGOs function to reduce the potential for social conflicts that occur in the community (Herdiansah and Randi, 2016, p. 49).

To ensure that citizens' civil rights are fulfilled, there are NGOs whose role is to provide legal aid services. Legal assistance provided includes litigation and non-litigation. The NGO that generally plays a role in providing legal aid is the Legal Aid Organization (OBH). Such assistance provided is very meaningful for the poor and groups of citizens who need legal assistance. Through pro bono activities, advocates from NGOs can provide free legal consultation and assistance. In addition to pro bono, there are also pro deo activities, namely legal proceedings or cases from pro bono. Pro deo activities are carried out by advocates for residents who are financially incapable of being proven by a Certificate of Incapability (SKTM). The costs of pro deo activities are borne by the budget of the Supreme Court of the Republic of Indonesia.

Meanwhile, there are NGOs that provide informal education services and skills training. Educational services provided include soft-skills and hard-skills. The beneficiaries of educational services vary. Many NGOs play a role in training children's character, such as the Anak BBM Foundation, training the skills of people with disabilities to be competent in working as OHANA does, even political education for certain groups such as the school for young politicians programmed by the SATUNAMA Foundation and the anti-corruption academy owned by ICW.

Among the many types of services, there are also developmental NGOs that provide health services. As it is known that the national health infrastructure is not yet optimal. There are still many areas that lack the existence of health facilities. In addition, the unequal distribution of the quality of health services and the number of health workers opens up opportunities for NGOs working in the field of public health services. Efforts made by NGOs in the health sector are to complement and strengthen government programs that are still trying to achieve universal health coverage. Some of the health services provided by NGOs include strengthening local health institutions such as *posyandu* (integrated health services post), creating health agents, procuring family or community sanitation facilities, promoting knowledge of healthy living and many more.

Each type of NGO with a different scope of work plays a role and provides services with a different reach. As discussed in the previous section, there are NGOs whose scope of work is international, national, and (across) regional.

Each NGO works with different networks. International NGOs generally network with national NGOs, which in their program implementation involve local NGOs. Some national NGOs have international NGO networks or network with national NGOs from other countries. For example, the Indonesian Trade Union Confederation (KSPI) is affiliated with the International Trade Union Confederation (ITUC) and PRAKARSA Association is allied with Tax and Fiscal Justice Asia (TAFJA). The context of local NGO networking is more varied, some are affiliated with national NGOs and some are not affiliated. In networking, NGOs usually form a strategic platform such as a confederation or organization whose institutions are structured from the center to the regions. Another type of networking is forming non-strategic (ad-hoc) alliances such as alliances or coalitions that focus on certain issues with or without a specific time limit.

The work carried out by NGOs cannot be realized without a budget. Funding for NGOs generally comes from several sources, including donors, member fees, fundraising, self-help management, paid services, and business units. In the 2021 PRAKARSA study covering six provinces, 58 NGOs relied on one source of funding, while 47 NGOs have at least two sources of funding.

Table 2. Funding resources of NGOs

Funding resources		Number of CSOs
<b>One source of funding</b>	Donor	43
	Member fees	6
	Fundraising	3
	Donors and staff voluntary donation	2
	Providing Paid Service	1
	Business unit	3
<b>Two sources of funding</b>	Donor and member dues	1
	Donors and fundraising	3
	Donors and staff voluntary donation	1
	Donors and paid services	16
	Donors and business units	12
	Fundraising and business units	12
	Fundraising and paid services	1
	Member and business unit fees	1

Source: *The PRAKARSA (2021, pp. 82-83)*

Source of funding is a crucial issue for NGOs, as it involves the sustainability of the organization. Moreover, most of the NGOs, as shown in the table above, rely on their funding sources from donors. Considering the fact that NGOs have a stake in national development, and most of the funding of NGOs depends on donors, it is appropriate for the central government to open wider access to NGOs to manage the State budget with the mechanism of procurement of goods/services.

Thus, the sustainability of NGOs in contributing to national development is maintained, and democracy in Indonesia will be more participatory with the partnership between the government and NGOs in development.

## **Legal Environment regarding Developmental NGO**

### ***Overview of Developmental NGO Registration***

Article 28 of the 1945 Constitution states that freedom of association, assembly and expression is part of human rights in the life of the nation and State. The formation of NGOs is allowed as long as it does not conflict with Pancasila and the 1945 Constitution of the Republic of Indonesia. In its implementation, NGOs, which are then called CSOs, are regulated in Law Number 16 of 2017 (UU 16/17) concerning Stipulation of Government Regulations in Lieu of Law Number 2 of 2017 (PERPPU 2/17), and concerning Amendments to Law Number 17 of 2013 (UU 17/13) regarding Community Organizations. There has been a complete set of definitions; principle; features and characteristics; purpose; function; establishment; registration; rights and obligations; position; management; finance; prohibition; and, sanctions.

Article 4 of Law 17/13 states CSOs is voluntary, social, independent, non-profit, and democratic. Then Article 5 of Law 17/13 states the objectives of CSOs to:

- Increasing community participation and empowerment;
- Providing services to the community;
- Maintaining religious values and beliefs in God Almighty;
- Preserving and maintaining norms, values, morals, ethics, and culture existing in society;
- Preserving natural resources and the environment;
- Developing social solidarity, mutual cooperation, and tolerance in social life;
- Maintaining, taking care of, and strengthening the unity and integrity of the nation;
- Realizing the goals of the country.

Article 8 of Law 17/13 states CSOs have a national, provincial, or district/city scope. Article 9 of Law 17/13 states CSOs are founded by three (3) Indonesian citizens or more, except for CSOs which are foundation legal entities. CSOs can take the form of legal entities or not and can be member based or non-member based (Article 10 of Law 17/13).

CSOs with legal entities can take the form of associations or foundations. Associations are established on a member basis, while foundations are established on a non-member basis (Article 11 of Law 17/13). An association with legal entity is established by fulfilling the requirements as stipulated in Article 12 of Law 17/13 as follows:



- Deed of establishment issued by a notary containing AD and ART (Memorandum of Association and Articles of Association);
- Work program;
- Sources of funding;
- Certificate of domicile;
- Taxpayer identification number on behalf of the association; and,
- The statement letter is not in a management dispute or in a court case.

In contrast to associations, foundations as legal entities are regulated in Law Number 28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations.

In relation to registration, CSOs with legal entities are declared registered after obtaining legal entity approval. After obtaining legal entity status, CSOs do not require an SKT (Article 15 of Law 17/13). “Legalization of legal entities” is the key to distinguishing what is meant by a legal entity CSOs from one that is not a legal entity.

In relation to CSOs, that are not legal entities, in this case the CSOs that do not obtain legal entity approval, this is done by giving SKT which is given by the Minister for CSOs that have a national scope, by the Governor for CSOs that have a provincial scope, or by the Regent/Mayor for CSOs that have district/city scope (Article 16 Paragraph (3) of Law 17/13). If a CSO that is not a legal entity does not meet the requirements to be given an SKT, then data collection is carried out according to the address and domicile by the head of sub-district or other designations (Article 18 of Law 17/13).

For CSOs with foreign foundation legal entities, they are required to have a principle permit and an operational permit. Principle permits are granted by the Minister of Foreign Affairs, while operational permits are granted by the Government and Regional Governments.

NGOs registered with the mechanism regulated by the above provisions allow access to funding from other NGOs. Unlike the case with non-registered NGOs, it is unlikely that they will be able to access grant funds.

Local NGOs that are not legal entities or not registered are not prohibited under the *a quo* Law. NGOs still have the right to life as long as their activities do not conflict with Pancasila, the 1945 Constitution, laws and regulations, do not interfere with security, do not disturb public order, do not violate the rights of freedom of others, and do not conflict with moral and religious values.

Article 40 of Law 17/13 mandates the government and/or local government to empower CSOs to improve performance and maintain the survival of CSOs. In empowering CSOs, the government and/or local governments respect and consider aspects of history, track record, role, and integrity of CSOs in the life of society, nation and State. Empowerment of CSOs by the government and/or local government is carried out through:

- policy facilitation;
- strengthening institutional capacity; and,
- improving the quality of human resources.

The government sets several limits on NGOs to ensure their benefits and protect the national interest (Azis, 2018, p. 627). Provisions regarding prohibited matters are regulated in Article 59 of Law 16/17, including:

- *Use of names, symbols, flags, or attributes.* One of them is that CSOs are prohibited from using names, symbols, flags, or attributes that are the same as the names, symbols, flags, or attributes of government institutions;
- *Funding.* One of them is that CSOs are prohibited from collecting funds for political parties;
- *National order and security.* One of them is that CSOs are prohibited from carrying out activities that are the duties and authorities of law enforcement in accordance with the provisions of the legislation; and,
- *Names, symbols, flags, or symbols and activities that are identical with separatism.* One of them is that CSOs are prohibited from using names, symbols, flags, or organizational symbols that have similarities in essence or in whole with the names, symbols, flags, or symbols of separatist movement organizations or prohibited organizations.

CSOs that violate the provisions of the prohibitions above are subject to administrative sanctions or administrative sanctions and/or criminal sanctions (Article 60 of Law 16/17). Administrative sanctions consist of written warnings, termination of activities, and/or revocation of SKT or revocation of legal entity status by the minister and minister in charge of legal and human rights affairs (see Article 61 & Article 62 of Law 16/17).

### ***Funding for Developmental NGO***

The funding aspect is one of the crucial aspects for NGOs, because it is related to the sustainability of the organization. In the study of Ben Davis (2020), "Financial Sustainability and Funding Diversification: Challenges for Indonesian NGOs", NGO funding is divided into two categories: a) based on an indication of the level of flexibility, classified into limited funds or unlimited funds; and, b) based on an indication of the level of sustainability, classified into short-term funds or long-term funds. Meanwhile, there are several sources of funds:

- Grants are project funds or core funds, sourced from domestic and international institutions, for example: international NGOs, international donor agencies, domestic donor agencies, and the government;
- Donations, which are endowments, are given once or regularly, and can come from fundraising (usually from individuals, companies, or foundations);

- Voluntary funds, which are funds from service activities carried out by NGOs, including sales of products and training services, sales and technical assistance from the government, community, interest groups both domestically and internationally; and,
- In-kind (non-monetary) contributions, such as free work and office space.

### ***Access to foreign funding***

In Article 37 of Law 17/2013 it is stated that one of the sources of CSOs finances can come from assistance/donations from foreigners or foreign institutions which must be managed transparently and accountably using accounts at national banks. This means that the government allows NGOs to access foreign funds by taking into account the provisions of the legislation. In practice, to access foreign funds and implement projects, NGOs receiving foreign funds and donors must be registered with the Ministry of Home Affairs.

At the technical level, the receipt of foreign funds is regulated in the Minister of Home Affairs Regulation No. 38 of 2008 concerning Accepting and Providing Assistance to Social Organizations from and to Foreign Parties. Referring to Article 2 of the Minister of Home Affairs Regulation 38/2008, foreign assistance comes from countries that have diplomatic relations with Indonesia, which include:

- Foreign governments;
- State government or local government overseas;
- The United Nations or its subordinate organizations;
- Multilateral organizations;
- International institutions;
- Overseas social organizations; and/or,
- National/State/regional government-owned enterprises abroad.

Furthermore, foreign assistance can be in the form of: money, goods, expert services, grants and/or loans that are not binding. To be able to access foreign aid, NGOs must be registered with the Department of Home Affairs (now the Ministry of Home Affairs) or other government agencies and/or local governments with the following requirements:

- There is a suitability of assistance with the scope of activities of community organizations;
- Have the ability to carry out activities in accordance with the aims and objectives of providing assistance; and,
- Assistance and activities carried out can be accounted for in accordance with the laws and regulations.

