

EFFECTIVE REGULATION OF NON -PROFIT ORGANIZATIONS IN PAKISTAN

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May, 2009

FINAL APPROVAL

Date: 05-05-2009

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DEDICATION

This thesis is dedicated to my parents and my teachers of LLM Degree Program at the International Islamic University, Islamabad, who encouraged and supported me to complete my thesis.

ACKNOWLEDGEMENT

Praise be to ALLAH, the creator of the world, mankind and the only Lord who gifted us the wisdom to live according to His directives and follow His Messenger Muhammad (Peace be upon Him).

I am thankful to my respectful Teachers at International Islamic University for providing us the highest level of professional education. My sincere thanks go to my kind supervisor Mr. Muhammad Munir, Assistant Professor. Without his guidance and generous support I would not be able to proceed in compiling this thesis.

I also acknowledge the great help and support provided to me from all staff of the International Islamic University whose names are not mentioned here.

(Humaira Bano)

ABSTRACT

Non-governmental organizations have existed in Pakistan since independence in 1947. NGOs generally have worked for rehabilitation and social welfare and to serve the poor and marginalized. The number of NGOs had remain static for some 30 years, but has mushroomed in the 1980s and 1990s.

The Pakistani government has in general been positive about the development of NGOs, starting from the first five year plan (1955-1960) when a permanent social welfare section was created within the Planning Board (now called the Planning Commission). More recently, the seventh and eighth five year plans contained supportive policy statements many of which have guided government action to assist NGOs.

Some NGOs in Pakistan have played an important role in creating awareness of issues such as human and legal rights, women in development and over population. Others have provided badly needed services such as basic health care, water and sanitation and employment opportunities to under-developed areas. By showing their ability to succeed where the government had difficulties, NGOs have helped change national perception and policies concerning sustainable development.

With a very few exceptions, NGOs in Pakistan do not have well defined governance, transparency and accountability structures while some rely entirely on financial support from the Pakistani public and Pakistani institutions, a large proportion rely almost entirely on project aid from international funding agencies. They are constantly challenged to prove their integrity.

The non-profit organization sector has not developed an effective system of self regulation. While a number of organizations serve as watchdogs, since their coverage is limited therefore the public is not aware of their activities.

It is in the interest of all the non-profit organizations that their sector should be well managed and accountable. They should do a board self-assessment using broad resources to identify and address problems. The organizations need to invest in governance and accountability. The sector needs to demonstrate credible commitment to effective government regulation. The organizations must take care of the great assets they have, including the public's trust, solid information and high moral purpose.

The history of non-profit sector in Pakistan has been explored in this thesis with emphasis on problems faced by non-profit organizations and status of self regulation in them. The regulation and Laws by the government have also been discussed along with some examples from the regional countries for reference and comparison purposes. In the end conclusions have been drawn and recommendations have been given as well.

Key words: Accountable, funding, governance, Non-profit organizations, self-regulation, social, voluntary.

ABBREVIATIONS

ADAB	Association of Development Agencies in Bangladesh
AFP	Association of Fund-raising Professionals
AHI	Anjuman Himayat-e-Islam
AKDN	Aga Khan Development Network
AKRSP	Aga Khan Rural Support Program
APWA	All Pakistan Women Organization
BSO	Baloch Student Organization
CAF	Charities Aid Foundation
CBO	Community Based Organization
CDC	Central Depository Company
CPLC	Citizen Police Liaison Committee
CRY	Child Relief and You
CSO	Civil Society Organization
HKCSS	Hong Kong Council of Social Services
HRCP	Human Rights Commission of Pakistan
INPO	International Non Profit Organization
IUCN	International Union for Conservation of Nature
JBIP	Joint Business Improvement Project
LHRLA	Lawyers for Human Rights and Legal Aid
M-CRIL	Micro-Credit Ratings International
MSF	Muslim Student Federation
NPORC	Non Profit Organization's Resource Center
NPOs	Non Profit Organizations
OPP	Orangi Pilot Project

PALISA	Philanthropy and the Law in South Asia
PCNC	Philippine Center for Nonprofit Certification
PILER	Pakistan Institute of Labor Education and Research
PMN	Pakistan Microfinance Network
PPAF	Pakistan Poverty Alleviation Fund
RSP	Rural Support Program
SAP Pak	South Asia Partnership Pakistan
SDPI	Sustainable Development Policy Institute
SECP	Securities and Exchange Commission of Pakistan
SPARC	Society for the Protection of Rights of Child
SPDC	Social Policy and Development Center
SPO	Strengthening Participatory Organization
TVO	Trust for Voluntary Organizations
UN	United Nations
VANI	Voluntary Action Network India
WAF	Women's Action Forum
WCC	Working Children Center
WF	Women's Front
WSC	Women Support Center
WWF	World Wildlife Fund

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INTRODUCTION

Voluntary and philanthropic initiatives and activities in the region that is now Pakistan date back to the days before recorded history and are mentioned in regional folklore. In more recent times, these activities were manifested through the creation of trusts to supplement the state's provision of social services in the fields of education, health, social welfare, and cultural activities. Following independence in 1947, the role of the nonprofit sector gained momentum. Initially, the state was unable to provide emergency relief to the large influx of refugees that resulted from Pakistan's creation, so nonprofit organizations stepped in to fill the gaps in assistance and service delivery. Later, nonprofits responded to the gradual decline in funding for human capital development. More recently, as a consequence of the erosion of good governance practices and a lack of confidence in the government's capabilities and capacity, international donor organizations, as well as multilateral, bilateral, and private philanthropists, have resorted to funding nonprofit organizations (NPOs) directly¹. The government itself is committed to delivering a substantial part of the Social Action Program (SAP) and the programs under its poverty reduction strategy through NPOs. As a consequence, there has been rapid growth of nonprofit organizations involved in social service delivery. In addition to individual voluntary activities, there have been significant developments in the organized efforts of Pakistan's "nonprofit sector." Most NPOs and community-based organizations (CBOs) are supported by community contributions, local donors, and government funds. Over the years, nonprofit organizations (NPOs) have become increasingly involved in community-based initiatives for social and economic development targeted to improve the quality of life or to help alleviate poverty. Over time, political and religious influences have played an important role in shaping the nonprofit sector in Pakistan. By and large, the government's attitude towards the nonprofit sector has lacked consistency.

¹ SPDC, "*Nonprofit Sector in Pakistan: Government Policy and Future Issues*", (Islamabad: Social Policy and Development Centre, 2002), 2.

While the government appears supportive at the policy level, it has been obstructionist at the operational level. Additionally, though it has been generally supportive of the welfare and service-providing role, it is openly hostile to nonprofit organizations' social and political advocacy.

In Pakistan, the contemporary development discourse, academic discussions and journalistic writings tend to employ Civil Society as an umbrella term for a range of non-state and non-market citizen organizations and initiatives, networks and alliances operating in a broad spectrum of social, economic and cultural fields². These include formal institutions such as political parties, nonprofit organizations, trade unions, professional associations, philanthropies, academia, independent and quasi-independent pressure groups, think tanks, and traditional, informal formations such as faith-based organizations, shrines, seminaries, neighborhood associations, jirgas (councils of elders) and savings groups.

Nonprofit organizations have existed in Pakistan since independence in 1947. NPOs generally have worked for rehabilitation and social welfare and to serve the poor and marginalized. The number of NPOs had remain static for some 30 years, but has mushroomed in the 1980s and 1990s. Following independence in 1947, the role of the non-profit sector gained momentum. Initially the state was unable to provide emergency relief to the large influx of refugees that resulted from Pakistan's creation, so non-profit stepped into fill the gaps in assistance and service delivery. Later non-profits responded to the gradual decline in funding for human capital development. More recently, as a consequence of the erosion of good governance practices and a lack of confidence in the government's capabilities and capacity, international donor organizations,. As well as multi-lateral, bilateral and private philanthropists, have resorted to funding nonprofit

² Adnan Sattar & Rabia Baig, "*Civil Society in Pakistan-A preliminary report on the Civicus Index on civil society project in Pakistan*", volume 1, Issue 11, Islamabad, Civicus index on civil society occasional paper series, NGO Resource Center (August 2001), 1-2.

organizations (NPOs) directly (SPDC 1998). The government itself is committed to delivering a substantial part of the Social Action Program (SAP) and the programs under its poverty reduction strategy through NPOs. As a consequence, there has been rapid growth of non-profit organizations involved in social service delivery.

The Pakistani government has in general been positive about the development of NPOs, starting from the first five year plan (1955-1960) when a permanent social welfare section was created within the Planning Board (now called the Planning Commission). More recently, the seventh and eighth five year plans contained supportive policy statements many of which have guided government action to assist NPOs.

Over the last decade or more, governments in Pakistan have been faced with a financial crunch. This has also been accompanied by a crisis in governance³. These two factors have resulted in a cutting back of expenditures in a wide spectrum of public services. This in turn has resulted in the resurgence of the private sector in trying to fulfill the gaps caused by the withdrawal or retreat of the public sector. While a fairly large part of the gap in the health and education sectors has been filled by the for-profit organizations, a not insignificant share falls in the realm of the nonprofit organizations (NPOs).

The declining availability of the other social or welfare services has been taken up by not-for-profit organizations. The crisis in governance has also resulted in the international donor community diverting their development grants for Pakistan away from the government line departments to the NPOs as executing or partner agencies. This has increased the visibility of the not-for-profit organizations (NPOs).

³ Zafar H. Ismail, *"The legal framework of the nonprofit sector in Pakistan"*, (Karachi: Social Policy and Development Center, 2002), 6-8.

CHAPTER I.

DEFINITIONS, TYPES AND HISTORICAL DEVELOPMENT OF NPOs IN PAKISTAN

1.1 DEFINITION OF NPOs

Many diverse types of bodies are not described as being NPOs, there is no generally accepted definition of an NPO and the term carries different connotations in different circumstances. Nevertheless, there are some fundamental features. Clearly an NPO must be independently from the direct control of any government. In addition, there are three other generally accepted characteristics that exclude particular types of bodies from consideration. An NPO will not be constituted as a political party; it will be non-profit making and it will not be a criminal group, in particular it will be non-violent. These characteristics apply in general usage, because they match the conditions for recognition by the United Nations. The boundaries can sometimes be blurred: some NPOs may in practice be closely identified with a political party; many NPOs generate income from commercial activities, notably consultancy contracts or sales of publications; and a small number of NPOs may be associated with violent political protests.

Nevertheless, an NPO is never constituted as a government bureaucracy, a party, a company, a criminal organization or a guerrilla group. Thus, for this article, an NPO is defined as an independent voluntary association of people acting together on a continuous basis, for some common purpose, other than achieving government office, making money or illegal activities⁴.

⁴ Simi Kamal, "*NPO Registration Study*", (Karachi: Aga Khan Foundation, 1991), 2-3.

It should be noted that one of the ambiguities about the term, NPO, is whether it is referring to a local, provincial, national, regional or global body. Until the early 1990s, the matter was generally straightforward in academic, news media or political discussion.