Foreign aid can be received directly and indirectly. Directly, foreign aid is provided by sending money through a bank account or giving money/goods to the beneficiary. Indirectly, foreign assistance is

provided by way of forwarding from international affiliated civil society organizations, forwarding from the government or forwarding from the government and local governments. For receiving aid directly, NGOs are required to report the plan to receive aid to the Minister of Home Affairs (for national work areas), or the Minister of Home Affairs through the Governor (for provincial work areas, or the Minister of Home Affairs through the Regent/Mayor (for district/municipal city work areas) (Article 10 of the Minister of Home Affairs Regulation 38/2008).

Prior to receiving grants from foreign NGOs, local NGOs must identify the donor. Provisions regarding this matter are regulated in Presidential Regulation no. 18 of 2017 concerning Procedures for Accepting and Giving Donations by Community Organizations in the Prevention of Terrorism Funding Crimes. In Article 3, it is explained that NGOs are required to identify in terms of donations that will be received from donors who are nationals or domiciled in countries that are declared inadequate in implementing international conventions and standards in the field of prevention and eradication of Money Laundering and Terrorism Funding Acts (paragraph (2) letter b). In Perpres (Presidential Regulation) 18/17, it is stated that CSOs must refuse to accept donations and cooperate if the Donor, Individual or Corporation refuses to provide information or their identity is included in the person or corporation listed in the list of suspected terrorists and terrorist organizations issued by the National Police of the Republic of Indonesia. This means that as long as the donor provides identifying information and is not listed in the list of suspected terrorists and terrorist organizations, NGOs can receive foreign grants. In this regard, supervision is carried out by the Minister in the form of requesting a report to CSOs regarding the receipt of donations and asking for clarification or explanation regarding donations based on the results of the risk assessment of the Terrorism Funding Crimes.

Referring to *The 2016 CSO Sustainability Index for Asia*, almost all CSOs in Indonesia rely on international donor funding. Domestic sources of funding account for only about 20 percent of the overall budget for CSOs in Indonesia (USAID, undated, p. 21).

### ***Participation in official development assistance (ODA)***

According to the OECD (2021), Official Development Assistance (ODA) is government assistance that promotes and specifically targets the economic development and welfare of developing countries. Through the Development Assistance Committee (DAC), the OECD distributes ODA to countries and territories registered as ODA recipients, including multilateral development agencies. ODA can be in the form of grants and soft loans. In addition to the OECD, other multilateral development organizations such as the World Bank, WHO, IMF, UNICEF, etc., usually also provide or channel grants or funds, either to the government, private sector or civil society organizations through certain projects.

Given the trend of ODA distribution bilaterally (directly to the government or private sector as recipients) or through multilateral development agencies, NGO access to ODA funds can be done

vertically through institutions that receive ODA (government, international institutions, private sector). This means that NGOs in the ODA distribution environment can be in a position as recipients, but not directly, but through government intermediaries, international organizations or the private sector. Although it also does not rule out the possibility that NGOs can access ODA directly without intermediaries.

Given the scope of ODA as a foreign fund, the provisions regarding NGO access to ODA can also refer to Article 37 of Law 17/13 which states that one of the sources of CSO finances can come from assistance/donations from foreigners or foreign institutions which must be managed transparently and accountable by using an account with a national bank. At the regulatory level, NGO access to ODA funds can also refer to the Minister of Home Affairs Regulation 38/2008, which regulates the provisions regarding indirect aid receipts.

### ***Government funding and support for NGO***

Article 37 of Law 17/13 states that CSOs finances can come from one of the sources of the State budget and/or regional revenue expenditure budget (Paragraph [1] letter f) which must be managed transparently and accountably (Paragraph [2]) using an account at the national bank (Paragraph [3]). This means that NGOs have the opportunity to access APBN/APBD (State budget/regional budget) funds.

Presidential Regulation 16/18 concerning Government Procurement of Goods/Services regulates the existence of a new type of self-management between the government and CSOs and special procurement in the field of research. From Presidential Decree 16/18, derivative legal products emerged, including LKPP Regulation Number 8 of 2018 concerning Self-Management Guidelines and Minister of Research, Technology and Higher Education Regulation Number 20 of 2018 concerning Research. The procurement of goods/services through Type III Swakelola (Self-Management Procurement Type III) is planned and supervised by the Ministry/Agency/Regional Apparatus Responsible for the Budget and carried out by the Self-Management Procurement Type III Implementing Organization. CSOs are selected based on their competitive advantage in the self-managed field. In Efendi et al (2019, p. 16), it is written that the requirements for CSOs to be involved in Self-Management Procurement Type III are as follows:

- Being established as a foundation or association and registered to the Ministry of Law and Human Rights;
- Possessing tax number and fulfil last year's tax obligations;
- Possessing organizational tools (Managers, Memorandum of Associations, Article of Associations);
- Possessing a field of activity related to the goods/services being held;
- Possessing managerial ability and technical experience in providing or working on similar goods/services that are self-managed within the last three years;

- Possessing a financial balance that has been audited for the last three years in accordance with the laws and regulations;
- Owning or controlling an office with a correct, permanent and clear address that is owned or leased; and,
- In the event that the CSOs will enter into a partnership, it must have a partnership cooperation agreement.

*“Foundations and Associations as CSOs are non-profit entities, and in the regulations, it is stated that they cannot take profit margins. However, in Self-Management Procurement Type III, CSOs can include components of operational costs (overhead) as input. Based on best practice, Non-Profit Organizations can include components of operational costs (overhead) ranging from 5% of the total cost of implementing Self-Management Procurement.”* (Efendi et al, 2019, p. 35)

In addition, for NGOs engaged in legal aid, the State through the Supreme Court includes civil society organizations providing legal advocacy as the Posbakum Court Posbakum (Legal Aid Post) Service Provider. In the Supreme Court Regulation Number 1 of 2014 Article 29, it is stated that the Legal Aid Post court service provider has the right to:

- Facilities and infrastructure that support the activities of providing legal services in the Court;
- Compensation for services officially provided by the Court from the budget of the Court unit based on an institutional cooperation agreement; and,
- Obtaining correct evidence, information, and/or information related to the case from the Legal Aid Post Court Service Recipient.

### ***Tax exemption for donors and grantees***

Taxes in general have two important functions. First, the revenue function (budgetary) or the function of the source of funds is intended for financing government expenditures. Second, the function of regulating (regulator) or as a tool is to regulate or implement policies in the social and economic fields. In the context of tax exemption for donors and grantees, it will be explained in the context of philanthropic activities.

Philanthropy is defined as the practice of giving, serving, and being bound by volunteering to help others as an expression of love (Sidabutar, 2020, p. 176). There are several factors for a person to carry out philanthropic activities, including: moral responsibility for others, the creation of credibility/recognition of others, and religious orders for adherents. Examples of philanthropic activities include donating money to charity, helping others, and giving time for social work (as volunteers). Philanthropic activities are important to help the government solve social problems in society.

In Indonesia, regulations governing the provision of tax incentives for philanthropic activities are regulated in Law no. 7 of 2021 concerning Tax Regulations Harmonization Law (UU HPP). Article 4 Paragraph (3) letter a of the UU HPP mentions that “donated assets received by blood relatives in a straight line of one-degree, religious bodies, educational bodies, social institutions including foundations, cooperatives, or private individuals who run micro and small businesses are excluded from the object of income tax as long as there is no relationship with the business, occupation, ownership, or control between the parties concerned.” This means that grants received by NGOs as educational bodies, social institutions including foundations and cooperatives are free from income tax.

Especially for NGOs incorporated as cooperatives, partnerships and associations, Article 4 Paragraph (3) letter g of the UU HPP stipulates that the share of profits or the remainder of the operating results received or obtained by members from cooperatives, limited partnerships whose capital is not divided into shares, partnerships, associations, firms, and shares, including unit holders of collective investment contracts, are exempt from income tax objects.

Furthermore, the exception from the income tax object also applies to the excess received or obtained by a non-profit agency or institution engaged in education and/or research and development, which has been registered with the agency in charge of it, which is reinvested in the form of facilities and infrastructure for education activities and/or research and development, within a maximum period of four years from the acquisition of the excess (Article 4 Paragraph (3) letter m of the UU HPP). Also, the exemption from income tax objects also applies to the excess received/obtained by social and/or religious entities or institutions registered with the agency in charge of them, which is reinvested in the form of social and religious facilities and infrastructure within a maximum period of four years since the excess is obtained, or placed as an endowment fund (Article 4 Paragraph (3) letter p of the UU HPP).

### ***Developmental NGO Accountability Mechanism***

NGOs as part of civil society are required to provide political satisfaction to four groups: a) the public, especially the target groups with an interest; b) the party providing the funds (donor agency); c) the government acting as development administrator; and, d) the development manager or the concerned NGO/CSO.

In order to fulfil the satisfaction of the four groups, a number of formal accountability instruments are needed. One of them is through the financial report system, progress reports, and other relevant verification reports. NGO accountability in general can be seen from two sides. The internal side (how the NGO is able to fulfil the mission and goals of the organization) and the external side (the need to meet certain standards such as donors).

The government requires NGOs to make financial accountability reports in accordance with general accounting standards based on AD/ART. This is intended for NGOs that collect and manage funds from member fees (Article 38 of Law 17/13). Article 38 of Law 17/13 also states that CSOs are required to periodically publish financial reports to the public. For NGOs established by foreigners, they are required to make periodic reports to the Government or Regional Government and published to the public through the Indonesian language mass media (Article 51 of Law 17/13).

Baswir (2014) assesses that transparency and accountability are not solely focused on financial issues, what is more important is program transparency and accountability as an integral part of the mission of the organization or NGO itself. For this reason, in addition to financial audits, performance audits also need to be emphasized.

Nurbatin (2015) mentions several parameters that are used as a reference in measuring the degree of accountability and transparency of NGOs:

- There is evidence of reporting to the public regarding information related to organizational performance (both financial reports, performance, organizational activities) in an accurate, measurable, timely, clear, and consistent manner through the national mass media.
- In accessing this information, the public is given convenience.
- The application of accounting principles and internal and external audits as commonly used widely.
- There is clarity of functions, rights, obligations, authorities, and responsibilities in the basic agreement between the organs of the institution.
- Have guidelines and systems to ensure implementation, including the obligation to obey the law.
- There is a system of upholding honesty (integrity) in discipline, sanctions, and personal performance appraisals.
- There is a standard setting and due diligence mechanism in employee recruitment and fundraising that ensures the independence of the organization in relation to the government and the private sector.



NGOs are required to be more open, honest, democratic, and in favor of the little people. The legitimacy of NGOs itself lies in public trust. Therefore, public trust is an important indicator. Thus, a rule of conduct is needed to eliminate abuses that occur in NGOs. This is at the same time to



encourage the creation of accountability to stakeholders and to establish good governance institutions.

### ***Assessment towards Legal Framework***

Of the 16 NGO activists who conducted the assessment, it was found that the average score for the legal framework theme was 54, which means regulating/regulative. The highest score was obtained by the tax exemption indicator for donors and grantees (64). In general, NGO activists consider the existing regulations to be sufficient to free tax on donors and grantees. Existing tax regulations do not impose a tax on grants to grantors and grantees. In practice, donors are not taxed on grants, as are NGOs as grant recipients. The taxes paid by NGOs and their activists include staff income tax (PPh), urban and rural land and building tax (PBB-P2), and final PPh for consultant fees.

Another legal framework indicator that scores above the average is public accountability (60) which is regulatory in nature. NGO activists assess that the regulation of public accountability by NGOs does not limit the activities of NGOs. The responsibility to the public is carried out by NGOs through the transparency of NGO financial reports audited by public accounting firms and published annual work reports.

Regarding the indicators of requirements and the registration process (59), NGO activists consider that it is quite regulated/regulatory, not difficult and not too easy. This is because the requirements and the registration process are relatively simple.

*“ Our law does not provide any complications when it comes to registration of legal entities, regardless of the legal entity. There are almost no associations, foundations and even business entities that are called with a high level of complexity because they only need to be registered with a notary and then a notary will register it. ” (Iwan Nurdin, Director of LOKATARU)*

Regarding the indicators of access to foreign funding (58), regulations in Indonesia are regulatory. To access foreign funds, NGOs can communicate directly with foreign donors. Usually, the legal basis that binds NGOs as recipients of funds and foreign institutions as donors is a Memorandum of Understanding (MoU). Although it does not limit the access of NGOs to foreign funding, there is a note why this indicator is considered unsupportive. Since accessing foreign funds requires the approval of the relevant Ministries/State Agencies in charge of issues of cooperation between NGOs and foreign donors. Also, the foreign donors in question must also be registered by the government.

Table 3. Legal Framework Assessment Results

Domain: Legal Framework		Average Score
Dimension	Indicator	
Registration	Registration obligations	48
	Requirements and process	59
Dimension	Indicator	
Funding	Access to foreign funding	58
	Access to ODA	53
	Access to government fund	38
	Tax exemption for donors and recipients	64
Dimension	Indicator	
Accountability mechanism	For public	60
	For government	52
Legal framework average score		54

Source: Processed in research

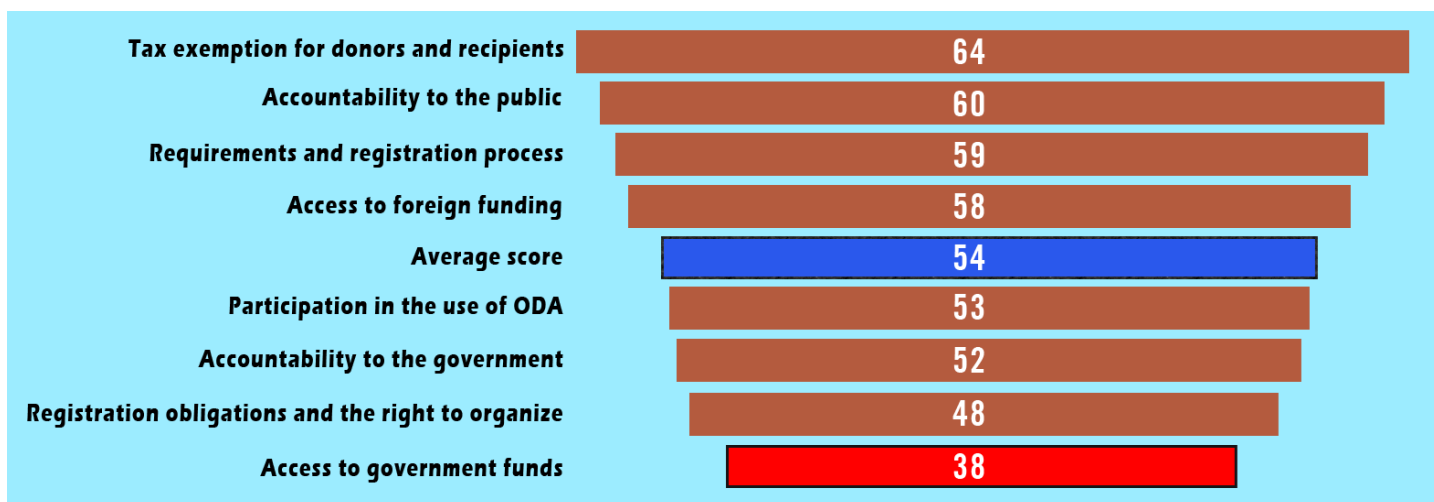
From the table above, it is known that indicators with scores below the average legal framework index are participation in the use of ODA (53), accountability to the government (52), registration obligations and organizational rights (48), and access to government funds (38). For indicators of participation in the use of ODA (53), the three research sources with NGO leadership backgrounds admitted that they had never applied for their involvement and had never participated in the use of ODA. Meanwhile, from 16 NGO activists, it was found that the indicators of participation in the use of ODA are regulating/regulatory. As for the government accountability indicator (52), NGO activists are considered to be regulatory in nature, but have a tendency to “supervise” NGOs accessing foreign funds.

Furthermore, for indicators of registration obligations and organizational rights (48), NGOs are considered to be regulating/regulatory. The government provides freedom for citizens to establish organizations; this can be seen in the indicators of freedom of assembly that are supportive in the domain of the political environment. However, there are certain differences for registered and unregistered organizations. For example, registered NGOs have easier access to funding than unregistered NGOs. Also, in relation to accountability, registered NGOs are required to submit their accountability reports to the public.

The only indicator within the legal framework that is closed is the indicator of access to government funds (38). It is known that some NGOs have obstacles in relation to organizational finance. The presence of the government in providing programmatic-based funding support to NGOs is actually fundamental, especially for NGOs that have good performance in social development, but are hampered by funding problems. Apart from some NGOs who choose not to cooperate with the government, many NGOs want the government to support NGO activities through funding.

Currently, one of the government's funding schemes for NGOs is contained in Self-Management Procurement Type III. However, not all K/L (Ministry/Institution) and Regional Apparatus Organizations (OPD) have implemented Self-Management Procurement Type III. In addition to Self-Management Procurement Type III, funding support is usually provided by K/L or OPD (Regional Apparatus Organization) through the involvement of NGOs in technocratic work. However, the involvement of NGOs in technocratic work is usually done without going through an open bidding mechanism, but through closed bidding.

Figure 1. Legal Framework Indicator Score



Source: Processed in research

The current NGO-Development legal framework index is predicted to be regulating/regulatory in the next five years. Among NGOs, there are various opinions regarding the legal framework. NGO activists assess that there are aspects of the legal framework that tend to support the development of NGOs, on the other hand there are also aspects that tend to limit the development of NGOs. Among the aspects of the legal framework that support the development of NGOs are tax exemptions for donors and grantees, accessible public accountability, and accessible NGO registration requirements and processes.

However, there are also NGO activists who think there are too many regulations in the legal framework of NGOs in Indonesia. One of the regulations that some NGOs experience is extremely regulating is when accessing foreign funds which requires a verification and “screening” process by K/L before NGOs can carry out activities funded by foreign NGOs. In addition, NGOs must also provide accountability to the approving K/L in the event that NGOs are funded by foreign NGOs.

While the regulation of access to foreign funding is strict, NGOs feel that the government does not provide funding support for the progress of NGOs. In addition to Self-Management Procurement Type III which has not been implemented by all K/L and OPD, and the close bidding mechanism in

government technocratic projects, NGOs engaged in legal aid feel that Law No. 16 of 2011 concerning Legal Aid has not been implemented effectively by the government to support the operational needs of legal aid organization in conducting litigation and non-litigation activities. This indicates that not all legal aid organization have been able to utilize the funds mandated by Law No. 16/2011, although normatively the Law is considered to support the development of NGOs engaged in legal aid.

## **CHAPTER 3: Political Environment of Government and Developmental NGO Relations**

### **The right to expression, assembly, and expressing opinion**

From age to age, freedom of expression has its own character. According to Olivia (2020), the right to freedom of expression has two scopes. First, freedom is an important prerequisite for the survival of democracy; hence freedom of expression needs to be protected by the State on a representative basis. Second, freedom needs to provide protection to individuals as free and independent entities, besides that they are not shackled by authoritarian tyranny.

Freedom of expression, assembly and opinion are fundamental human rights. The 1945 Constitution Article 28E paragraph (3) states, "Everyone has the right to freedom of association, assembly and expressing opinions". This democratic right is also in line with Article 9 of the Universal Declaration of Human Rights, "Everyone has the right to freedom of opinion and expression, in this case including freedom to hold opinions without interference and to seek, receive and impart information and opinions through anything and regardless of frontiers."

In addition, Indonesia has ratified the International Covenant on Civil and Political Rights (ICCPR) through Law No. 12 of 2005. The ICCPR stipulates the right of people to hold opinions without interference from other parties and the right to freedom of expression (Article 19). Furthermore, the Covenant also stipulates the recognition of the right to peaceful assembly (Article 21), and the right of everyone to freedom of association (Article 22).

Freedom of opinion does not mean just freedom of opinion, but also the subject must be responsible and have ethics when expressing his opinion. This ethics is something that is difficult to measure, because the determination of boundaries can be judged as castration of opinion. Citizens are free to hold opinions as long as they do not conflict with Pancasila, the 1945 Constitution, and the goals of the Unitary State of the Republic of Indonesia (Fahturosi, 2021, without page).

Law Number 9 of 1998 concerning Freedom of Expressing Opinions in Public lays down five principles that form the basis for expressing opinions in public, namely:

- The principle of balance between rights and obligations;
- The principle of deliberation and consensus;
- The principle of certainty of rights and obligations;
- The principle of proportionality; and,
- The principle of consensus.

Law No. 9 of 1998 explains, the purpose and direction of openness in the formation and enforcement of laws is carried out hence social disintegration does not occur, but rather obtains a sense of security in people's lives. For this reason, the freedom to express opinions by NGOs must be carried out with full responsibility.

In practice, the ways of conveying expressions in public are quite diverse. As something universal, freedom of expression can include the expression of political or cultural ideas through oral, print, audio, visual, audio-visual media, and many more, including painting or literary works. Through Law No. 9/1998, what is meant by the freedom of speech in public is the delivery of opinions publicly:

- Oral, including: speeches, dialogues, and discussions.
- Writing, for instance: petitions, pictures, pamphlets, posters, brochures, leaflets, and banners.
- And many more, such as: silence act and hunger strike.

People can now use social media to express their criticism of the government. In this regard, the State responds by controlling and supervising, therefore public space in the cyberspace is not wild. This control is carried out by the State through Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 regarding Information and Electronic Transactions or the ITE Law.

Several articles in the ITE Law that strictly controls the circulation of information in cyberspace include Article 27 paragraph (3) which reads: "*Everyone intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have insulting and/or defamatory content*".

While Article 28 paragraph (2) of the ITE Law reads: "Every person intentionally and without rights disseminates information aimed at causing hatred or hostility to certain individuals and/or community groups based on ethnicity, religion, race, and intergroup".

The phrase "makes accessible Electronic Information and/or Electronic Documents" in Article 27 paragraph (3), according to Suparji Ahmad (2021), can be interpreted broadly and biased. Meanwhile, Head of the Freedom of Expression Division of the Southeast Asia Freedom of Expression Network (SAFE-net), Ika Ningtyas said Article 27 paragraph (3) is most often used to ensnare legitimate freedom of expression and repress citizens, activists, journalists or the media. Meanwhile, Article 28 paragraph (2) can repress a minority of citizens who criticize the police and the government (Katadata.co.id, 16/02/2021).

The democratic atmosphere of a country can be felt, one of which is the extent to which the government is open to criticism from its citizens. Moreover, regarding the extent to which the government provides space for freedom of expression, assembly, and expressing opinion in public. In a democracy, criticism is a natural thing in the relationship between the State and society. The quality of the substance of the expression of citizens towards the state has a strong relationship with the level of democratic awareness of citizens. That is, if measuring the level of democracy in a government is judged by the extent to which it is open to criticism, then assessing the democratic awareness of a society can be judged from the substance of the criticism submitted.

## The right to information

The right to information (*right to know*) is one of the fundamental rights recognized by the world. Everyone is guaranteed the right to communicate and receive information to develop their personal and social environment (Muhshi, 2018, p. 73). The State has three tasks to guarantee the fulfilment of the right to public information: to respect, to protect, and to fulfil human rights. Bashori Muchin (2008) in Fauzin (2011, p. 165) mentions several characteristics of public information:

- These are material, both written and contained in the form of impressions (visual), electronic and non-electronic media, to official statements.
- Sourced from official institutions (State/government), private institutions, where these institutions act as government and are financed by the government.
- The material concerns a specific matter, namely the relationship and correlation between the State/government and the people.
- More emphasis on governance issues.

In Indonesia, the right to information is regulated in Law (UU) No. of 2008 concerning Public Information Disclosure (UU KIP). The UU KIP has the aim that every citizen has the right to obtain public information in accordance with the applicable legal basis.

Fauzin (2011) said that the UU KIP was made because of the difficulty of citizens to access and request information related to the administration of the state/government. Meanwhile, Soemarno Partodihardjo (2008) mentioned six matters that caused the public to urge the UU KIP:

- Demanding public pressure on the eradication of Corruption, Collusion and Nepotism;
- To realize community participation in the development process;
- To have a quality press;
- Strong public pressure to disclose past human rights violations;
- For consumer protection; and,
- Public pressure on the management of natural resources based on the carrying capacity of the ecosystem and the interests of the community.