The overwhelming majority of local and provincial NPOs never engaged in transnational activities. Thus NPO, by itself, usually meant a national NPO and religion or global bodies were called international NPOs⁵. National NPOs did engage in transnational development and humanitarian NPOs. National NPOs did engage in transnational development and humanitarian activities, but, with very few exceptions, they were not, in their own right, participants in international diplomacy. When they wanted to exercise political influence at the global level, they did so through the appropriate INPO. In the 1990s, there was a great upsurge in local organizations becoming active at the global level, particularly on environment issue, because of the Rio Earth Summit in June 1992, and on social issue, because of the Copenhagen Social Summit in March 1995. Since then, the term INPO has not been used so much and NPO, by itself, has come to cover both national and international NPOs. As an expression of the new politics, various terms then were popularized to refer to local NPOs. Grass-roots organization, community based organization (CBOs), and civil society organizations (CSOs), all came into currency. There is still an ambiguity whether these newer terms cover organization that only operate at local level or also include local branches of national organizations. Grass-roots and community organizations clearly solely to the local level, but civil society has connotation of any level within a single country. Indeed, it has become quite common to refer to global society.

⁵ Salamon, L.M. and Helmut K. Anheier, *"The International Classification of Non-Profit Organization : ICNPO-Revision 1": Working Papers of the Johns Hopkins Comparative Non-Profit Sector Project" no. 1*"9, (Baltimore: The Johns Hopkins Center for Civil Society Studies, 1996), 2-3.

When the UN was formed, any involvement of private individuals or groups in its work constituted deviation from the norm of diplomacy being the exclusive preserve of “states”. Thus, a national organization, as mentioned in Article 71 of the UN Charter, was any NPO based in a single country. No distinction was made between an organization that covered a large constituency, over the whole country, and an organization based solely in local community or a small section of the population. The lack of any distinction did not matter, as participation by either country-wide or more limited national NPOs, was so rare in the permanent UN organs. Participation began on small scale in the 1970s at UN conference, on an *ad hoc* basis. When the ECOSOC rules were changed in 1996 to admit “national NPOs” to consultative status as a matter of routine, the presumption became that a national organization was a country-wide membership organization or a federation of local groups or an umbrella group, that is, a coalition of NPOs operating in different fields. As is common at the UN, practice has not been consistent: a few local NPOs have been admitted as “national NPOs” to consultative status. The Rio conference also produced a term that has only been used in environmental politics at the UN. “Major Group” refers to a system of categorization of NPOs from all levels, for the purpose of participation in United Nation’s policy-making processes.

1.2 TYPES OF ORGANIZATIONS

The nonprofit sector in Pakistan can be divided into two broad categories: unorganized and organized⁶. The unorganized sector is composed of relatively small informal and unregistered entities that work mostly at the grassroots level. The organized sector can further be divided into registered and unregistered sub-sectors. Organizations are registered under various laws, and they include a variety of organizations characterized

⁶ Aleeza Akbar, “Importance of collaboration”, (Islamabad: The POST, 2007), 5-7.

by the particular registration law, size, and scope of activities, and the way in which they are operated and managed. These may include umbrella NPOs, national NPOs, and mid-level and grassroots level organizations. The unregistered segment of the organized sector generally includes small NPOs, CBOs, and grassroots level organizations, although some mid-level organized in the sense that they have definite identifiable existence, structure and operations management procedure, remain unregistered. There are several reasons why an NPO may choose to remain unregistered. For instance, an NPO might have already received recognition, and on the basis of the goodwill earned through its work, be able to attract funding or technical assistance without getting registered.

The terms “nonprofit sector” and “nonprofit organization” are not used extensively, nor are they commonly and uniformly understood, in Pakistan. Apart from the several legal terms used to define these organizations, various other terms and phrases are also used to refer to nonprofit sector organizations in the country⁷. These terms include voluntary organizations, associations, or agencies; welfare organizations; societies; trusts; foundations; cooperatives; or citizens organizations. In recent years, the terms “NPOs” and “CBOs” have also attained greater recognition in society at large, and are being extensively used and understood in a broader sense to describe voluntary and nonprofit organizations. However, many of these terms are not well defined and are used in a broad context. It is, therefore, not always possible to distinguish these terms on the basis of the basic characteristics of organizations depicted by each term.

Voluntary organizations, welfare organizations, social welfare agencies, and welfare societies are used synonymously to refer to organizations that work for the welfare, benefit and betterment of either society as a whole or of a certain segment of society. These organizations are involved in a wide range of activities. Voluntarism and welfare-

⁷ Hasan, Naheed and Zafar Junejo, “*The State of the Citizen Sector in Pakistan*”, (Karachi: NGO Resource Centre, July 1996), 3-4.

oriented activities are among the basic characteristics of these organizations. These organizations range in size from small entities such as *mohallah* (neighborhood) and village committees established either for a specific purpose or for a general wide-ranging sphere of activities, to large organizations such as welfare associations and societies set up to provide education, health and other social services to people at the national level.

The coverage of voluntary and welfare organizations is very extensive. Their objectives, for instance, may include establishing and maintaining mosques and *maktabs* (religious schools) to impart religious and preliminary education; providing basic health services to the destitute by establishing medical centers, clinics and mobile medical units; establishing special education institutions for the handicapped and disabled; awarding scholarships to needy students for higher education; providing monetary assistance to the poor, orphans, widows and persons in distress and establishing vocational institutions⁸.

There are a number of motivating factors characterizing voluntary and welfare organizations. For example, some organizations have a secular agenda to serve the community at large while others are religiously motivated. Secular organizations are involved in promoting particular interests or providing specific welfare services; examples include All Pakistan Women's Association, Pakistan Family Planning Association and Hilal-e-Ahmer Society. In most of the religiously motivated organizations, sectarian division is prominent, though they do not discriminate on these bases while providing services. Almost all religious parties and groups have welfare work on their agenda, and they have set up voluntary organizations that are involved in the provision of collective goods like education, health and burial services. Examples of these types of organizations include *Al-Khidmat* (an Urdu word for service) and the Al-Mustafa Welfare Society. Many of the voluntary and welfare organizations are

⁸ Saeed Ahmed, "*The Meaning of Philanthropy*", (Karachi: Business Recorder, 2000), 6.

characterized by ethnic and clan denominations; examples of these are the Muslim Rajput Welfare Association, Sadat-e-Amroha Welfare Society and Katchhi Memon Welfare Society.

The term “trust” generally refers to welfare and charitable organizations set up as a result of large donations of property or wealth by individual(s). Trusts can be private or public, but they are assumed to be working for charitable and welfare purposes. Beneficiaries of the trust might be society generally or a particular section of society. Their size and scope may vary from small organizations working at the grassroots level to provide charity to widows and orphans to large organizations like the Ansar Burney Trust working at the national level to promote human rights and provide legal aid to people. Religious congregations also tend to form trusts.

Like voluntary and welfare organizations, foundations are also involved in a wide variety of social and economic activities. They are normally engaged in providing collective social goods. Foundations are considered to be nonprofit welfare organizations; however, they do not work on a voluntary basis⁹. This term usually refers to large organizations.

A number of foundations in Pakistan are also set up by the corporate sector, either as tax havens or for the welfare of the parent organization’s employees and their families. The Dawood and the Adamjee Foundations are examples of the corporate sector foundations. They are funded through donations/profits to groups of trading/industrial establishments and are mandated to work for social welfare in all of its facets and for all of the disadvantaged segments of society. The various foundations established by government

⁹ Pasha and Muhammad Asif, *“Dimensions of the Non-Profit Sector in Pakistan; SPDC Working Paper No. 1”* (Karachi: Social Policy and Development Centre and the Johns Hopkins Comparative Nonprofit Sector Project, 2002), 8-11.

agencies and the defense services, such as the Fauji, Bahria and Shaheen Foundations of the Army, Navy and Air Force respectively, and the Police Foundation, operate commercial/industrial undertakings, which are staffed by their retired personnel. The profits generated are used for welfare purposes—establishing and operating educational, vocational and health facilities generally accessible to all segments of civil society. In these instances, while there is little voluntarism, the welfare activities are substantial.

Cooperatives are organizations set up for the mutual help and economic benefit of members. The controlling power of a cooperative lies with its general body. Cooperative societies can be established either for a specific purpose or span a wide range of activities. Cooperative societies may include resource societies, producer's societies, housing societies and general societies. The bulk of the cooperative societies are established for mutual benefit.

The term “NPO” has gained much recognition in society in recent years. Theoretically, almost all kinds of voluntary and welfare organizations, trusts and foundations can be classified as NPOs and are generally referred to as such by government, donors and the NPO community. However, generally in the Pakistani society, the term NPO is used to refer only to the relatively modern organizations espousing secular causes and, by and large, with specific purposes, e.g., freedom of speech, freedom of association, basic human rights and provision of services. Examples of such organizations include giants like the Aga Khan Foundation, an international NPO operating in Pakistan at one end of the spectrum, and SHEHRI, citizens for Better Environment, a local city-based NPO at the other end.

NPOs in Pakistan can be divided into four broad categories¹⁰. The first is the national level capacity building, research, advocacy and/or funding organizations. These include organizations such as the International Union for the Conservation of nature (IUCN), World Wide Fund (WWF) [Environment]; Sustainable Development Policy Institute (SDPI) [Research and Advocacy]; Social Policy and Development Center (SPDC) [Research]; NPO Resource Center (NPORC) [Human Resource Development]; Human Rights Commission of Pakistan (HRCP), and Citizen Police Liaison Committee (CPLC) [Human rights, legal aid].

The second category is implementing and/or support organizations such as Strengthening Participatory Organizations (SPO) and South Asia Partnership Pakistan (SAP Pak). These work directly with communities to establish community-based organizations in specific regions, helping them to shift from welfare orientation to participatory development, and supporting their development projects.

The third category is umbrella NPOs. The term umbrella NPO is used to refer to organizations that attract a large quantity of funds from donors or government, such as the Family Planning Association of Pakistan, the Population Council, the Trust for Voluntary Organizations and the national Rural Support Program. They act as conduits to channel funds to smaller NPOs and even to the CBOs who deliver the services. Rural Support Programs (RSPs) have followed the Aga Khan Rural Support Program model in empowering communities by forming village or community organizations. They are working in micro credit for income generation, land development, poverty alleviation, education, health and sanitation sectors such as the Orangi Pilot Project, Sarhad Rural Support Corporation.

¹⁰ Asian Development Bank, "*A Study of NPOs: Pakistan*", (1999), 4-7.

The fourth type of NPO is involved in social service delivery such as basic education, health and family planning. They may range from small local organizations to mid-level NPOs.

1.3 HISTORICAL DEVELOPMENT OF NPOs IN PAKISTAN

Today's developed NPOs emerged out from the historical facts and impacts of various eras during which the typical setup of that time influenced the needs of the society and therefore, influenced the pathway of development of NPOs. History has shaped and molded NPOs during different political scenarios¹¹.