The definition of Information can be referred to in Article 1 paragraph (1) of the UU KIP which states, information is description, statements, ideas, and signs that contain values, meanings, and messages, both data, facts, and explanations that can be heard and read presented in various packaging and formats according to the times, both electronic and non-electronic.

Meanwhile, Article 1 paragraph (2) of the same Law states that public information is information that is produced, stored, managed, sent, and/or received by a public agency related to administration and State administration and/or other public agency administrators and administration according to the law as well as other information relating to the public interest.

In general, UU KIP contains: a) the right of everyone to obtain information, b) public bodies are obliged to provide and serve requests for information in a fast, punctual, low/proportional cost, and simple way, c) exceptions are strict and limited, and, d) public bodies are obliged to fix the system of documentation and information services (Fauzin, 2011, p. 164).

In addition to the UU KIP, there are a number of regulations that normatively guarantee the right to public information in certain sectors, such as:

- Law No. 24 of 1992 concerning Spatial Planning, especially in Article 4 paragraph (2) it is stated that "everyone has the right to know the spatial plan."
- Law No. 23 of 1997 concerning Environmental Management, especially in Article 5 paragraph (2) it is stated that "everyone has the right to environmental information related to their role in environmental management."
- Law No. 28 of 1999 concerning the Implementation of a State that is Clean and Free from Corruption, Collusion, and Nepotism, particularly in Article 3 it is stated that "general principles of state administration include: the principle of openness."
- Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, specifically Article 41 paragraph (1) it is stated that "Community participation as referred to in paragraph 1 is manifested in the form of: (a) the right to seek, obtain and provide information on allegations of corruption; (b) ) the right to obtain services in seeking, obtaining and providing information on allegations of corruption having occurred to law enforcers who handle corruption cases; (3) the right to convey suggestions and opinions responsibly to law enforcers who handle corruption cases; and, (d) the right to obtain answers to questions regarding the report given to law enforcement within a maximum period of 30 (thirty) days."
- Law No. 39 of 1999 concerning Human Rights, especially in Article 14 paragraph (1) it is stated that "everyone has the right to communicate and obtain information needed to develop his personal and social environment".
- Law No. 40 of 1999 concerning the Press, which emphasizes the freedom to express thoughts and opinions in accordance with one's conscience and the right to obtain information, is an essential human right and is necessary for the enforcement of justice and truth, as well as for advancing the general welfare and the intellectual life of the nation.

On the other hand, there is public information that is excluded. Based on Article 17 of UU KIP, public information that is exempted from being disclosed is public information that meets the following provisions: a) hindering the law enforcement process; b) interfering with the interests of protecting intellectual property rights and protection from unfair business competition; c) may endanger the defense and security of the State; d) disclose Indonesia's natural wealth; detrimental to national economic resilience; e) detrimental to the interests of foreign relations; f) disclosing the contents of the authentic deed which is personal and the final will or will of a person; and, g) disclosing personal secrets.

Muhshi (2018) stated that the fulfilment of the right to public information is the responsibility of the State. The State is responsible for providing public information in good and correct ways, both procedurally and substantially. Good public information delivery procedures such as providing open and honest information.

### **Government-NGO partnership**

In the dynamic development of NGOs in Indonesia, many NGOs have demonstrated their skills in providing social services, which can be calculated for their contribution to social and national development. Especially after the reform, many NGOs are able to work professionally together with government agencies and international institutions. Therefore, opening the door to a wider partnership between the government and NGOs has the opportunity to maximize national development work in a participatory and inclusive manner.

One form of Government-NGO partnership is the existence of Self-Management Procurement Type III. Such partnership is planned and supervised by the K/L/PD responsible for the budget and is implemented by the Managing Organizational CSO. Self-Management Procurement Type III is considered a new dimension of partnership between the government and NGOs for development innovation in the procurement of government goods/services (Efendi et al, 2019). Self-Management Procurement Type III is implemented to meet the needs of government goods/services whose competence is owned by NGOs, such as community assistance programs, education and health services, to research in encouraging policy strengthening.

Self-Management Procurement Type III is a derivative of Presidential Regulation No. 12 of 2021 concerning Amendments to Presidential Regulation No. 16 of 2018 concerning Procurement of Government Goods/Services. The Presidential Regulation was drafted to accelerate and facilitate the implementation of government procurement of goods/services, simplify, provide value, to ease in controlling and supervising hence as to improve the quality of public services, as well as, to increase national development and economic equity.

The significance of Presidential Regulation 16/18 is as a legal umbrella to involve NGOs, such as foundations and associations, to provide goods/services needed by the government through Self-



Management Procurement Type III. This modality is planned and supervised by the Ministry/Institution/Regional Apparatus (K/L/PD) responsible for the budget and is implemented by an NGO, which is referred to as the Self-Management Implementing CSO. This is further regulated in Government Goods/Service Procurement Policy Agency Regulation Number 8 of 2018 concerning Self-Management Guidelines.

Self-Management Procurement Type III is an extension of Self-Management Procurement Type IV. The expansion means the opportunity for NGO participation in the procurement of government goods/services as part of national development. The involvement of NGOs in Self-Management Procurement Type III provides an opportunity for the community to not only be the object of development, but also to be involved in the procurement process that supports development. The main objectives of Self-Management Procurement Type III are: a) assisting the government in improving the quality and range of services, b) increasing community participation in the development process, c) increasing the effectiveness and efficiency of CSO performance, and, d) improving the technical capabilities of human resources. That is, NGOs become active co-creators who participate in improving the quality of public services and government programs.

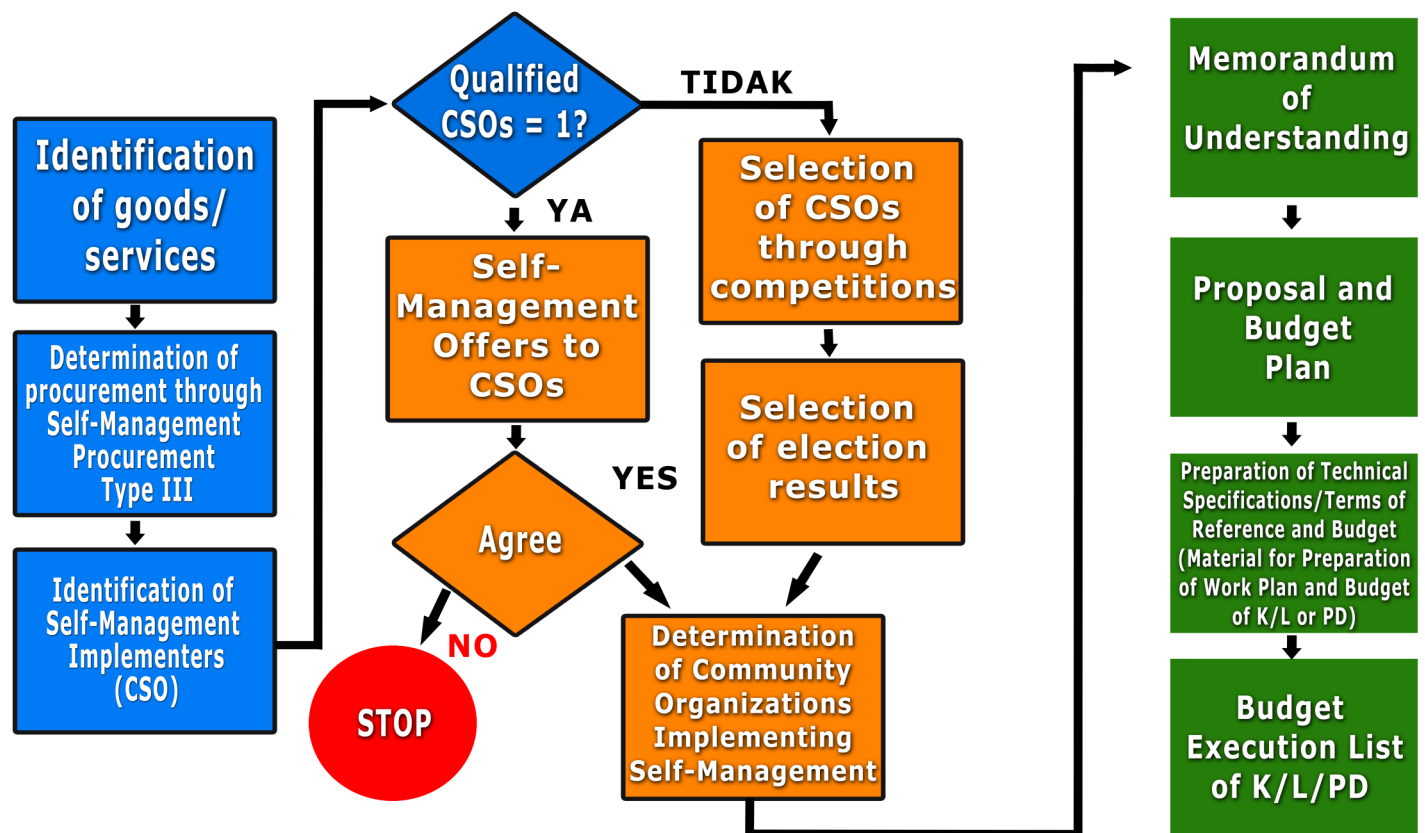
Furthermore, in Self-Management Procurement Type III, NGOs can act as:

- As explorer: Identifying, discovering, and defining current problems in public services more actively;
- As ideator: Developing the best concept of problem solving;
- As designer: Designing the implementation of the right solution; and,
- As diffuser: Encouraging diffusion and adoption to the wider society (Efendi et al, 2019, p. 14).

The following are examples of goods/services provided by NGOs in Self-Management Procurement Type III (Efendi et al, 2019, p. 15):

- Organizing education/training, such as seminars, courses, workshops, counselling;
- Goods/Services produced by domestic creative and cultural economy businesses for the provision of festivals, arts, culture, such as sports, dance, music, film-making;
- Census, survey or data processing, public policy formulation, laboratory testing and development of certain systems, applications, governance or quality standards;
- Goods/services produced by community organizations, or the community, such as products for persons with disabilities, community handicraft products, plants or seeds belonging to the community; and,
- Goods/services whose procurement implementation requires community participation, such as construction/maintenance of village/village roads, construction/maintenance of micro/small irrigation canals, waste management in settlements, to construction/rejuvenation of community gardens.

Figure 2. Self-Management planning with CSO flow-chart



(Source: Efendi et al, 2019, h. 28)

Considering that the collaboration scheme is a new thing in the procurement system in Indonesia, Efendi et al (2019) stated that there is a need for initiatives from the government and NGOs to encourage pilot testing and implementation of the system. On the government side:

- The government needs to start with the intention of collaborating with CSOs;
- Understand the benefits of Self-Management Procurement Type III for government work;
- Better understand the capacity of CSOs;
- Efforts to disseminate and develop K/L/PD and implementers; and,
- There are champions on the government side, both from K/L/PD to use the regulation.

Meanwhile, on the NGO side:

- Starting with the intention of collaborating with the Government for the purpose of improving the quality of development;
- Improving competence on budget management and sharpening sectoral expertise in areas that become a competitive advantage for CSOs and synergistic with the Government's vision;
- Mapping out government agencies that intend to try Type III Self-Management, then mapping out what issues are of interest to those agencies, especially those that are in line with issues being worked on by CSOs;
- Approaching the Government to encourage trials on synergistic issues to demonstrate the quality of services provided; and,

- Marketing the good results of the pilot to other potential Government institutions that are also interested in the competitive advantages of the service to encourage wider implementation of Type III Self-Management.

Wibawa (2020) states, the existence and dynamics of the development of community organizations and changes in the government system have created a new paradigm for regulating CSOs in the life of society, nation and State, especially in terms of procurement of goods/services. This policy is the legal basis for the government to provide and provide space for the community, in this context NGOs are actively involved and participate in national development to realize national ideals (Wibawa, 2020, p. 662).