Islam provides a universal context for giving. However, the institutional background of philanthropy in Pakistan also reflects the contributions of Muslim, Hindu, Sikh, Parsi and Christian individuals and organizations - at times even working in co-operation with one another. In 711 AD, Muslims established their rule in the region, and institutions such as mosques and madrasahs began to play a role in community development and social welfare activities. In 17th century a large number of Christian missionaries came to the subcontinent. These missionaries introduced a western education system and provided healthcare facilities to the people.

Next I will discuss the historical background of NPOs in Pakistan and divide the history in five parts. The historical development of NPOs and the impacts of various political setups would be the focus of this chapter.

¹¹ Hodgkinson, V. A. and McCarthy, K. D. *"The Voluntary Sector in International Perspective: An Overview."* (San Francisco: Jossey-Bass, 1992), 23.

1.3.1 NPOs DURING COLONIAL PERIOD

The colonial period was characterized by the institutionalization of philanthropic and voluntary activities in the South Asia. The prevailing situation of the time paved the way for emergence of need based NPOs. The NPOs setup in this period remained socially motivated on voluntary basis. The main focus of activities carried out by these organizations was social service delivery. In the pre-colonial period, the philanthropic sector in this region was characterized mostly by the initiatives of individual philanthropists.

During the colonial period, new trends from the West permeated the socio-political fabric of this region and had far-reaching impacts. Development of the nonprofit sector during this period is characterized by the local response to imperialist ideas of social welfare, development of a secular approach to nonprofit activity, and evolution of nationalism and mass-mobilization of the people to achieve freedom¹².

British rule initiated institutionalization of voluntary organizations. Various laws regarding registration of NPOs were introduced to provide a legal basis for their activities. The Societies Registration Act was promulgated in 1860 followed by the Religious Endowment Act of 1863. Another important development on the legislative front was the introduction of the Trust Act in 1882 in recognition of the philanthropic nature of charity in South Asia. It provided a legal cover for private acts of charity and afforded the creators of trusts substantial power and flexibility in operations.

¹² Muhammad Asif Iqbal, Hina Khan and Surkhab Javed, *“Nonprofit Sector in Pakistan: Historical Background”*, (Karachi: Social Policy and Development Center, 2004), 10-13.

This period also witnessed the emergence of a large number of voluntary organizations which were committed not only to provide basic services like primary education and healthcare but were also engaged in professional and technical education.

Anjuman-e-Himayat-e-Islam (1886) or Dyal Singh Majithia Trust (1895), were established during the colonial era. Other notable examples of social institutions established by indigenous philanthropy at that time included Nadirshaw Edulji Dinshaw College, today a leading engineering university in Karachi, was started as a joint initiative of local philanthropists and the colonial state. The trust that sustained Nadirshaw Edulji Dinshaw College also supported the construction and development of Lady Dufferin Hospital in Karachi, which involved the joint efforts of governments and local philanthropists to provide desperately needed medical care for women across northern India. Similarly, Sir Ganga Ram a prominent individual philanthropist of the colonial era who through the Sir Ganga Ram Trust established Sir Ganga Ram Free Hospital, Hailey College of Commerce, Lady MacLagan Girls High School and Teachers' Training College all of which are still functioning in Pakistan.

Waqf (Islamic religious endowments) also have been providing many health and social services in Pakistan for hundreds of years. A major waqf, Hamdard Foundation, has been producing and distributing herbal medicines and tonics, since 1906. At present Hamdard Waqf receives 239 million rupees annually from Hamdard industries, and uses the amount for social development

1.3.2 NPOs DURING POST-INDEPENDENCE PERIOD (1947-1958)

The early years of Pakistan provided some alarming and highly demanding grounds for the establishment of NPOs. The history of Pakistani NPOs goes back to partition in 1947, when British India was divided into two sovereign states of India and Pakistan. Although not referred to as NPOs, many voluntary organizations were set up to provide humanitarian aid to the refugees and to help the victims of communal riots. The prevailing social issues of that time were welfare of refugees and support to the victims of communal riots.

The evolution of non-profit sector in Pakistan, by the large, coincides with the changing socio-political environment since 1947. At the time of independence, civil society responded to the social welfare needs of a newborn country in the process of rehabilitation and socio-economic transformation. Partition of the subcontinent had precipitated an exodus of migrants. The government and the people showed firm determination in tackling the gigantic task of rehabilitation millions of migrants. One of the important initiatives was the women voluntary service, which provided shelter, food, first aid, and healthcare to migrants.

Overall, for the first few years after independence, the focus of voluntary organizations remained on resettling migrants and providing them the basic necessities of life¹³. During the 1950s, though voluntary organizations continued to focus on reconstruction, rehabilitation and provision of social service. Another prominent nonprofit organization, the Family Planning Association of Pakistan was established to promote reproductive health services. As such diversification in NPO activities started soon after independence.

¹³ Rafi Ullah, *"The Political History of Pakistan"*, (Lahore: Dost Associates, 1995), 14-15.

1.3.3 NPOs DURING THE FIRST MARTIAL LAW YEARS (1960)

Till 1960, NPOs were struggling to follow their vision and commitments through their own resources. The NPOs were facing financial problems to deliver the services to the very needful society. The era of the 1960s saw a major government sponsored push for community mobilization. The Voluntary Social Welfare Agencies Ordinance of 1961 was promulgated to invite participation of members for a welfare state. The government organized and funded hundreds of voluntary organizations across the country to deliver social services to the underprivileged. The decade of 1960 also saw many business communities actively engaged in philanthropic activities from the platforms of their family business.

In 1961 the voluntary social Welfare Agencies Registration and Control Ordinance was passed to regulate and systemize the activities of voluntary organization. Prior to this, the National Council for Social Welfare had been formed in 1956 to provide technical and financial assistance to nonprofit organizations.

At the same time the government took over the Sufi shrines and Auqaf related to these shrines. These were placed under the control of the Ministry of Religious Affairs. This action drastically reduced the volume of the donation to a lack of confidence that the people had in the government officials appointed to look after the shrines and manage their endowment. This led to establishment of number of organizations by the custodians of shrines throughout the country. People having reservation about the official control felt at ease giving their charitable donation to private non-profit organizations.

The Industrial Dispute Ordinance was promulgated in 1959. "It resulted in a severe curtailment of the right to strike and collective bargaining and sought to render the trade unions ineffective. Besides other provisions obstructing free trade unionism, the Ordinance drastically enlarged the list of 'Public Utility Services' to cover almost all

major categories of industries”¹⁴. This Ordinance was further amended in 1960 to preclude ‘outsiders’ from becoming trade union office-bearers. The ‘outsiders’ were usually those employees who had been dismissed due to trade union activities.

1.3.4 NPOs DURING THE DEMOCRATIC YEARS (1970)

The dwindling political setup greatly influenced and affected the NPOs throughout the Pakistan’s history. The political calmness favors the establishment of NPOs working for the development of society while the politically disturbed situation drives the NPOs in the direction of protection of human rights, food security, etc. The emerging citizen sector received a considerable set-back in the 1970s with the government’s policy of nationalization. The government took over educational institutions owned by voluntary organizations. Furthermore, state acquisitions of basic industries diminished the funding sources for many charitable organizations. The Islamic institution of *Zakat*, a great source of individual giving, was also brought under state control thus harming a major source of philanthropic funding. Bhutto’s (President/Prime Minister of Pakistan 1972-1977) policies of expanding the state’s role in economic, educational and cultural spheres, through nationalization of industries, schools, colleges, etc. eroded the institutional base of the modern component of civil society. Highly popular and credible organizations like the Anjuman-e-Himayat-e-Islam, Aga Khan Education Services and various Christian missions lost their premises, resources, and some small community organizations even lost the incentive to function. However, the policy of nationalization was reverted in the 1980s, and some (not all) organization got their institutions handed over to them by the government.

¹⁴ FES (Friedrich-Ebert-Stiftung), “*Rights of Workers in South Asia, New Delhi*”, (New Delhi: Friedrich-Ebert-Foundation, 1991), 125-126.

The set-backs suffered in the 1970s proved to be an aberration in the continuous growth of the sector. The government nationalized private schools, colleges and other educational institutions set up and run by voluntary organizations, trusts, foundations, and community organizations¹⁵. However, many of these organizations did not give up; rather, they set up other institutions, for example, 12 schools and colleges run by Anjuman Himayat-e-Islam (AHI) were nationalized under that policy, but the AHI has established 18 new institutions since then.

1.3.5 NPOs DURING THE FIRST TASTE OF DEMOCRACY (1971-77)

The NPOs primarily work in a democratic way where society members have the right to express themselves. Thus democratic form of government proves beneficial to the development of NPOs. Zulfikar Ali Bhutto assumed power in December 1971 as the first democratically elected leader of the country. His government ushered in significant changes in the economic and social spheres. The overall attitude of the government in the 1950's and the 1960's implied a partnership between the state and the NPOs in welfare and social work. In the 1970's this model was altered to denote the state's dominant responsibility to provide essential services to its citizens.

“Bhutto's policies of expanding the state's role in economic, educational and cultural spheres, through nationalization of industries, schools, colleges, etc. eroded the institutional base of the modern component of civil society. Leading industrialists were ousted. Professors, writers and opinion leaders were turned into public servants, as private schools/colleges and cultural associations were nationalized”. The nationalization

¹⁵ Khalid Bin Saeed, “*Politics in Pakistan- The Nature and Direction of Change*”, (New York: Praeger, 1980), 33-45.

of educational institutions set up and run by voluntary organizations, trusts and foundations was a major setback for the nonprofit sector in Pakistan.

Many of the organizations did not give up and set up other institutions. For example, 12 schools and colleges run by Anjuman Himayat-e-Islam (AHI) were nationalized under that policy. But the AHI has established 18 new institutions since then¹⁶. The policy of nationalization was reverted in the 1980, and some (not all) organization got their institutions handover to them by government.

Trade Unionism

From 1972, trade union activity regained momentum after passing through a difficult period during the 1960's. The environment which was not conducive to voluntary organizations fostered trade unions instead, which grew both strong and powerful. Several umbrella organizations emerged in order to coordinate the activities of like-minded unions all over the country, e.g., the Pakistan Trade Union Federation, Pakistan Workers' Federation, Pakistan National Worker's Trade Union Federation and National Progressive Workers' Federation. In addition to these, a number of regional and provincial federations were also operating. "In 1951, the number of registered trade unions was 209 with a total membership of 393,000. Towards the end of the Z.A. Bhutto government in 1977, the number of registered trade unions has risen to 8,332 with a membership of more than 1,050,000"¹⁷.

¹⁶ Aditee Chowdhry, 1996, "*Let Grassroots Speak*", (Dhaka: University Press Ltd., 1996) 16.

¹⁷ Ibid., 20.

The main factor behind this active labor movement was populist slogans emerging from the Bhutto government. Despite this apparent advance, the basic social structure, the power of the ruling elite based on feudal loyalties, remained unaltered.