## **Policy participation**

In the midst of decentralized development, NGOs can position themselves as a forum for civil society participation in development. This has even been acknowledged in writing since the New Order through the Instruction of the Minister of Home Affairs (Inmendagri) No. 8 of 1990 concerning the Development of Non-Governmental Organizations which states that NGOs are a forum for community participation in development in accordance with the fields of activity, profession and function that are of interest to the institution concerned to improve the standard of living and welfare of the community. Especially in the era of regional autonomy, NGOs can become pillars of local democracy in relation to encouraging civil society participation in development.

Participatory development can be interpreted as having space for the community to provide input and participate in deciding a policy, regulation or product of both, including budgeting. Participation is an important element in democratic development. Thus, it gives meaning to development from, for, and by the people.

In the era of regional autonomy, the opportunities for community participation in development are also influenced by the role of a local government. In Law No. 32 of 2004 concerning Regional Government, it is stated that local governments have the right to regulate and manage their own government affairs according to the principles of autonomy and co-administration; Local governments are directed to accelerate the realization of community welfare through improvement, service, empowerment, and community participation. In addition, increasing regional competitiveness takes into account principles such as democracy, justice, equity, privilege, as well as the specificity of a region in the system of the Unitary State of the Republic of Indonesia.

In the context of the formation of laws and regulations, community participation is mentioned in Law No. 13 of 2022 concerning Amendments to Law No. 12 of 2011 concerning the Establishment of Legislative Regulation (UU PPP). In the Elucidation of the UU PPP, it is stated that “Strengthening meaningful community involvement and participation is carried out in an orderly and responsible

manner by fulfilling three prerequisites; namely, first, the right to be heard; second, the right to be considered; and third, the right to obtain an explanation or answer to the opinion given (right to be explained). If expanded, policy participation can also be identified in the extent to which community involvement in public consultation and involvement in budgeting.

## **Engagement in public consultation**

It is seen here that Policies which require public consultation, such as Law No. 32 of 2009 concerning Environmental Protection and Management Law (UU PPLH) which mentions environmental impact analysis (AMDAL) as an important study to assess the impact of a business. Article 1 number 11 of the UU PPLH states, *"a study of the significant impact on the environment from a planned business and/or activity, to be used as a prerequisite for making decisions regarding the implementation of a business and/or activity and contained in a business permit or approval from the central government or the regional government."*

Furthermore, the involvement of environmental NGO activists in the EIA can be referred to in Article 26 Paragraph (3) of the UU PPLH which states that the EIA document is prepared by the community who have a direct impact, environmentalists, and/or who are affected by all forms of decisions in the EIA process. "

However, the Job Creation Law makes the involvement of NGO activists in the environmental sector as a representation of "environmental observers" in the UU PPLH unclear. Since, Article 26 paragraph (2) only states, "The preparation of the EIA document is carried out by involving the community who are directly affected by the planned business and/or activity". In the sound of the article, the phrase "environmental observer" is not found as stated in the UU PPLH.

In addition, through the Minister of Home Affairs Regulation No. 80 of 2015 concerning the Establishment of Regional Legal Products, NGOs have the opportunity to be involved in the preparation of academic texts as the basis for the Regional Regulation Draft. Academic manuscripts are the results of research or legal studies and other research results on a particular problem that can be scientifically justified regarding the regulation of the problem in the provincial regulation draft or district/city regulations as a solution to the problems and legal needs of the community (Article 1 paragraph (20) Minister of Home Affairs Regulation 80/2015). Article 22 paragraph (4) states, "The initiator in carrying out the preparation of academic texts as referred to in paragraph (2) and paragraph (3) may involve vertical agencies from the ministry that administers government affairs in the legal field and third parties who have expertise in accordance with the material covered will be regulated in the provincial regulation draft. NGOs can be categorized as "third parties" as long as they have expertise related to regional regulation draft materials."

Another form of democratic participation that can be carried out by NGOs in the context of monitoring local governments is the supervision of Provincial/Regional Legislative Council members. Minister of Home Affairs Regulation 80/2015 Article 50 states that any person, group, or organization may submit a complaint to the honorary body of the Provincial Legislative Council if there is sufficient evidence that there is a member of the Provincial Legislative Council who does not carry out one or more obligations and/or violates the provisions of prohibitions and sanctions in accordance with the provisions of the legislation.

More broadly, the activities of monitoring the State are almost daily carried out by NGOs through the media. NGOs often raise public issues to the mass media, or at least to their social media channels. Thus, the public obtains information about certain issues raised by NGOs through mass media or social media.

## Engagement in budgeting

Indonesia has in the last two decades attempted to implement budget reforms. Budget reform is a government policy that is linear with efforts to eradicate corruption in Indonesia. The budget decentralization carried out through fiscal decentralization has been running since 1999, diverting approximately 40 percent of the State budget to the regional level through balancing funds. Sourced from the problem of autocracy, there is a need for budget reform with budget democratization. Pratiwi (2012) stated that democratization in the budget sector includes participation from the people, accountability and transparency by the people, and responsiveness to the people.

Participatory Budgeting consists of a series of planning processes, both through the Development Planning Conference (Musrenbang) to budgeting in the regional budget. The Minister of Home Affairs Regulation 80/2015 Article 1 Paragraph (17) states, "Regional Revenue and Expenditure Budget, hereinafter abbreviated as regional budget, is an annual financial plan stipulated by a Regional Regulation." Based on the budget cycle contained in each district/city budget, NGOs can participate in four stages of budgeting (Pratiwi, 2012, p. 30):

- *Budgeting.* The determination of the budget ceiling starts from the 5-year plan in the form of the Regional Medium-Term Development Plan (RPJMD) and the Regional Government Work Units Strategic Plan, as well as the annual plan in the form of the Regional Government Work Plan (RKPD) and the Regional Government Work Unit (SKPD) Work Plan.
- *Analysis.* It begins when the budget is presented in front of the council which allows for an in-depth review of the budget by the Provincial/Regional Legislative Council. This stage is highly dependent on the political situation and institutional environment. Here, NGOs can play a role in analyzing the Regional Budget.
- *Identifying whether the allocation of funds is really effective, efficient, punctual, and on target* after the council approves the Regional Budget.

- The final stage in the budget cycle involves *reviewing the indicators of success*. Indicators should already be contained in the planning document, be it RPJPD, RPJMD, RKPD, or SKPD Work Plan.

The participation of NGOs in budgeting is necessary because the preparation of the Regional Budget is not enough just to be carried out by formal institutions from the executive or legislative elements. According to Pratiwi (2012), NGO participation in budgeting can encourage the use of a budget that is more in line with the interests of the community.

A study conducted by Pratiwi (2012) related to the experience of NGO “participatory budgeting” advocacy in Yogyakarta found that development success can be realized by involving community members from the beginning of the activity process in the preparation of development plans. The involvement of community members in Development Planning Conference in their respective regions cannot be separated from the assistance provided by NGOs.

NGO participation in budgeting through community advocacy is guided by the Minister of Home Affairs Regulation Number 86 of 2017 concerning Procedures for Planning, Controlling and Evaluation of Regional Development, Procedures for Evaluation of Regional Regulations Draft concerning Regional Long-Term Development Plans and Regional Medium-Term Development Plans, as well as Procedures for Changes in Regional Long Term Development Plans Regional, Regional Medium Term Development Plan, and Regional Government Work Plan. In the Minister of Home Affairs Regulation, the elements involved in the Development Planning Conference of the RPJPD, RPJMD and the provincial and district/city RKPD include other than regional apparatus, academics, community leaders, elements of entrepreneurs/investors, representation of women and marginalized vulnerable community groups as well as other elements deemed necessary, also involving NGOs/CSOs.

### **Assessment towards Political Environment**

The political environment of Developmental NGOs in Indonesia has an average score of 47, which means it is regulatory. The indicator with the highest score is freedom of assembly (71), which means that the political environment is open to freedom of assembly or organization. The indicator with the second highest score was freedom of expression (63), followed by freedom of opinion (61), involvement as an expert (53), and involvement in public consultations (50), all of which showed regulatory/regulative nature.

Regarding freedom of assembly (71), which means freedom to establish organizations and be involved in organizations, NGO activists consider the political environment to be quite supportive. The legal framework of NGOs (CSOs) also does not limit citizens to establish organizations and/or be involved in an organization, as long as the organization does not conflict with Pancasila and the 1945 Constitution. Thus, it can be understood why this indicator has the highest score and is supportive in the political environment index.

The next indicators that achieve the second and third highest scores are freedom of expression (63) and freedom of opinion (61), both of which are regulating/regulative. NGO activists assess that the overall political environment for freedom of expression and opinion is regulatory, on the one hand there are few of the many policies that seem to limit freedom of expression and opinion, but on the other hand there are cases of violations of the right to freedom of expression and opinion that can be categorized on a minor scale, which occurs in certain cases. Strict policies governing freedom of expression and opinion that are of concern to NGO activists are the ITE Law.

Another challenge for NGO activists in enjoying freedom of expression and opinion no longer only comes from State actors, but also from non-State actors, who are familiarly known as 'buzzers' (buzzers) who support the government.

*“ Now it's not only the State that monitors it, but the State buzzer is also carrying out what is called restrictions on freedom of expression, (and) assembly. ” (Iwan Nurdin, Director of the LOKATARU Foundation).*

Apart from monitoring the freedom of expression and opinion in the digital world, another challenge in the right to freedom of expression and opinion lies in the area of conflict advocacy, especially agrarian conflicts. It is experienced by Dwi Astuti, Director of the Bina Desa Foundation, that freedom of expression and opinion in Indonesia is not constant.

“The main problem is agrarian injustice in the countryside. Now, when they move, they often experience repression from the police and even use "organization of violence" in quotation marks in the regions. In my opinion, this is not in line with the freedom promoted by the government itself, which is said to be committed and respects it.” (Dwi Astuti, Director of the Bina Desa Foundation).

Despite frequent buzzer attacks and repression by security forces in advocating for conflict, in general, freedom of expression and opinion in Indonesia has not yet been categorized as an “emergency.” Ah Maftuchan, the Executive Director of PRAKARSA Association, said that although there are problems in the ITE Law, at a macro level, freedom of expression in Indonesia is maintained. When compared to the New Order era, freedom of expression and opinion is now much better. Moreover, when compared to several other developing countries, which are also neighboring countries, democracy in Indonesia is relatively better.

“Compared to the Southeast Asia region, we are still better off, in Thailand, friends there regret that they support democracy but by means of a military coup” (NS, Lecturer in Political Science at the University of Indonesia).

Two other indicators that fall into the supportive/regulatory category are the indicator for involvement as an expert (53) and the indicator for involvement in public consultations (50). Even though they are in the regulatory category, both indicators are close to the closed/limiting category. Several NGO activists admitted that they had been involved as experts in a K/L, and their institutions were involved in public consultations. However, there are records for involvement as experts and involvement in public consultations. The reason is, not all K/L involve NGO activists as experts. Furthermore, the involvement of NGO activists as experts has not been carried out regularly by K/L and has not been done openly (open-bidding). Among the ministries/agencies that are claimed to be quite good at regularly involving NGO activists are the Ministry of National Development Planning.

*“Almost every year the NGO friends are with us. Some have been replaced twice. We are very 'open', the recruitment is 'open-bidding', and who will be the most worthy of 'anybody welcome'.”* (WS, official within the Deputy for Political, Legal, Defense and Security Affairs - the Ministry of National Development Planning)

The note for indicators of involvement in public consultations (50) is that these activities have not been carried out by K/L and local governments in a meaningful way, or in other words, more of a mere “formality.”

*“Actually, participation in Indonesia is not what many CSOs idealize. Participation carried out by the government is simply aborting obligations. As basically what should be called participation is not socialization, and often the government does what is called public participation when plans and drafts of the plan have entered a phase called 'final', not far from the definition of socialization, but using the 'term' “participation.”* (Iwan Nurdin, Director of the LOKATARU Foundation)

The factors underlying the meaningless public consultations need to be investigated further. However, NS, a political science lecturer at UI, believes that one of the factors is that there are certain things that the government considers can only be decided by the government, and there are certain things that need to be decided in a participatory manner. Ideally, all public policies are decided in a participatory manner through public consultation.



Table 4. Political Environment Assessment Results

Index: Political Environment		
Dimension	Indicator	
Freedom of	Expression	63
	Assembly	71
	Opinion	61
Dimension	Indicator	
Information	Data Disclosure	33
	Access to Data	34
Dimension	Indicator	
Partnership	Involvement in the provision of public services	35
	Involvement as an expert	53
Dimension	Indicator	
Participation	Involvement in public consultation	50
	Involvement in budgeting	26
Average Score		47

Source: processed in research

In the political environment index, there are four indicators that score below the average political environment index score, which is also considered by NGO activists to be restrictive/closed. The four closed indicators are: involvement in the provision of public services (35), access to data (34), data disclosure (33) and involvement in budgeting (26). These four indicators need to be a concern for all pro-democracy and participatory development stakeholders.

The first indicator that is closed is involvement in the provision of public services (35). The low score on this indicator correlates with the indicator of access to government funding (38) in the legal framework domain. Weak government funding to NGOs has resulted in limited space for NGOs to partner with the government to provide public services. The existence of a Government-NGO partnership scheme through Type III Self-Management is also not optimal, because not many K/L and Regional Apparatus Organization have implemented Type III Self-management. On the other hand, the technocratic projects offered by Ministries/Agencies to NGOs, in practice, are mostly still through a close-bidding scheme. From the point of view of NS, an official at the Ministry of National Development Planning, in order to increase NGO participation in the provision of public services, NGOs also need to improve their ability to provide public services and increase their accountability to the public. It is recognized that progress has been made in the involvement of NGO activists as experts and the involvement of NGOs in public consultations in several K/L or OPD in certain areas, but this has not been carried out simultaneously and regularly in all K/L and in all local governments.

The next indicators that are closed are access to data (34) and data disclosure (33). NGO activists assess the difficulty of finding the data needed for NGO work such as research and advocacy, while accessing it is often not provided by certain government agencies.

*“ We have ever asked for a chronology of Indonesian State Forest Company land. The case (agrarian conflict) in West Java, the agricultural land belonged to farmers but was taken over by Indonesian State Forest Company. When farmers claimed, it was not returned (Indonesian State Forest Company). The data was also not provided by Indonesian State Forest Company (when requested). ”* (Dwi Astuti, Director of the Bina Desa Foundation)

“In the course of PRAKARSA's research, with the DGT (Directorate General of Taxes) there was a lot of information that could not be given to PRAKARSA. Since there are some things that according to DGT the data are excluded, or maybe they don't actually have the requested or processed data that is ready to be served to the public. On the other hand, the problem of 'demand' data is also still low, thus the 'supply' is eventually low as well.” (Ah Maftuchan, Executive Director of PRAKARSA Association)

*“ We once sued the Social Security Management audit results to give it to the public and finally the Public Information Commission won us. Then the Social Security Management appealed, and the Supreme Court confirmed that (the audit results) could not be accessed by the public and to this day it has not been given, ...*

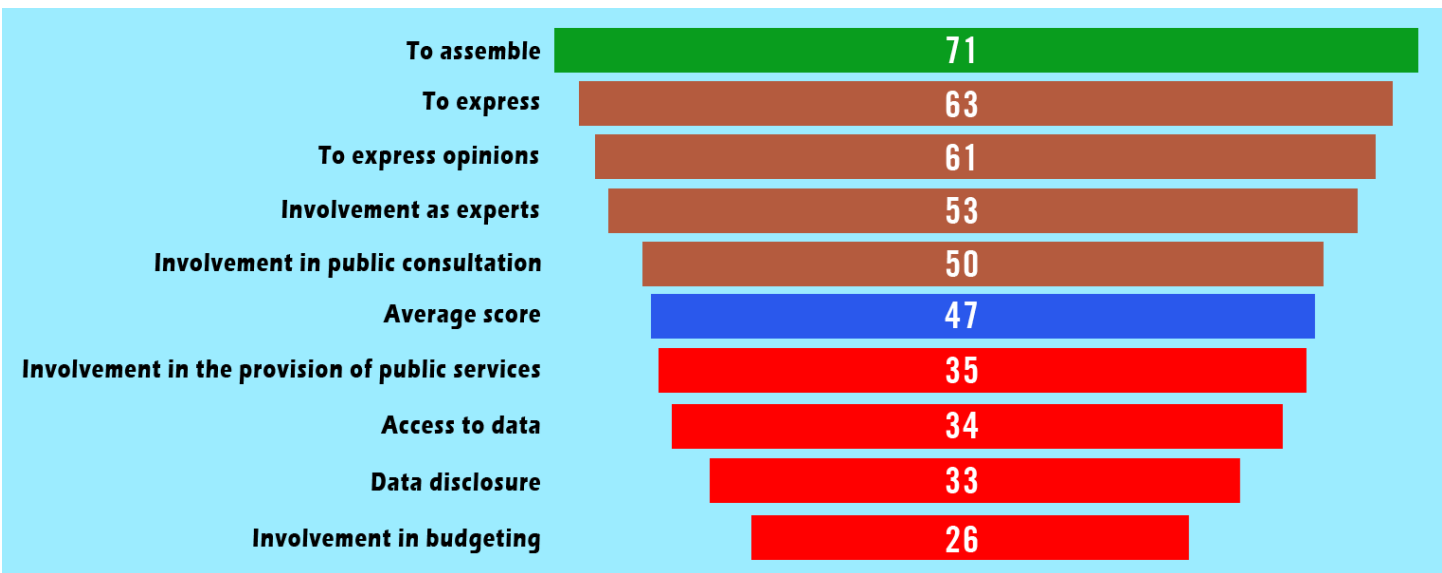
*Then we asked for (data) about land parcels in the Tangerang area. Since there are people doing land registration, suddenly the number of the main land parcel has been controlled by only a few people on a stretch of hundreds of hectares. (Data) is not given. After we put pressure on the public through the mass media, in the end it was not the information that was given, but the cancellation of the Business Identification Number which was controlled by the land mafia. ”* (Iwan Nurdin, Director of the LOKATARU Foundation)

Difficult access to unpublished data is exacerbated by the government's lack of transparency in providing public information. For example, if there are international trade negotiations conducted by the government, the public rarely obtains information about the course of the negotiations and suddenly an international trade negotiation has been agreed without any socialization to the public, let alone public consultation (Dwi Astuti, Director of the Bina Desa Foundation). Even though there is a UU KIP, in practice the government is considered less transparent.

*“ We already have a Public Information Disclosure Law. We also have a public information dispute mechanism. That's progress that we must appreciate but in practice it is still difficult, people requesting data or information is still difficult, ... (Transparency) is still lacking because many aspects are excluded in the Law on Public Information Disclosure. ” (Ah Maftuchan, Executive Director of PRAKARSA Association).*

The indicator of the political environment index with the lowest score is the indicator of involvement in budgeting (26) which is closed. Ideally, good governance contains elements of participatory budgeting (participatory budgeting). However, NGO activists assess that participatory budgeting in Indonesia is still far from ideal.

Figure 3. Political Environment Indicator Score



Source: Processed in research

The current political environment for developmental NGOs in Indonesia is generally regulatory with a score of 47. However, the score is close to 40, which means that the political environment is closed and restricts the dynamics of NGOs. Based on the opinion analysis of the NGO activists involved in this research, the political environment for developmental NGOs in Indonesia in the future has a closed/restrictive tendency if there are no improvements in the area of participatory public policy, increased transparent governance, and guarantees for other civil freedom.

The main thing that needs to be strengthened by the government is to recognize the role of NGOs in development by opening wider doors for NGOs to engage in budgeting, engage as experts, engage in more qualified and meaningful public consultations, and engage in public service delivery.

*“ Since the democratic country suggests an 'equal position' between the parties: business, government and civil society in the implementation of development both at the national and regional levels. ”* (Ah Maftuchan, Executive Director of PRAKARSA Association)

That is, in order to build a political environment that strengthens the contribution of NGOs in development, both NGOs and the government must understand each other that both are development actors. Thus, the Government together with NGOs can work together to maximize national development programs and social development.

*“ We have to remember that this is a democratic system. In the past, the system was authoritarian, yes, but the system is already democratic. The styles of NGOs such as New Order have to change, ... 'Political-engagement' is unavoidable, what is still an obstacle is that the issue of 'trust' has not yet emerged. However, our 'mind-set' must change, we can no longer see the state as an 'enemy'. The State too, can no longer see 'civil society' as an 'enemy'. ”* (NS, Political Science Lecturer – UI)

WS, an official within the Ministry of National Development Planning admitted that the public services provided by NGOs were outstanding. Therefore, if it is increased, the participation of NGOs in the provision of public services by partnering with the government can be more open.

*“ In the field of 'public services', community empowerment, I believe my friends (NGOs) have a lot of creativity, for instance in the world of agriculture, etc. I see many (NGOs) building communities, mobilizing community potential, driving production from regions and I applaud that. ”* (WS, Official within the Ministry of National Planning Devel)

## CHAPTER 4: Conclusion and Recommendations

The legal and political environment of developmental NGOs in Indonesia as a whole is regulatory. Within the legal framework domain (54), there are seven indicators that are regulatory and one indicator that is closed/restrictive, and none of them are open/supportive. Seven indicators that are regulatory in nature include: tax exemption for donors and grantees (64), accountability to the public (60), registration requirements and processes (59), access to foreign funding (58), participation in the use of ODA (53), accountability to the government (52), and registration obligations and the right to organization (48). Meanwhile, indicators that are closed/restrictive are access to government funds (38).

Meanwhile, the domain of the political environment gets a score of 47. In the theme of the political environment, only one indicator is supportive/open, namely freedom of assembly (71). The indicators that are regulating/regulatory in the index of the political environment are freedom of expression (63), freedom of opinion (61), involvement as experts (53), and involvement in public consultations (50). It is different with the legal framework index where there is one indicator that is closed/restrictive, in the political environment index there are four indicators that are closed/restrictive, namely: involvement in the provision of public services (35), access to data (34), data disclosure (33), and involvement in budgeting (26).

An assessment of the legal framework and political environment has provided an overview of the main challenges faced by developmental NGOs in carrying out national/social development work. Within the legal framework, the main challenge for NGOs is access to government funds to support NGO social service activities. It is known that most NGOs face the issue of organizational independence in terms of finance. While funding for NGOs from the government is closed.

Another major challenge stems from the theme of the political environment. First, related to the challenge of access to government funds, the first challenge in the political environment of NGOs is involvement in the provision of closed public services. The government, both central and local, is considered to have almost never or rarely involved NGOs in the provision of public services.

Second, in relation to transparency, NGOs consider that the government is restricting public information. NGOs think, overall, it is very difficult to access data that is not published by the government. In addition, public information published by the government is still very far from being open, because there is still a lot of information that is excluded and is not published/socialized to the public. In fact, the data or information needed by NGOs is needed for advocacy or research activities that lead to the provision of evidence-based policy recommendations.

Another challenge that emerges as well as the indicator with the lowest score among the indicators in the legal framework and political environment is the issue of budgetary involvement. Participatory budgeting as an element of democratic participation is considered far from ideal.