The general disillusionment led to a new wave of protests, strikes, lockouts, hunger strikes, etc. This wave of labor protest reached its peak in 1973, but periodic upsurges continued during 1974 and 1975 due to rising prices. These upsurges were punctuated by several sets of labor reforms introduced by the government especially after the promulgation of the new constitution of Pakistan in August 1973. Several commissions were set up for the reconciliation of the labor conflict and several concessions were doled out to the working classes.

Student Organizations

The wave of politicization also affected the student community and student unions became more active in various educational institutions across the country. Most students groups welcomed the educational reforms of 1972. The nationalization of schools and colleges was hailed by progressive student unions; however, the exemption of several elite educational institutions was criticized. Most student unions were affiliated with various political parties. For instance, the People's Student Federation (PSF) belonged to the ruling Pakistan People's Party, while the Muslim Student Federation (MSF) was a wing of the Pakistan Muslim League. Religious parties also had their student wings. The Islami Jamiat Talba (IJT) and Anjuman-e-Talba-e-Islam were the student wings of Jamaat-e-Islami and Jamiat-e-Ulma-e-Pakistan, respectively. Apart from these mainstream organizations, there were also several regional and ethnic organizations like the Jiye Sindh Student Federation, Mohajir Talba Mahaz (representing Urdu speaking students), the Baloch Student Organization (BSO) and Pukhtun Student Federation. While religious organizations demanded the foundation of an Islamic order, progressive

groups like PSF and National Student Federation (NSF) made demands for economic justice and better educational facilities accessible to all.

Women's Movement

The constitution of 1973 gave women more rights and safeguards, which included equality before law, equal opportunities, induction of women to civil services and reserved seats in assemblies, etc. Several other steps were also taken that indicated a positive attitude of government towards women. For instance women were appointed to certain high administrative posts, which had hitherto been reserved for men¹⁸. Many Civil service departments like the Foreign Service and District Management Group were now open to women.

These measures gave encouragement to women's movement in general. Apart from a few organizations that called for greater awareness of women's issues and rights, and social justice for women, the main focus of women's organizations remained welfare but featured a marked interest in development. APWA's policy reflected this change and emphasized women's integration into the development process.

Meanwhile, the UN declared 1975 as the International Year for women, followed by a decade for women from 1976-1985. A number of women's organizations appeared on the scene in the later half of the decade such as Aurat (1976), Shirkatgah (1975), Women's Front and Pakistan Women's Lawyers Association (1980). The United Front for Women's Rights that had been suspended by General Ayub Khan was revived and it struggled for women's representation in parliament.

¹⁸ Rana Liaqat Ali was appointed governor of the province of Sindh. Ashraf Abbasi elected deputy speaker of the National Assembly, and Kaniz Fatima became the Vice Chancellor of a national University.

Aurat (Urdu word for woman) emerged in 1976. It was led by university teachers, students and working women. It focused on creating general awareness of the "double oppression" of working class women, who were victims of both class-based society as well as the patriarchal traditions of their own class. The main organ of the organizations was the newsletter "Aurat" in Urdu that aimed at spreading awareness regarding women's struggle both within and outside Pakistan¹⁹.

Shirkatgah was established as a Women's Resource Center in 1975. It was initiated by a group of young and educated professional women. The center's activities included: research and publication; work as a pressure group, safeguard women's rights, work as a reference agency and consultancy for both employed and unemployed women, keep directories of women who needed accommodation and employment, establish day-care centers for their children, and help develop the skills of working women. A hostel for working women was established in Islamabad as well as various centers to provide medical and legal aid to working women in Karachi, Lahore and Islamabad.

The Women's Front (WF) was a small but very active group of students and some teachers at the Punjab University that fought for equal rights and opportunities for women through seminars, lectures and discussions and occasional street demonstrations. The WF also became popular in other cities of Punjab.

¹⁹ Mumtaz, Khawar and Farida Shaheed. *"Women in Pakistan: Two Steps Forward, One Step Back"*. (Lahore: Vanguard Books, 1987), 65.

Service Delivery NPOs

Apart from formal educational services, NPOs engaged in social service delivery continued their work and many new organizations emerged in this period. For instance, the SOS Children's Village, Adult Basic Education Society and Graduate Associations in Sindh, Punjab and NWFP are worth mentioning.

The SOS Children's Village of Pakistan is a social welfare organization founded in the 1970s in affiliation with SOS Kinderdorf International. The aim of SOS villages is to provide security, care, education and skill developing facilities to orphans or abandoned children in a home-like environment.

Another addition was the Nirali Kitabain program launched by the Adult Basic Education Society in 1972. It was the first private publishing organization committed to providing books and teaching aids to organizations (including those run by the government) involved in basic adult education.

The 1970s also witnessed a growth of some non-political youth organizations that aimed at empowering youth through education, developing skills, fighting drug addiction and providing social services.

1.3.6 NPOs DURING RECENT HISTORY (the 1980s and the 1990s)

1.3.6.1 Under 'Islamized' Dictatorship (1977-1988)

The ruling or governing class of a country greatly affects the NPOs as well as the society in general. The non-democratic government always imposes its policies on society and thereby on NPOs because of the fact that this form of government always emerges out

forcefully through un-democratic means. General Zia ul Haq assumed power in 1977 and during the decade that followed the nonprofit sector in Pakistan went through significant and multidimensional changes. The backdrop was provided by the Islamization drive, the Afghan War (1979-89), and liberal flow of foreign funds. It also coincided with the general perception of people and development practitioners that the government had failed to provide adequate basic social services to the masses and self-help was the answer. This decade witnessed a rapid growth in small, intermediary and large nonprofit organization working in almost every sphere of life. All fields of nonprofit activity ranging from charitable endowments to individual philanthropy, religious and secular welfare services, development, advocacy and human rights activism flourished in an unprecedented manner. Some organizations grew due to state patronage while others emerged in response to state coercion.

Factors affecting the development of NPOs in Pakistan

General Zia placed demands made by Islamic parties and groups at the crux of state ideology, offering them a power-sharing arrangement in which the state would act as the senior partner and the Islamic forces would gain state patronage. This gave great impetus to at least one section of the NPOs i.e., the religious organizations and their students and women's wings dominated educational and social institutions.

The Afghan War

The Afghan War also played an important role in shaping the development of nonprofit sector in Pakistan. The Soviet intervention in Afghanistan (1979) and the subsequent Afghans resistance, led to a massive Afghan refugee influx of about 3.5 million to Pakistan. Their initial destinations were the refugee camps set up by the government of Pakistan in various areas of NWFP and Balochistan provinces bordering Afghanistan.

This opened a vast field of activity for the nonprofit sector in Pakistan. Over 200 relief and emergency international donor and nonprofit organizations set up headquarters in NWFP and Balochistan.

Human Rights Issues and Advocacy Organizations

It is interesting to note that a significant growth of advocacy oriented NPOs came about during a period when civil liberties were non-existent. Zia, like all unrepresentative rulers, suppressed all forms of opposition, from un-cooperative political parties to non-conformists members of intelligentsia. Further, the Islamization drive placed severe restrictions on the already marginalized sections of the society including women and minorities. Under these conditions, the NPS undertook the responsibility of creating awareness and articulating civil society's response. Trade and student unions, advocacy oriented NPOs and women's fora were most prominent in these efforts.

Concurrently, a number of NPOs working in the field of advocacy and promoting awareness regarding human rights and individual and civil liberties emerged²⁰. The establishment of the Human Rights Commission of Pakistan (HRCP) in 1986 was a landmark. Founded on the basis of the International Declaration of Human Rights and related charters, covenants, protocols, resolutions, recommendations and internationally adapted norms, it worked with well-established chapters in all the provinces of Pakistan. The HRCP worked in wide range of fields from those related to democracy, constitution, judicial and legal matters to rights of women, children, minorities, labor, etc.

The Pakistan Institute of Labor Education and Research (PILER) was founded in 1982 by a number of concerned individuals belonging to the trade union movement, academia and

²⁰ Ibid., 22.

professionals from all walks of life. It has focused on research and advocacy of issues related to workers' rights. Its role has been to inform, motivate and mobilize workers through intellectual and social action. The Institute runs an educational program for workers all over the country and also operates Working Children Centers (WCCs) in Karachi to provide basic education and recreational facilities to working children.

Another endeavor worth mentioning is the struggle of the Ansar Burney Trust founded by a Karachi based advocate. The trust resisted inhuman treatment of prisoners. Ansar Burney himself faced detention on political grounds a few times after the imposition of military rule and the experience led him to work for the rights of prisoners, which was a novel idea at the time.

The women's movement became more strong and vocal in this period. This came as result of two concurrent developments: increased suppression of women through state's policies; and increased international interest in women's rights (NPORC, 1999). Women's organizations were the most prominent during the anti-Zia and anti-Islamization protests. The controversial Hudood Ordinance (1979), law of evidence, venomous speeches of some religious scholars from state sponsored media, and the attempt to confine women to *Chadar and Chardiwari* openly spoke of severe limits on women's liberty and rights.

As a reaction to this, many new organizations were created, while existing ones became more active and increased the scope of their activities. At the forefront were organizations like Shirkatgah, Women's Action Forum and Aurat Foundation. A key role in this movement was played by the Women's Action Forum (WAF), which emerged in 1981 as a result of the restrictive ordinances. It then functioned as a platform for about 20 women's organizations from where women could speak out against repression and demand social reform (NPORC, 1999).

Some religious organizations, however, have highly criticized, and even resisted, the kind of agenda being pursued by the NPOs like the campaigns against blasphemy law, honor killing, women's empowerment, etc. In the case of service delivery, efforts of NPOs related to reproductive health have been under attack. This inflamed tension between secular and religious nonprofit organization flared in the 1980s and continues till today.

Service Delivery Organizations

The 1980s witnessed a robust growth in the number of service delivery NPOs. According to the estimates of a survey of about 2000 nonprofit organization (conducted by Social Policy & Development Centre in 2001)²¹, over 27 percent of currently active organizations surveyed were established during 1978 to 1987. An important aspect of this phenomenon was the emergence of special purpose and interest based development NPOs in the modern-urban sector. Various factors are believed to have contributed to this development such as state's failure to provide adequate basic social services to the masses and availability of public grants and international aid. There was also a change in development thinking globally that the state alone cannot deliver. Development was now seen as a participatory process involving both the government and civil society.

In response to the perceived failure of government, the nonprofit sector extended its role to fill the gap. Some large nonprofit organization came into prominence. These included the Aga Khan Rural Support Program (AKRSP) working on rural development in the Northern areas of Pakistan and the Orangi Pilot Project (OPP), which focused on water and sanitation problems in urban slums of Karachi. They adopted participatory approaches for community development. AKRSP is a project of the Aga Khan Foundation. The Aga Khan Foundation (Pakistan) [AKF(P)], established in 1969, is a

²¹ SPDC, "*Nonprofit Sector in Pakistan: Government Policy and Future Issues*", (Islamabad: Social Policy and Development Centre, 2002), 9-11.

private, international development agency committed to supporting disadvantaged communities irrespective of origin, gender, religious affiliation or political persuasion. As part of the Aga Khan Development Network (AKDN), AKF(P) aims to promote effective change in social sector development in Pakistan. AKF(P), like other AKDN members, works with a host of organizations seeking to involve communities in the development process. Through its projects, it addresses selected issues of health care, education, rural development and institutional strengthening of civil society and within these areas, pays special attention to gender equity, human resource development and public awareness.