**Based on the findings that have been put forward, this study recommends:**

- The President of the Republic of Indonesia to establish an NGO Endowment Fund. The NGO Endowment Fund is intended for NGOs to support social development work such as community empowerment, advocacy and research, and many more. The NGO Endowment Fund shall be managed by the Civil Society Commission as an independent State institution with the general task of strengthening NGO participation in national development.
- State Ministries and Institutions implement Self-Management Procurement Type III in their internal agencies. In addition, the Ministry of Home Affairs issues regulations regarding the obligation to implement Self-Management Procurement Type III in local government circles. It aims to increase the participation of NGOs in the provision of public services together with the government.
- State Ministries and Institutions, and Regional Government Organizations make it easier for NGOs to access the data and/or information needed. As long as the data and/or information are needed for the purposes of empowerment, advocacy, research, and other productive matters and do not interfere with national security, K/L and Regional Apparatus Organization need to provide the requested data and/or information.
- The President of the Republic of Indonesia, the House of Representatives, State Ministries and Institutions, and Regional Government Organizations increase the transparency of public information disclosure. State administrators can increase the transparency of public information disclosure by socializing and publishing all state activities related to the public interest.
- The President of the Republic of Indonesia, the House of Representatives, State Ministries and Institutions, Regional Government Organizations, and Village Governments improve the quality of participatory budgeting. Better quality participatory budgeting can be achieved through the involvement of NGOs in Development Planning Conference at every level of state administration to ensure the accuracy of development programs and budget allocations are on target, while ensuring that the aspirations of civil society are accommodated in development programs.
- The President of the Republic of Indonesia, the House of Representatives, State Ministries and Institutions, Regional Government Organizations, and Village Governments build a tradition of social dialogue with relevant civil society representatives. Social dialogue is needed as a common forum to formulate a solution to a developing public problem. Thus, Government-NGO collaboration is created in alleviating development problems.
- The President of the Republic of Indonesia and the Chief of Police of the Republic of Indonesia oversee the Reform of the Indonesian National Police. Democratic principles such as law enforcement, respecting civil rights, and upholding human rights must be the paradigm of the police in their duties. Thus, it is hoped that there will be no more repression from the police in

regulating the course of demonstrations as a form of civil society's freedom of expression and opinion.

- NGOs strengthen knowledge to produce evidence-based policy recommendations in policy advocacy work. Thus, the policy recommendations offered by NGOs can be translated in the form of regulations to work programs. Evidence-based policy recommendations also strengthen the position of NGOs in negotiations or lobbying with policy makers and strengthen public opinion building.
- NGOs build social-entrepreneurs as a source of organizational financing. The existence of a social enterprise unit can free NGOs from dependence on external financing sources while at the same time confirming the autonomous position of NGOs.
- NGO activists build strategic communication forums. An NGO strategic communication forum is needed to discuss matters related to the work of NGOs, open up opportunities for collaboration, to build political power in terms of influencing public policies for better social change. ■

#### List of Acronyms

AD/ART	Anggaran Dasar/Anggaran Rumah Tangga (Memorandum of Association/Articles of Association)	NPWP	Nomor Pokok Wajib Pajak (Taxpayer Identification Number)
AMDAL	Analisis Mengenai Dampak Lingkungan (Environmental Impact Assessment)	OBH	Organisasi bantuan Hukum (Legal Aid Organization)
APBD	Anggaran Pendapatan & Belanja Daerah (Regional Revenue & Expenditure Budget)	ODA	Official Development Assistance
APBN	Anggaran Pendapatan & Belanja Negara (National Revenue & Expenditure Budget)	OECD	Organisation for Economic Co-operation and Development
Bappenas	Badan Perencanaan Pembangunan Nasional (National Development Planning Ministry)	OMS	Organisasi Masyarakat Sipil (Civil Organization Society)
BPJS	Badan Penyelenggara Jaminan Sosial (Healthcare and Social Security Agency)	OPD	Organisasi Perangkat daerah (Regional Apparatus Organization)
CSO	Civil Society Organization	Orba	Orde Baru (New Order)
DAC	Development Assistance Committee	Ormas	Organisasi Masyarakat (Community Organization)
DJP	Direktorat Jenderal Pajak (Taxation Directorate Generale)	Ornop	Organisasi Non-Pemerintahan (Non-Governmental Organization)
DPR	Dewan Perwakilan Rakyat (the House of Representatives)	PBB	Perserikatan bangsa-Bangsa (United Nations)
DPRD	Dewan Perwakilan Rakyat Daerah (Provincial and Regional Legislative Council)	PERPPU	Peraturan Pemerintah Pengganti Undang-Undang (Regulation in lieu of law)
FGDs	Focus Group Discussions	Raperda	Rancangan Peraturan Daerah (Regional Regulation Draft)
HAM	Hak Asasi Manusia (Human Rights)	RKPD	Rencana Kerja Pemerintah Daerah (Regional Government Work Plan)
ICCPR	International Covenant on Civil and Political Rights	RPJMD	Rencana Pembangunan Jangka Menengah Daerah (Regional Medium Term Development Plan)
IDI	In-depth Interview	RPJPD	Rencana Pembangunan Jangka Panjang Daerah (Regional Long-Term Development Plan)
IMF	International Monetary Fund	SDA	Sumber Daya Alam (National Resources)
ITUC	International Trade Union Confederation	SKPD	Satuan Kerja Pemerintah Daerah (Regional Government Work Unit)
K/L	Kementerian/Lembaga (Ministry/Institution)	SKT	Surat Keterangan Terdaftar (Certification of Registration)
Kemendagri	Kementerian Dalam Negeri (Internal Affairs Ministry)	SKTM	Surat Keterangan Tidak Mampu (Certificate of Incapacity)
Kemenkumham	Kementerian Hukum dan HAM (Law and Human Rights Ministry)	SPPB	Sauyunan Perempuan Petani Binangkit
KKN	Korupsi, Kolusi dan Nepotisme (Corruption, Collusion, Nepotism)	TAFJA	Tax and Fiscal Justice Asia
KPA	Konsorsium Pembaruan Agraria (Agrarian Reform Consortium)	UNICEF	United Nations Children's Fund
KSPI	Konfederasi Serikat Pekerja Indonesia (Indonesia Labor Union Confederation)	UU HPP	Undang-Undang Harmonisasi Peraturan Perpajakan (Tax Regulations Harmonization Law)
LKPP	Lembaga Kebijakan Pengadaan Barang/Jasa Pemerintah (National Procurement Agency)	UU ITE	Undang-Undang Informasi & Transaksi Elektronik (Information & Electronic Transaction Law)
LP3ES	Lembaga Penelitian, Pendidikan, dan Penerangan Ekonomi dan Sosial (Institute for Social and Economic Research, Education and Information)	UU KIP	Undang-Undang Keterbukaan Informasi Publik (Public Information Disclosure Law)
LSM	Lembaga Swadaya Masyarakat (Non-Government Organization)	UU PPLH	Undang-Undang Perlindungan dan Pengelolaan Lingkungan Hidup (Environmental Protection and Management Law)
MoU	Memorandum of Understanding	UU PPP	Undang-Undang Pembentukan Peraturan Perundang-Undangan (Legislation Formation Law)
Musrenbang	Musyawarah Perencanaan Pembangunan (Development Planning Conference)	WHO	World Health Organization
NGO	Non-Government Organization		

## Acknowledgement

The Bina Desa Foundation would like to express our gratitude to all participants of the focus group discussions and interviews. Special thanks to Irvan Tengku Harja who generously provided knowledge and expertise in this endeavor. Finally, this research would not have been possible without the support from the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).

Dwi Astuti  
Chairperson, Bina Desa Foundation

## Citation:

Harja, I. T. (2022). *CSO Assessment Study on Legal and Political Environment for Developmental/Rural Developmental NGOs in Indonesia*. [Paper prepared by Bina Desa of Indonesia for the project, "Study on Legal and Political Environment for CSOs in Asia" implemented by the Asian NGO Coalition for Agrarian for Agrarian Reform and Rural Development (ANGOC) and supported by the Fair Finance Asia (FFA) through the Initiatives for Dialogue and Empowerment through Alternative Legal Services (IDEALS)].

## Disclaimer:

The contents of the article are entirely the responsibility of the author and researchers, and do not necessarily reflect those of IDEALS and FFA.

## References

- Azis, M. H. (2019). Hak berserikat dan berkumpul warga negara asing dalam pendirian Organisasi Kemasyarakatan di Indonesia. *Jurist-Diction*, 1 (2), 627–644. <https://doi.org/10.20473/jd.v1i2.11014>
- Bahtiar. (6/6/2022). Kebijakan Pemerintah dalam pembinaan Ormas. *Seminar "Peran Organisasi Kemasyarakatan dalam Menjaga Demokrasi Jelang Pemilu dan Pilukada 2024 dan Meningkatkan Kesejahteraan Rakyat"*. Seknas FITRA. Jakarta. <https://www.youtube.com/watch?v=X8pS4CVL6Y4>
- Bakti, A. F. (2005). Islam and Modernity: Nurcholish Madjid's interpretation of civil society, pluralism, secularization, and democracy. *Asian Journal of Social Science*, 33(3), 486–505. <http://www.jstor.org/stable/23654384>
- Baswir, R. (2004). Problematika LSM di Indonesia. *Dalam Kritik dan Otokritik LSM: Membongkar Kejujuran dan Keterbukaan LSM Indonesia*. Jakarta. Piramedia.
- Bina Desa, (29/06/2020). Sauyunan perempuan petani gelar stand pangan desa. *Sekretariat Bina Desa*. Jakarta. <https://binadesa.org/sauyunan-gelar-stand-pangan-desa/>
- Culla, Adi Suryadi. (2006). Rekonstruksi civil society: Wacana dan aksi Ornop di Indonesia. *LP3ES Indonesia*. Jakarta.
- Davis, Ben. (tanpa tahun). Keberlanjutan finansial dan diversifikasi pendanaan: Tantangan bagi LSM Indonesia. *Cardno*. <https://www.ksi-indonesia.org/assets/uploads/original/2020/02/ksi-1580493388.pdf>
- Efendi, Rahmad *et al.* (2019). Swakelola Tipe III: Dimensi baru kemitraan antara Pemerintah dan Organisasi Kemasyarakatan untuk inovasi pembangunan dalam pengadaan barang/jasa pemerintah. *AKATIGA, LKPP & KSI*. <https://www.ksi-indonesia.org/assets/uploads/original/2020/01/ksi-1580322305.pdf>
- Herdiansah, A. G. & Randi (2016). Peran organisasi masyarakat (Ormas) dan lembaga swadaya masyarakat (LSM) dalam menopang pembangunan di Indonesia. *SOSIOGLOBAL Jurnal Pemikiran dan Penelitian Sosiologi*, 1(1), 49-67. <https://doi.org/10.24198/jsg.v1i1.11185>
- Fakih, Mansour. (1996). Masyarakat sipil untuk transformasi sosial: Pergolakan ideologi di dunia LSM Indonesia. *Pustaka Pelajar*. Yogyakarta.
- Fahurosi, D. (2021, November 13). Kebebasan hak dan partisipasi warga negara dalam sistem demokrasi di Indonesia. <https://doi.org/10.31219/osf.io/csn2u>
- Fauzin, F. (2011). Keberpihakan pengaturan hak atas informasi publik dalam Undang-Undang Keterbukaan Informasi Publik. *Pranata Hukum*, 6(2), 267-66. <https://media.neliti.com/media/publications/26766-ID-keberpihakan-pengaturan-hak-atas-informasi-publik-dalam-undang-undang-keterbukaan.pdf>
- Ibrahim, Rustam. (2006). A long journey to a civil society: CIVICUS Civil Society Index Report for the Republic of Indonesia. *YAPPIKA*. Jakarta. [http://www.civicus.org/media/CSI\\_Indonesia\\_Country\\_Report.pdf](http://www.civicus.org/media/CSI_Indonesia_Country_Report.pdf)
- INFID. (2000). Perjuangan demokrasi dan masyarakat sipil: Reposisi dan peran Ornop/LSM di Indonesia. *International NGO Forum on Indonesia Development (INFID)*. Jakarta.
- JICA. Official Development Assistance Loans. *Japan International Cooperation Agency*. [https://www.jica.go.jp/english/our\\_work/types\\_of\\_assistance/oda\\_loans/overseas/index.html](https://www.jica.go.jp/english/our_work/types_of_assistance/oda_loans/overseas/index.html)
- Jolosangoro, S., Y., & H, N. R. (2014). Peran LSM PATTIRO Semarang mendorong Dinas Pendidikan Kota Semarang untuk mewujudkan keterbukaan informasi publik. *Journal of Politic and Government Studies*, 3(3), 286-295. Retrieved from <https://ejournal3.undip.ac.id/index.php/jpgs/article/view/5717>
- Katadata.co.id. (16 Februari 2021). Pasal-pasal bermasalah UU ITE yang memicu jeratan sejumlah kasus. <https://katadata.co.id/happyfajrian/berita/602bcd02259d6/pasal-pasal-bermasalah-uu-ite-yang-memicu-jeratan-sejumlah-kasus>



- KOMNAS HAM RI. (2020). Standar Norma dan Pengaturan Nomor 3 tentang Hak Atas Kebebasan Berkumpul dan Berorganisasi. Jakarta. <https://www.komnasham.go.id/files/1607522445-standar-norma-dan-pengaturan-nomor-3-SKQ.pdf>
- KPA. (2021). CATAHU 2020 KPA edisi 1: Laporan konflik agrarian di masa pandemi dan krisis ekonomi. *Sekretariat Nasional Konsorsium Pembaruan Agraria (KPA)*. Jakarta. [http://kpa.or.id/publikasi/baca/laporan/92/Catahu\\_2020\\_KPA\\_Edisi\\_I:\\_Laporan\\_Kon%EF%AC%82ik\\_Agraria\\_di\\_Masa\\_Pandemi\\_dan\\_Krisis\\_Ekonomi/](http://kpa.or.id/publikasi/baca/laporan/92/Catahu_2020_KPA_Edisi_I:_Laporan_Kon%EF%AC%82ik_Agraria_di_Masa_Pandemi_dan_Krisis_Ekonomi/)
- Lassa, Jonathan & Li, Dominggus Elcid. (tanpa tahun). NGO networks and the future of NGO sustainability in Indonesia. *Cardno*. <https://www.ksi-indonesia.org/assets/uploads/original/2020/02/ksi-1580491784.pdf>
- Maani, K. D. (2011). Teori ACTORS dalam pemberdayaan Masyarakat. *Jurnal Demokrasi*, 10(1). <http://ejournal.unp.ac.id/index.php/jd/article/view/1430/1240>
- Malena, Carmen. (2010). Working with NGOs: a practical guide to operational collaboration between the World Bank and nongovernmental organizations (English). *World Bank Group*. Washington D.C. <http://documents.worldbank.org/curated/en/814581468739240860/Working-with-NGOs-a-practical-guide-to-operational-collaboration-between-the-World-Bank-and-nongovernmental-organizations>
- Muhshi, Adam. (2018). Pemenuhan hak atas informasi publik sebagai tanggung jawab Negara dalam mewujudkan good governance. *Lentera Hukum*, 5(1), 59-70. <https://doi.org/10.19184/ejlh.v5i1.7284>
- Muukkonen, M. (2009). Framing the field: Civil society and related concepts. *Nonprofit and Voluntary Sector Quarterly*, 38(4), 684-700. <https://doi.org/10.1177/0899764009333245>
- Noor, Munawar. (2011). Pemberdayaan masyarakat. *Jurnal Ilmiah CIVIS*, 1(2), 87-99. <https://doi.org/10.26877/civis.v1i2/Jul.591>
- Nugroho, A. (2011). Transparansi dan akuntabilitas LSM Lokal di Indonesia (Telaah kritis transparansi dan akuntabilitas kinerja LSM Pattiro Semarang Periode Tahun 2008-2010). *Disertasi doktoral, Universitas Diponegoro*. Semarang.
- Nurbatin, D. (2015). Akuntabilitas dan transparansi LSM dalam proses transformasi sosial sebagai jawaban tuntutan reformasi. *Ekonomika*, 8(2), 47-53. [https://www.kopertis7.go.id/uploadjurnal/Ekonomika%20Vol%20No%20No%20Des%202015\\_siap%20cetak.pdf](https://www.kopertis7.go.id/uploadjurnal/Ekonomika%20Vol%20No%20No%20Des%202015_siap%20cetak.pdf)
- OECD. (April 2021). Official Development Assistance (ODA). *Development Co-operation Directorate*. <https://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/What-is-ODA.pdf>
- Olivia, Denindah. (2020). Hakikat kebebasan berekspresi dalam perspektif Hukum Hak Asasi Manusia. *RIO LAW JOURNAL*, 1(2). DOI: <http://dx.doi.org/10.36355/rlj.v1i2.409>
- Partodihardjo, Soemarno. (2008). Tanya jawab sekitar Undang-Undang Nomor 14 Tahun 2008 tentang Keterbukaan Informasi Publik. *PT Gramedia Pustaka Utama*. Jakarta.
- PRAKARSA. (2021). Mengukur Indeks Tata Kelola Civil Society Organizations (CSOs) dalam penguatan demokrasi substansif di Indonesia. *The PRAKARSA*. Jakarta. <https://repository.theprakarsa.org/media/publications/352175-mengukur-indeks-tata-kelola-civil-societ-e5c7f297.pdf>
- Pratiwi, P. H. (2012). Perencanaan partisipasi lokal: Pengalaman advokasi participatory budgeting LSM di Yogyakarta. *KOMUNITAS: International Journal of Indonesian Society and Culture*, 4(1). DOI: 10.15294/komunitas.v4i1.2392
- Rizky, R. N. (2017). Lembaga Swadaya Masyarakat, media massa dan hak anak. *JURNAL SIMBOLIKA: Research and Learning in Communication Study (E-Journal)*, 3(2), 87-96. DOI: <https://doi.org/10.31289/simbollika.v3i2.1454>
- Rubrik Dosen. (2021). Diharapkan revisi tak dibatasi 4 pasal dalam UU ITE. Universitas Al Azhar Indonesia. <https://uai.ac.id/diharapkan-revisi-tak-dibatasi-4-pasal-dalam-uu-ite/>
- Saddu, C. (2016). Hak masyarakat dan Badan Publik atas keterbukaan informasi publik. *Jurnal Ilmu Hukum Legal Opinion*, 1(4), 1-11. <https://media.neliti.com/media/publications/146572-ID-hak-masyarakat-dan-badan-publik-atas-ket.pdf>
- Scanlon, Megan McGlynn & Alawiyah, Tuti. (tanpa tahun). The NGO sector in Indonesia: Context, concepts and an updated profile. *Cardno*. <https://www.ksi-indonesia.org/assets/uploads/original/2020/02/ksi-1580493585.pdf>
- Setyawan, D. (2011). Peran civil society sebagai pressure group dalam perumusan kebijakan publik (Studi pada Malang Corruption Watch (MCW)). *Reformasi*, 1(1). DOI: <https://doi.org/10.33366/rfr.v1i1.6>
- Sidabutar, T., Hutagaol, P. M. J. L., & Jasman, J. (2020). Analisis komparatif kebijakan perpajakan atas kegiatan filantropi. *Journal of Applied Accounting and Taxation*, 5(2), 175-184. <https://doi.org/10.30871/jaat.v5i2.2522>
- Silalahi, Ulber. (2010). Metode Penelitian Sosial. *Refika Aditama*. Bandung.
- Smismans, S. (2008). New modes of governance and the participatory myth. *West European Politics*, 31(5). <http://doi.org/10.1080/01402380802234540>
- Sujatmiko, I. G. (2001). Wacana 'Civil Society' di Indonesia. *Jurnal Masyarakat*, 9.
- Suryani, Ni Putu, Dewi, P.E.D.M., Herawati, Nyoman Trisna. (2017). Pengaruh penerapan PSAK No. 45, Kompetensi Sumber Daya Manusia, dan Sistem Pengendalian Internal terhadap kualitas laporan keuangan yayasan sosial se-Kabupaten Buleleng. *JIMAT (Jurnal Ilmiah Mahasiswa Akuntansi) Undiksha*, 8(2). <https://doi.org/10.23887/jimat.v8i2.14656>
- United Nations. Multilateral: International Covenant on Civil and Political Rights. *United Nations – Treaty Series*. <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>
- United Nations. UNGP Reporting Framework: Civil Society Organizations. <https://www.ungpreporting.org/glossary/civil-society-organizations-csos/>
- USAID. 2016 CSO Sustainability Index. *United States Agency for International Development*. Pennsylvania. [https://www.usaid.gov/sites/default/files/documents/1866/CSOSI\\_Report\\_7-28-17.pdf](https://www.usaid.gov/sites/default/files/documents/1866/CSOSI_Report_7-28-17.pdf)
- Wibawa, K. C. S. (2020). Pengaturan Organisasi Kemasyarakatan sebagai pelaksana dalam pengadaan barang/jasa Pemerintah di Indonesia. *Administrative Law and Governance Journal*, 3(4), 661 - 676. <https://doi.org/10.14710/alj.v3i4.661-676>
- Yuanita, Evi. (2019). Analisis faktor-faktor yang mempengaruhi kualitas laporan keuangan organisasi nirlaba (Studi empiris pada LSM di Indonesia). *Ringkasan Skripsi thesis, STIE YKPN*. <http://repository.stieykpn.ac.id/518/1/RINGKASAN%20SKRIPSI%20Evi%20Yuanita%20-%20311729780.pdf>

## Annex:

**QUESTIONNAIRE OF OPINION SURVEY OF CIVIL SOCIETY ORGANIZATION ACTIVITIES ON THE LEGAL AND POLITICAL ENVIRONMENT OF DEVELOPMENTAL NGOS IN INDONESIA**

RESPONDENT DATA	
Full Name	
Organization	
Title	
Age	
Sex	Male/Female (circle one)
Level of Education	SD/SMP/SMA/Diploma/S-1/S-2/S-3 (circle one)

QUESTIONNAIRE					
Give your score on each indicator					
No.	Theme: Legal Framework		Questions	Score Description	Score
1	Dimension	Indicator			
	Registration	Registration obligations	The effect of legal entity status or SKT ownership on the organization's freedom to exercise its rights	Score 1-15: 1 very influential - 15 very not influential	
		Requirements and process	Difficulties related to organizational registration requirements and processes	Score 1-15: 1 very influential - 15 very uninfluential	
2	Dimension	Indicator			
	Funding	Access to foreign funding	Regulatory complexity to access foreign funds	Score 1-10:1 very complicated - 10 very uncomplicated	
		Access to ODA	Participation in the use of ODA funds	Score 1-10:1 very complicated - 10 very uncomplicated	
		Access to government funds	Government funding support for CSOs	Score 1-10:1 very complicated - 10 very uncomplicated	
Payment of taxes		Tax exemption for donors and grantees	Score 1-10: 1 very exempted- 10 very not exempted		
3	Dimension	Indicator			
	Accountability Mechanism	Within CSO	The complexity of accountability to the public	Score 1-15:1 very complicated - 15 very uncomplicated	
		Within Government	The complexity of accountability to the public	Score 1-15:1 very complicated - 15 very uncomplicated	

No.	Theme: Political Environment		Question	Score Description	Score
1	Dimension	Indicator			
	Freedom of	Expression	Freedom of Expression	Score 1-10: 1 very not free - 10 very free	
		Assembly	Freedom of Assembly	Score 1-10: 1 very not free - 10 very free	
Opinion		Freedom of Opinion	Score 1-10: 1 very not free - 10 very free		
2	Dimension	Indicator			
	Right to Information	Data Disclosure	Data disclosure/publications by the government	Score 1-15: 1 very undisclosed - 15 very open	
Access to data		Difficulty accessing unpublished data	Score 1-10: 1 very difficult - 10 very not difficult		
3	Dimension	Indicator			
	Partnership	Involvement in the provision of public services	Involvement in the provision of public services	Score 1-15:1 very excluded - 15 very involved	
Involvement as a consultant/expert		Involvement as a consultant/expert	Score 1-10: 1 not very involved - 10 very involved		
4	Dimension	Indicator			
	Participation	Public consultation	Involvement in public consultation	Score 1-10: 1 not very involved - 10 very involved	
		Budgeting	Involvement in budgeting	Score 1-10: 1 not very involved - 10 very involved	