At the same time, the Edhi Trust, a welfare organization, which was primarily based on indigenous resources and was established in 1951, emerged as legendary social welfare organization due to its tremendous contribution in the area of emergency relief and rehabilitation. Edhi Foundation runs the largest nonprofit ambulance service in the country. Other services of Edhi's network include healthcare, destitute homes, graveyard services, prisoner's aid, refugee assistance, etc. Along with these large organizations, there appeared a rapid growth in medium and small-scale organizations.

1.3.6.2 Liberalization (1988- onwards)

The dictatorship during 1977 to 1988 provided tough place for NPOs to flourish. After the death of Zia ul Haq in 1988, a party-based democratic system was revived in the country. During the 1990s, the nonprofit sector of Pakistan continued to develop almost on the same pattern as of 1980s, with a rapid growth in the number of organizations working in almost every field of nonprofit activity. According to SPDC estimates²², more than 54 percent of organizations surveyed were established during this period (1988-2001). Liberalization policies of government have been conducive to the growth of NPS.

²² SPDC, "*Nonprofit Sector in Pakistan: Government Policy and Future Issues*", SPDC Working Paper No. 2, (Karachi: Social Policy and Development Centre, 2002) 11-12.

Important developments regarding the NPS during this period include increased government support for service delivery NPOs, increased international funding for NPOs and emphasis of donor agencies in promoting the role of the NPS, and internal changes in the NPS such as emergence of NPO coalitions. On the other hand, government attitude towards advocacy NPOs remained hostile as was in the past, and tension between secular and religious organization continued to grow over the time.

However, the developments of the 1980s have led to a general acceptance of the role of the nonprofit sector as a major actor in the development process. Partly this was due to emerging fiscal crunch and a general failure of the government in social service delivery, partly to the influence of international donor agencies to enhance the role of NPS, and partly to the increased visibility of NPO in the development process due to spectacular successes achieved by some organizations like OPP and AKRSP.

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In the 1990s, government initiatives to support the NPOs and encourage their participation in government efforts of social service delivery included the Social Action Program, the Rural Support Programs, the Pakistan Poverty Alleviation Fund, etc²³. The Social Action Program (SAP) was launched in 1992 by government to improve the coverage, quality, efficiency and effectiveness of social service delivery, particularly in the fields of primary education, health, water supply and sanitation and family planning. As part of SAP, the Participatory Development Program was setup to foster strong linkages among communities, NPOs, private sector and government. It provided substantial project funding for NPOs.

²³ Mubarak Ali, *"Are NGOs Serving West's Interests?"*, (Karachi: The News, Jang Publishers, 2003), 9.

A new development in the 1990's was the setting up of government organized nonprofit entities. The National Rural Support Program (NRSP) was set up in 1991 as a nonprofit company with an endowment fund provided by government. The NRSP is modeled on the successful experience of the AKRSP. The main objective of NRSP is to foster a countrywide network of grassroots level organizations to enable rural communities to *plan, implement and manage developmental activities and programmes* for the purpose of ensuring productive employment, alleviation of poverty and improvement in the quality of life. The establishment of NRSP was followed by provincial rural support programs, for example, Sarhad Rural Support Programme (NWFP), Punjab Rural Support Programme and Balochistan Rural Support Programme.

Another government initiative of 1990 was the establishment of education and health foundations as semi-autonomous institutions for making grants and loans to nonprofit organization e.g. Sindh Education Foundation. It opened up a potentially significant source for financing capital costs of new facilities like schools and hospitals by NPOs. Similarly, the Trust for Voluntary Organizations (TVO) was setup in 1990 by the government on the basis of an endowment fund provided by USAID.

TVO provides project funding to nonprofit organizations. In 1997, the Pakistan Poverty Alleviation Fund (PPAF) was setup as a nonprofit and autonomous private company to mobilize and assist poor communities in developing income-generating activities through human resource development and micro-credit programs. All these government initiatives have contributed to the growth of nonprofit organizations engaged in social service delivery.

Various advocacy oriented NPOs that emerged in the previous decade continued with their set portfolios regarding human rights and civil liberties. However, their actions remained unwelcome and frequently unheard, as the governments claiming to represent

the people considered these NPOs threatening. Nonetheless, despite this hostility, NPOs like HRCP have taken up the task of creating awareness about human rights and providing information on violations of human rights in the country.

Some important additions to this group are Lawyers for Human Rights and Legal Aid (LHRLA) (established in 1990 with assistance of another NPO, the Edhi Trust) committed to providing free legal assistance to marginalized classes, specifically women and children. An important achievement of the LHRLA was a law banning the use of children in camel races in the UAE²⁴. A sister association of LHRLA named the Working Women Support Centre (WWSC) is also very active in providing security to and helping working women. The Society for the Protection of the Rights of the Child (SPARC), Aurat Foundation, AGHS-Legal Aid Cell, and many more have joined this effort. However, the general apathy in government circles vis-à-vis this section of the NPS continues and the response is mostly critical and even hostile on occasion.

The emergence of support organizations helped foster the growth of small and community based NPOs. These organizations were setup to guide, develop, train and generally build capacities of the organization destined to bring change at micro level (NPORC, 1999). Organization such as the South Asia Partnership (SAP-PK), the NPO Resource Centre, Strengthening Participatory Organization (SPO), Sindh Rural Workers, etc. began working at the grass roots, either mobilizing communities or working with small nonprofit organizations.

The Rise of NPO coalitions and networks is another important phenomenon of the 1990s, which initially emerged in response to government policies/actions aimed at securing

²⁴ Camel race has been a source of entertainment in the Emirates and neighboring areas in which small children abducted from far off regions like Pakistan are kept half nourished and used as jockeys in the race. At times the children also lose their lives during the game.

control over the nonprofit sector, for example, de-registration of NPOs and proposal of introducing the NPO Bill. In 1996, government proposed a law regarding registration and working of nonprofit organizations. It is generally known the NPO Bill. There was a strong suspicion among non-profit organizations that the Bill represented primarily an attempt by government to acquire greater control over nonprofits. Consequently, the NPO sector organized itself and agitated to prevent the promulgation of the Bill. The Pakistan NPO forum (PNF) was established at the national level with four provincial apex bodies as its members. There apex bodies were composed of a number of local/district level NPO coalitions. In addition, certain other groups also developed on the basis of their objectives and fields of action, for example, Advocacy and Development Network, Voluntary Health and Nutrition Agencies, etc. A recent example is the establishment of Pakistan Microfinance Network (PMN). The seven current members of PMN are a group of practitioners, sharing experiences, networking and influencing the policy environment in the area of microcredit, thereby reaching numerous community-based organizations and providing access to low mark-up credit.

Another significant development is the emergence of non-governmental think-tanks in Pakistan, who have begun to exert some influence on the evolution of government policies²⁵. The Sustainable Development Policy Institute (SDPI) has played a major role in the development of environment policy. In order to receive funding the SDPI has been providing work and reports that are sometimes very sub-standard. The Social Policy and Development Centre (SPDC) has been influential in policy formulation in areas like tax reforms, fiscal federalism, social service provision and poverty reduction. And the Pakistan Institute for Labor Education and Research (PILER) has been contributing to labor policies and to labor empowerment.

²⁵ Rehman, Tariq, *"Citizens of the Alien Worlds"*. (Karachi: Social Policy and Development Centre, 2003), 11-12.

CHAPTER II.

LAW AND THE NON-PROFIT SECTOR IN PAKISTAN

2.1 LEGAL REGIME

The NPOs in Pakistan are engaged in a wide spectrum of activities and consist of a host of different types of organizations ranging from the unregistered and informal sole proprietary to the most formal - a Company with limited liability. Most NPOs are created with either an implicit intent, or with an expressed purpose of being for "*charitable purpose*". Except for a very narrow definition of the term "*charitable purpose*" in the Income Tax Ordinance, 1979 no other definition is found in the body of legislation (civil law) in Pakistan. However, common law and case history as applied in Pakistan has acquired a technical meaning. This includes the objects specified by Lord Macnaghten²⁶ as being for the relief of poverty, the advancement of education and/or religion, and/or for other purposes beneficial to the community but not meant solely for sport or hospitality. The Transfer of Property Act extends this to include activities or organizations for the advancement of commerce, health and safety of the public.

2.2 LEGAL CONTEXT

There are a number of other laws, which affect NPOs. For instance, if an NPO is involved in a fund-raising activity (a public show or 'mela'), it will have to obtain permission from the office of the Local Deputy Commissioner, under the Charitable Fund (Regulations of Collection) Act, 1953. Once this has been granted, the NPO can apply for a waiver of Entertainment Duty on the sale of tickets from the provincial Excise Department. This permission, however, is not required when obtaining donations from a

²⁶ Desai, "*The Trusts Act (II of 1882)*", (Lahore: Mansoor Book House, 1999), 21.

private source (either from members of an NPO or philanthropists), and grants from governmental, national and international agencies. In this instance, the NPO would need to be registered under two different provisions of the Income Tax Ordinance, 1979 - one granting it exemption from taxation on its income and the other endowing the giver exemption from taxation on the donations given or grants made to the exempt NPO. The latter is of paramount importance for obtaining higher levels of grants and donations from the private sector – from both individuals and corporate entities.

NPOs function according to their own constitution, memorandum, rules or bye laws, provided they conform to the law in the country. If they obtain registration under any one of a number of Acts or Ordinances, they are compelled to stand by and act on the provisions laid out by that particular Act or Ordinance. There exists a set of laws governing various types of nonprofit organizations, which either require registration explicitly, or implicitly to confer recognition. These have been categorized as **Type A** laws in the following list of Acts and Ordinances.

These have been further subdivided into **Type A1** (which require registration), **Type A2** (which either recognize the existence of certain types of NPOs or regulate them), **Type A3** (which provide redress to the aggrieved beneficiary), and **Type A4** (which provide tax exemption and implicitly grants a status of being a responsible and accountable organization). Some of the laws which require registration, but endow members with the right to gain from benefits either financially or in kind (such as from purchases in bulk on behalf of members, thereby giving each member the benefit from the bulk rate, which is somewhat lower than the retail price) have been excluded from the analysis, and are included in the list as **TYPE B**. The other reasons for their exclusion have been explained earlier. The Registration Act impinges on NPOs only marginally as it governs the registration of documents without which title to property and assets cannot be established easily or that endows organizations with the ability to enforce rights or benefits conferred

by agreement. This is excluded from the analysis and is listed as **TYPE C**. Yet other laws, which are irritants to the NPOs and can be the cause of providing economic rents to the lower echelon government functionary have also been excluded. These have been excluded from an in-depth analysis as they are applicable generally to all organizations. However, they have been commented upon with reference to the general nature of the types of interference, which classify them as '*irritant*' laws.

These have been listed as **TYPE D** laws in the following list²⁷:

Type A1

1. The Societies Registration Act, 1860
2. The Trusts Act, 1882
3. The Voluntary Social Welfare Agencies (Registration and Control Ordinance), 1961
4. The Companies Ordinance, 1984

Type A2

5. Religious Endowment Act, 1863
6. The Charitable Endowments Act, 1890
7. The Mussalman Wakf Validating Act, 1913
8. The Mussalman Wakf Act, 1923
9. The Mussalman Wakf Validating Act, 1930

Type A3

10. The Charitable and Religious Trusts Act, 1920

²⁷ Ibid., 33.

Type A4

11. The Income Tax Ordinance, 1979
12. The Income Tax Ordinance, 2001

Type B

13. The Cooperative Societies Act, 1925
14. The Industrial Relations (Trade Unions) Ordinance, 1969

Type C

15. The Registration Act, 1908

Type D

16. The Charitable Funds (Registration of Collection) Act, 1953
17. The West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968
18. The West Pakistan Shops and Establishments Ordinance, 1969

These laws do not reflect recent changes in the nonprofit sector from its historical role with an almost exclusive focus on service delivery, to its recent excursion into development advocacy and research. The laws also require extensive modernization to align their procedures with current international practices.

There is no uniformity in the body of legislation. For instance, the size of membership required for registration varies. Definitions vary, for instance, section 42 of the Companies Ordinance 1984, refers to associations formed for "promoting commerce, art, science, religion, sports, social services, charity, or any other useful object", which the Societies Act 1860, section I, refers to as "any literary, scientific or charitable purpose", the Charitable Endowments Act, 1890 refers to as "relief of the poor, education, medical

relief and the advancement of any other object of general public utility, but does not include a purpose which relates exclusively to religious teaching or worship”, the Income Tax Ordinance, 1979 section 14 and section 47 recognizes the NPOs as being established only for *charitable purpose* which is defined as “relief of the poor, education, medical relief and the advancement of any other object of general public utility”. For the first time the Income Tax Ordinance, 2001 defines a nonprofit organization. The government’s outreach to the sector is ill suited to identifying the appropriate form of registration. Both the Industries Department (responsible for registration of societies and companies) and the Social Welfare Department (responsible for registration of social welfare organizations) have each developed procedures that are published in English only, which is foreign to most people, and are thus inaccessible to many people in both urban and rural communities.

Registration procedures are both cumbersome and costly. For instance, to register under section 42 of the Companies Ordinance requires that a draft of the Memorandum of Association (MAA) be printed and submitted to the Securities and Exchange Commission of Pakistan in Islamabad which may require several protracted meetings over a period of several months, which may result in changing and reprinting the MAA before submission to the Registrar. Frequently, sponsors are required to follow “suggested” constitutions, even though these are mere guidelines and NPOs may use alternative forms as long as the required information is provided. Once the registration process has been completed, an application to the Income Tax department will reveal that they have other conditions, which must be included in the incorporation documents²⁸.

In the case of Companies, the modification requires fresh approval from not only the Securities and Exchange Commission of Pakistan, but also from the High Court. Another

²⁸ Government of Pakistan, “*Income Tax Ordinance, 2001 in the Gazette of Pakistan*”, (Islamabad: Printing Corporation of Pakistan, 2001), 13.

problem with the existing legislation is that their enforcement mechanisms are inadequate or unclear. For instance, the Societies Act 1860, contains no requirement for periodic reporting of activities carried out by a society, except for a list of the members of the managing body to be filed annually. In many cases accountability mechanisms are loosely enforced and inconsistently applied.

The true NPOs can come into existence under the laws as follows:

1. *societies, associations and clubs* under the **Societies Registration Act of 1860** by preparing a Memorandum and Articles of Association for the promotion of literature, science or the fine arts, or for the diffusion of useful knowledge, or for political or charitable purposes.
2. *Religious societies* under the **Religious Societies Act of 1880** by executing a Deed of Trust, which must be registered under the Registration Act, 1908 for maintaining property, used for religious purposes.
3. *Public Charitable Trusts and Private Trusts* under the **Trusts Act of 1882** by executing a Trust Deed which must be registered under the Registration Act, 1908 with the express purpose of bestowing ownership of property in the Trustees which is to be used for the benefit of civil society.
4. *Charitable Endowment Trusts* under the **Charitable Endowments Act of 1890** by executing a Trust Deed, which must be registered under the Registration Act of 1908, for the purposes of undertaking charitable work.
5. *Waqfs (Trusts)* under the **Mussalman Wakf Act of 1923** through the dedication of property by executing a Wakf Deed and which must be registered under the Registration Act, 1908, by a person of Muslim faith for religious, pious or charitable purposes for the larger comity of civil society and not for the benefit of the creating person or his descendants. This is in contrast to Waqfs recognized by

the Mussalman Wakf Validating Acts of 1913 and 1930 (the former applicable to those created from 1913 onwards and the latter granting ex-post recognition to those created before 1913), which extended recognition also to those, created for personal or familial benefits.

6. *Voluntary Social Welfare Agencies* under the **Voluntary Social Welfare Agencies Registration and Control) Ordinance, 1961** by completing the registration form for the welfare of children, youth, women, physically and mentally handicapped, released prisoners, juvenile delinquents, socially handicapped, beggars, destitutes, aged and infirm and for : family planning, recreational programmes, social education (creation of civic responsibility), welfare and rehabilitation of patients, training in social work, and coordination of social welfare agencies.
7. *Public Limited Companies* under **section 42 of the Companies Ordinance of 1984** by filing the Memorandum and Articles of Association with the Securities and Exchange Commission of Pakistan to obtain the License (and then registering the Memorandum and Articles of Association along with the License) for promoting commerce, art, science, religion, sports, social services, charity or other useful object. SECP replaced Corporate Law Authority, the former corporate regulatory body.
8. *Tax Exempt Charitable Organization* under **sections 14 and 47 and the rules framed as part of the Income Tax Ordinance, 1979** for undertaking activities which can be classified as “*charitable purpose*” (Section 2 sub-section14). Effective the income years starting on or after the 1st of July 2002 this will now be replaced by **sections 2, 53 and 80 and the rules framed as part of the Income Tax Ordinance, 2001**. This legislation has for the first time defined a **nonprofit organization**, but has dropped the definition of “*charitable purpose*” and has withdrawn the privilege for the recognition of a *Society* registered under the **Societies Registration Act, 1860** and *Voluntary Social Welfare Agencies*

under the **Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961** by excluding them from the definition of a NPO. A detailed discussion of the implication of the new Income Tax Ordinance follows later in this Chapter.

In effect, every form of registration has different procedures and requirements for registration, along with basic rules for the functioning of the organization. With the exception of trusts, all organizations lay down specified conditions for membership²⁹. Under most forms of registration, the NPO has some basic obligations with regard to the registration authority. Each type of registration also offers some benefits. However, this does not mean that non-registered NPOs cannot obtain support. For instance, if the latter can convince the tax authorities about the charitable deeds they undertake, there is no legal bar to them being given the status of a *tax-exempt organization*. Redress for grievance against any trust is through the **Charitable and Religious Trusts Act, 1920** irrespective of which act they have been created under.

NPOs registered under any one of the Acts or Ordinances, can receive funding from an international donor approved by the government of Pakistan, any national donor and any government department, as long as the NPO can meet the specific requirements and conditions of grants being offered. It should be pointed out here that most of the funds available from the government and international donors are in the form of project aid.

The Acts and Ordinances are operative simultaneously. Thus organizations engaged in one of the scheduled activities listed under the Voluntary Social Welfare Agencies (Registration and Control) Ordinance of 1961, may register as social welfare organizations, but such registration does not confer legal

²⁹ Ibid., 37.

personality on them. In consequence, many social welfare organizations are registered under another act as well, such as the Societies Act or the Companies Ordinance³⁰. The legal implication of this is that one NPO can have two separate constitutions for registration under the two separate acts, with each catering to the different requirements of the registration agency.

The purpose and applicability of the major legislation impacting on NPO registration and operation is described below.

2.3 PURPOSE AND APPLICABILITY OF MAJOR LAWS IMPACTING ON NPO REGISTRATION AND OPERATION.

They are described below:

a) The Societies Registration Act, 1860

This is the oldest of the four registration laws, and was promulgated by the British in pre-partition India. The legislation was created largely to regulate professional, scientific and fine arts activities and was later extended to include charitable and social organizations as well. Section 1 of this act deals with such NPOs.

b) The Religious Endowment Act, 1863

The Act was created largely to relieve the Boards of Revenue from managing religious trusts and buildings and for reverting authority back to the Trustees and Boards of Governors. No organization can be registered under this Act under section 12 and 13. The Act only recognizes the existence of such Trusts provides for how they are to be managed and regulates their activities.

³⁰ Leon and Simon, *"Towards an Enabling Legal and Fiscal Framework for Development"* (Islamabad: The Aga Khan Foundation Pakistan, 2000), 41.

c) **The Trusts Act, 1882**

The Trusts Act provides legal cover for private acts of public charity, and allows the creators of the trust tremendous flexibility in their operations.

d) **The Charitable Endowments Act, 1890**

The Act grants authority to the Government to appoint a Treasurer for better financial management of Trusts, thus ensuring the management and safeguarding of any Trust property, which might be in financial difficulty.

e) **The Charitable and Religious Trusts Act, 1920**

The Act is yet another one, which governs the operations of both charitable and religious trusts. The Act permits any person claiming to have an interest in the benefits accruing from the Trust to file a suit for redress or for access to information, subject to the applicant first proving such interest.

f) **The Mussalman Wakf Validating Acts, 1913 and 1930 and the Mussalman Wakf Act, 1923**

The former two Acts confer recognition on *Waqfs* created by Muslims for their personal benefit, or for the benefit of their descendants and eventually or specifically for charitable purposes. The 1913 Act is pro-active and the 1930 Act is retroactive. The Act of 1923 section 3, section 5 and section 6 govern the financial management of *Waqfs*. It requires that annual accounts be audited by a licensed auditor and submitted for scrutiny to the District Judge.

g) The Voluntary Social Welfare Agencies Registration and Control Ordinance, 1961

The Ordinance regulates grass-roots level organizations providing welfare services to those in need. The registration authority lies with the Directorate of Social Welfare that may be approached either directly or through a lawyer.

h) Section 42 of the Companies Ordinance, 1984 as a Nonprofit Company

Registration under this is similar to the registration of profit making Joint Stock Companies with the exception that profits, in this case, are not distributed among the individual shareholders. In law and theoretically, there are two different routes through which registration as a nonprofit company can be achieved. The first is through an application made to the Assistant Registrar Joint Stock Companies at the Directorate of Industries, and the second, through an application made to the Securities and Exchange Commission of Pakistan.

Securities and Exchange Commission of Pakistan (SECP) established under the Securities and Exchange Commission of Pakistan Act 1997 was operationalized as a body corporate on 1st January 1999. SECP replaced Corporate Law Authority, the former corporate regulatory body. It has been vested with adequate administrative, operational and financial autonomy.

SECP's main functions include; regulation of securities market and related institutions like Central Depository Company (CDC), Credit Rating Companies and Modarabas (funds operating on the basis of Islamic economic principles); administration of the Company Law; Regulation of non-banking finance companies like leasing companies, investment banks and mutual funds and regulation of insurance business.

One of the important functions of SECP is incorporation/registration of companies. This task has been entrusted to the Registration Department, Company Law Division, which has its field offices known as Company Registration Offices (CROs) for the purpose of incorporation/registration of different types of companies.

i) **Sections 14 and 47 of the Income Tax Ordinance, 1979**

Section 14 of the Income Tax Ordinance provides relief from taxation to the NPOs and Section 47 provides relief to the giver of donations and grants for charitable purposes. Section 2 sub-section 14 defines charitable grants. To achieve the status of a tax exempt organization and to permit relief to beneficiaries of donation, an application has to be made and on approval the Government provides these reliefs by notifying the name under Clauses 91 and 94 of Part I of the Second Schedule.

j) **Income Tax Ordinance, 2001**

This ordinance provides the definition of some important terms relating to NPOs e.g.:

1. Non-Profit Organization
2. Person
3. Association of Persons
4. Company
5. Firm
6. Trust
7. Unit Trust

While such diversity may allow NPOs the flexibility of choice for registration, there is, nevertheless a need to ensure that, first, the definitions used to describe “*charitable purposes*” and “*nonprofit organization*” are consistent across all of the 17 laws identified as having at the very least some implications for the NPOs. Second, the term NPO should be recognized in the body of the laws governing or affecting the nonprofit sector.

2.4 REASONS FOR THE INEFFECTIVE REGULATION OF NPOs

The government plays a pivotal role by providing an enabling environment, funding and support to the non-profit organizations (NPOs) for development. The NPOs on the other hand, amplify operational performance by contributing local knowledge, providing technical expertise and leveraging social capital³¹.

Collaborations between the government and the NPOs have been characterized by mutual distrust. Now with the growing pressures on social and economic inequities, the rising threat of terrorism, disparity between the rich and the marginalized, and cultural and religious tensions, the need for an integrated solution and concerted and collaborative partnerships has become more imperative. It is the responsibility of the government to provide an environment where the NPOs can flourish and make positive contributions to the development of society at large.

Often budgets are negotiated between the NPOs and the donors, while the government is left out. Experience shows that wherever NPOs have been transparent, it has clarified

³¹ Aleeza Akbar, “Importance of collaboration”, (Islamabad: The POST, 2007), 5.

many misconceptions³². It should be made mandatory that NPOs share their budgets with all stakeholders, while the government develops the capacity to negotiate with the NPOs and the donors alike.

The NPOs are reluctant to provide or follow the following requirements because they do not want to show the source of their funds and want to hide the facts:

- a. Keep and preserve accounting records and supporting documentation for the prescribed period.
- b. Within a specified time period at the end of its financial year, draw up financial statements which include a statement of income and expenditure and a balance sheet.
- c. Arrange for an accounting officer to compile a written report after drawing up its financial statements confirming that the financial statements are consistent with the accounting records; the accounting policies are appropriate and applied, and that the organization has complied with the financial reporting requirements.
- d. Submit to the authorities a narrative report in the prescribed form together with its financial statements and the accounting officer's report at the end of its financial year.
- e. Submit to the authorities the contact details of its office bearers, even if they were reappointed immediately on their appointment; the NPOs physical address for service of documents and notice of any change of address one month before it takes effect, any other prescribed/information reasonably required by the authorities for the purposes of ascertaining whether the NPO is complying with the material provisions of its constitution and the Act.
- f. Provide regular activity reports to the relevant registration authorities.

³² Nanji, "*Charitable Giving in Islamic Contexts*", (Islamabad: Aga Khan Development Network, 2000), 27.

The government and relevant departments are ineffective in regulation of NPOs due to the following reasons:

- a. A number of loop holes are present in the available regulatory framework.
- b. Shortage of manpower required for effective implementation of regulations.
- c. The regulatory agencies lack the capacity to use various modern tools for monitoring of NPOs to ensure the compliance of NPOs to various laws of the government.
- d. Lack of physical monitoring resources available with regulatory agencies.
- e. The changing world and the ever developing social setup of the country demands for improvements in the present regulatory framework thus making the laws able to address the newer issues.

CHAPTER III.

SELECTED INTERNATIONAL CASES FOR COMPARISON OF NPO SECTOR REGULATION AND RELATED ISSUES

In order to understand the effectiveness of NPOs in Pakistan it is worthwhile to study a few cases of non-profit sector in some selected countries. The situation with NPOs in other countries forms the basis for understanding the NPOs setup in those countries and the level where Pakistani NPOs exist. The case studies of other countries also provide us with the benefit of evaluating our NPO setup and the way forward for further developing NPO sector in Pakistan.

In this chapter a few selected cases of NPOs development in Asia and Europe will be discussed. The emphasis has been laid upon legal aspect and self-development of NPOs in elected countries. The situation in Pakistan has been discussed in chapter two in detail. The countries, whose NPO systems have been discussed in this chapter, include Bangladesh, China, Hong Kong, India, Singapore, South Korea, Sri Lanka, United Kingdom and Spain.

One of the main objectives of development of NPOs in every society has been the transparency and accountability. Pakistani NPOs have also gone through transitional phases and emerged out with successes in terms of development and flourishing of NPOs and also to some extent in transparency and accountability. The regulations in Pakistan also provide basis for the transparency and accountability of NPOs³³. Commitment for implementation of regulations is lacking.

³³ Fowler, "Striking a Balance: A guide to enhancing the Effectiveness of Non-Governmental Organizations in International Development", (London: Earthscan, 1997), 39.

In almost every country with an active and growing nonprofit and philanthropic sector, both government and the charitable sector itself have sought ways to strengthen the sector's transparency and accountability. In the Asia Pacific region and around the world, there are a variety of reasons for the increase in attention to finding mechanisms for enhanced nonprofit transparency and accountability. They include defending against more rigorous government regulation; increasing financial contributions for charities; and responding to criticism from the public, media, regulators and others.

Greater transparency and accountability can be achieved through multiple, often simultaneous and overlapping means. National or sub-national (state or provincial) governments can increase direct regulatory focus and enforcement on the sector. Governments can also require or urge the nonprofit sector to adopt self-regulatory means to strengthen accountability and transparency, or as a method for collaborating with government on measures (such as tax exemption) that benefit the sector and society. And the nonprofit sector itself can adopt self-regulating mechanisms of its own accord, either as a defensive or proactive measure.

These self-regulatory mechanisms, whether adopted at the urging of government or at the initiative of the nonprofit sector itself, can take a bewildering array of forms. Whether in operation or under discussion, in Asia they include

- (1) *Accreditation, certification, validation and licensing mechanisms;*
- (2) *Evaluative mechanisms (such as ratings, grading, and scoring systems);*
- (3) *Sectoral codes and other means to govern conduct (such as codes of conduct or ethics of various kinds);*
- (4) *"Intranet" self-regulatory measures or precursors to self-regulation in which domestic funding nonprofits encourage and require compliance with standards by their domestic partners and/or grantees;*

- (5) *Charity commissions or self-regulatory charity registers;*
- (6) *Disciplinary mechanisms* (such as disciplinary or appeals bodies);
- (7) *Formal standard-setting*, sometimes in conjunction with other forms of self-regulation; and other forms.

The self-regulatory mechanisms can seek to regulate highly diversified matters: nonprofit governance, transparency and information flows; conduct of directors, trustees and officers; fundraising; investment of donated funds; and a host of other important matters.

No one pattern fits or describes the variety of nonprofit self-regulation mechanisms in the Asia Pacific region. The nonprofit sector in each country is discussing, considering, debating, experimenting or adopting self-regulation structures on its own pace and based on its own conditions and needs. Yet that diversity of pace and structure also serves to make the picture even more complex in the Asia Pacific region.

Throughout Asia, nonprofit sector self-regulation is on the agenda as never before. Yet throughout the Asia Pacific region, when nonprofit, charitable and philanthropic organizations discuss sectoral self-regulation they tend to refer only to one or two models – most often, because it is among the most prominent initiatives, the self-regulatory aspects of the work of the Philippine Center for Nonprofit Certification (PCNC).

3.1 REGULATION OF NPOs IN SELECTED COUNTRIES

Following case studies have been taken from the research work of Mark Sidel conducted in 2003³⁴. His work seeks to describe and analyze the development of nonprofit self-

³⁴ Mark Sidel is Associate Professor of Law, University of Iowa. The author can be reached at mark-sidel@uiowa.edu, University of Iowa College of Law, Iowa City, Iowa 52242 USA.

regulation mechanisms in seventeen countries and regions of Asia and the Pacific: Australia, Bangladesh, Cambodia, China, Hong Kong, India, Indonesia, Japan, Laos, Pakistan, Philippines, Singapore, South Korea, Sri Lanka, Taiwan, Thailand, and Vietnam. But for comparison and ease of work the case studies of following countries of Asia from his work are discussed below along with two examples from European countries:

- a. Bangladesh
- b. China
- c. Hong Kong
- d. India
- e. Singapore
- f. South Korea
- g. Sri Lanka
- h. United Kingdom
- i. Spain

3.1.1 BANGLADESH

Bangladeshi NPOs, whether established as nonprofit companies, trusts or in another form, have internal means of regulating their governance, management, accounting and other affairs, generally through the standard forms of organizational constitutions, bylaws, and/or articles of association. Evaluation mechanisms are used as well, either determined by individual organizations, or mandated by foreign or local donors.¹⁰

Bangladeshi legal and nonprofit specialists associated with the APPC project on Philanthropy and the Law in South Asia (PALISA) note that while government coordination of nonprofit activities generally occurs through the government's NPO Affairs Bureau, it is the Association of Development Agencies in Bangladesh (ADAB) which serves as a "principal umbrella organization ... coordinating the activities of NPOs" and has "a crucial role in encouraging NPOs to develop accountability and self-regulation."³⁵ ADAB coordinates, promotes and provides technical support to the Bangladeshi nonprofit sector.

A. Code of conduct/ethics

Association of Development Agencies in Bangladesh (ADAB)

To encourage greater accountability and transparency as well as stronger governance in the nonprofit sector, reduce concealment of information among nonprofits in the competition for foreign funds, encourage collaboration and extend mutual learning, and reduce overlapping programming, ADAB drafted and adopted a *Code of Ethics* in consultation with its members. According to the Bangladesh PALISA report, the ADAB Code of Ethics "highlights ... principles of transparency in programmed operations, accounting and disbursement of funds. It calls for constructive dialogues with the government, at the national and the local levels, to foster greater cooperation based on mutual openness and respect. The Code discourages duplication and assures staff welfare."³⁶

³⁵ Sumaiya Khair and Saira Rahman Khan, "Philanthropy and the Law in Bangladesh" (Dhaka: APPC, PALISA, 2003), 29.

³⁶ Id. Additional discussions of the ADAB Code of Ethics can be found at Sabbir Ahmed, NPOs and Electoral Participation in Bangladesh (2000), at www.bath.ac.uk/cds/enbs-papers-pdfs/ahmeds.pdf; Asian Development Bank, A Study of NPOs: Bangladesh (1999), at www.adb.org/NPOs/docs/NPOBangladesh.pdf.

Reports from Bangladesh indicate that ADAB is currently mired in extensive political issues and that little progress appears to have been made on expanding understanding of and adherence to the Code of Ethics. The Bangladesh PALISA report notes that “the membership of ADAB has been growing steadily. Nevertheless, opinions about ADAB’s success in performing its functions are somewhat mixed given ADAB’s alleged involvement in factionalism and political activities. It has been contended that there is a lack of transparency in ADAB’s activities....Moreover, the participation by beneficiaries talked of in the *Code of Ethics* appears rhetorical in the majority of cases. Monitoring of programmers and fund utilization by NPOs is also largely absent.”

Given these issues, the government has stepped in, “recently ... attempting to impose restrictions on NPO activities in view of these various deficiencies.... The government has decided to upgrade existing NPO regulations bringing all NPOs under the tax net, preventing NPOs from taking part in politics and banning the use of donor money in political activities.”³⁷ ADAB’s problems have also resulted in the formation of a competing nonprofit coordination group, the National NPO Coordinating Committee (NNCC) under separate leadership.

After reviewing potential scenarios for nonprofit self-regulation in Bangladesh, the Bangladesh PALISA experts returned to the ADAB Code of Ethics. The PALISA team noted “Measures for self-regulation should be strengthened. ADAB needs to ensure strict compliance with the Code of Ethics by introducing incentives and sanctions for non-compliance. Inquiries into complaints in terms of malfeasance, fund misappropriation and other misdemeanors against specific NPOs should be undertaken.” And stronger self-regulatory steps should be added, including ADAB audits of selected nonprofits, and a

³⁷ The Bangladesh PALISA chapter provides further detail on these developments. See also The Daily Star (Dhaka), 18 February 2003.

self-regulation system governing nonprofit accounting, and sector-devised mandated procedures for public disclosure in the nonprofit sector.

In addition to the ADAB work, the Asian Development Bank provided assistance to the Government of Bangladesh to strengthen government-nonprofit relations, understanding, policy and regulation through the formation and activities of a Government NPO Consultative Council (GNCC). The proposed Council would have included government, nonprofit and civil society representatives.³⁸ But, according to the Bangladesh PALISA report, “it never materialized and there is no evidence as to whether the Council ... ever convened.”³⁹

B. “Intranet” self-regulation

There is some sense that the Indian pattern of larger, grant making nonprofits setting standards for their domestic nonprofit grantees that may have the potential to transition into self-regulation mechanisms is not entirely foreign to the Bangladesh experience as well. Neither “self-regulation” nor the more informal “intranet” notion is applied to these models in Bangladesh, at least thus far, but the concept is not unknown. For example, Proshika and other large Bangladesh nonprofits work as “partners” with smaller domestic nonprofits, and, as one Bangladeshi correspondent puts it, “of course there are certain conditions to get grants and become a ‘partner’.”

3.1.2 CHINA

There have been extensive discussions of nonprofit self-regulation, often termed “self-discipline” (*zilu*) in China. Perhaps the most well known such efforts have emanated from

³⁸ The Bangladesh Gazette, 17 October 1996 (First Part), cited in the Bangladesh PALISA report.

³⁹ Khair and Khan, PALISA report, *supra* note 2.

the work of Prof. Shang Yusheng at the Chinese NPO Network. In 2001, Prof. Shang proposed “Nine Standards for NPO Self-Regulation”:⁴⁰

1. To uphold public-good mission to promote progress and justice of the society
2. To insist on NPO's non-political and non-religious nature
3. To stick to organization's not- for-profit principle, not to pursue interest for any individual or family
4. To insist on financial transparency and to expose annual report to public
5. To insist on information exchange, resources sharing and mutual cooperation.
6. To respect copyrights of NPO colleagues
7. To insist on self -autonomy and independence and to build regular board of directors
8. To follow fair and reasonable sponsorship and evaluation, not to abuse written rules and process with any excuse
9. To insist on NPO's moral standard in performance and to work whole-heartedly for public benefit⁴¹

The Chinese debate on nonprofit self-regulation appears to stem from several motivations – on the one hand, a possible desire to forestall more rigorous government regulation, but on another, an attempt to improve the quality of work in the nonprofit sector so that the state is more willing to recognize, and perhaps even protect, its useful role in China's development.⁴²

⁴⁰ Supplied by Prof. Shang and translated by the China NPO Network.

⁴¹ For a slightly different version of the proposed Chinese standards, see those provided to Putnam Barber during his September 2002 visit to China, also formulated by Prof. Shang:

“(1) To observe the National Constitution and other laws and regulations and abide by their own organizational constitutions; (2) To uphold public-good mission to promote progress and justice of the society; (3) To stick to organization's not-for-profit principle, not to pursue interest for any individual or family; (4) To insist on financial transparency and to expose annual report to the public; (5) To insist on information exchange, resources sharing and mutual cooperation; (6) To insist on self-autonomy and independence and to build regular board of directors; (7) To follow fair and reasonable sponsorship and evaluation, not to abuse written rules and process with any excuse; (8) To provide high quality service, based on high professional capability.”

Putnam Barber, China's Self-Discipline System of Accountability, Internet Nonprofit Center (2003) (www.nonprofits.org/bulletins/current.html).

⁴² For more on the motivations for self-regulation in the Chinese context, see Shang Yusheng and Zhu Chuanyi, *Zhongguo Minjian Gongyi Zuzhi Zilu yu Lianhe Hulu zhi Lu* (The Road to Self-Discipline and Mutual Supervision in Chinese People's Public Benefit Organizations) (2003).

3.1.3 HONG KONG

According to Terence Yuen of the Centre for Civil Society and Governance at Hong Kong University, discussions of self-regulation mechanisms are relatively new in Hong Kong. But already they have spanned a number of important possible models.

A. Discussions of a voluntary public register system

According to Dr. Yuen, the Hong Kong government has developed a “tentative plan to institute a public register system for charities to participate voluntarily, trying to enhance transparency but to minimize administrative burden of the NPOs and also the Regulator.” Implementation, if it occurs, is still some way off. In his paper for this conference, Dr. Yuen provides some details on the possible workings of such a register. “Tentatively, the government proposes to set up a public register of charitable fundraising organizations who have pledged and demonstrated compliance with certain reference guidelines--which could include disclosing the intended purpose and beneficiaries of the donations, the fraction of donations used for administrative expenses, the preparation of accounts and their publication in local newspapers, and payment to beneficiaries within a prescribed period. The public will be provided with information on the track record of bona fide charitable organizations that carry out regular fundraising activities. Under the proposed scheme, the role of the government would be restricted to making the public register available for public inspection, and strengthening its hotline capacity so as to respond to increasing public enquiries.”⁴³

⁴³ Terence Yiu, “*Governance, Organizational Effectiveness, and the Nonprofit Sector (Hong Kong Report)* (Hong Kong, 2003), 13.

Dr. Yuen notes that “there are individual agencies who have voluntarily undertaken ISO quality accreditation, or similar TQM reviews [and] [government] funded NPOs would also need to adhere to a set of Service Quality Standards which is in fact a model borrowed from Australia with adaptations.” Each of these has self-regulatory potential as well.

B. Discussions of a donor bill of rights

In the fundraising arena, local development professionals have set up an association affiliated with the Association of Fundraising Professionals (AFP). Its activities will include promotion of a donor's bill of rights developed by Association of Fundraising Professionals.

C. Cooperative improvement projects as a potential transition to self-regulation

Dr. Yuen also discusses an initiative by a group of Hong Kong nonprofits that may conceivably have implications for future self-regulation in the nonprofit sector. He notes that, with funding from the Hong Kong government, “the Hong Kong Council of Social Service (HKCSS) -- the umbrella peak organization serving most of the social welfare NPOs in Hong Kong -- spearheaded the Joint Business Improvement Project (JBIP), in which seventeen social welfare agencies including the HKCSS jointly participate [to improve the internal functioning of their organizations]. The initial focus is on strategic and change management, and human resources management.”

3.1.4 INDIA

India has one of the world's largest and most diverse nonprofit sectors, and nonprofit self-regulation has been an area of discussion in India for some years.

In the mid-1980s, the nonprofit sector activist Bunker Roy and others pressed for development of a code of conduct for the voluntary sector, an effort that was resisted by some nonprofits and supported by others. In the 1990s, a number of experiments were conducted in nonprofit self-regulation, beginning with the development of “voluntary guiding principles” for the nonprofit sector by Voluntary Action Network India (VANI), followed by a joint project on nonprofit information disclosure and validation conducted by the Charities Aid Foundation/India and the Government of India’s Planning Commission, and other initiatives.⁴⁴ And since 2001, another effort has been underway to build on the earlier experiments, unite significant elements of the nonprofit sector in support of a form of self-regulation, and come to agreement on a form of a code of conduct and related measures.

The Indian attention to nonprofit self-regulation appears to reflect concern about government scrutiny, both at the federal and state levels, a perceived distrust of the nonprofit sector among the public, government and media, and a distinct concern in the sector about that perception. The following discussion notes several experiments and pilot projects of various kinds undertaken in the 1990s in different areas of India, treated in general chronological order, and then discusses the more recent developments as a new Credibility Alliance seeks to build support for nonprofit self-regulation in the sector.

⁴⁴ This complex history was reviewed briefly by Anil Singh of VANI at several of the Credibility Alliance regional meetings in 2002 and 2003. See Consensus Building Workshop on Good Governance and Enhancing Credibility of the Voluntary Sector (Delhi, February 2003), at www.credibilityalliance.org.

I. Initial Experiments and Pilot Projects in Self-Regulation

A. Code of conduct/ethics

Voluntary Action Network India

In the late 1990s, a network of progressive Indian nonprofit organizations, Voluntary Action Network India, adopted a set of “guiding principles” for Indian voluntary development organizations. The principles stipulated the characteristics, mission, governance, values, organizational integrity, accountability, transparency and financial management. A “membership review committee” composed of VANI organizational members was to review member organizations’ compliance with the principles.⁴⁵ Maintaining, expanding and sustaining use of this code appears to have been problematic.

B. “Validation” of nonprofits

Charities Aid Foundation/India and Planning Commission

In a pilot program intended to test a validation model of self-regulation, the Charities Aid Foundation – India and the Government of India’s Planning Commission worked together for several years to develop a database of approximately 1,500 nonprofits, with data provided by the organizations themselves. The process was based on the Guiding Principles for Voluntary Development earlier developed by VANI. The organizations were then “validated” by CAF India, and the list of validated organizations and data were then made available to government and private funders on the web and in CD format. The program ended in 2001-2002.

CAF and Planning Commission organizers noted several strengths – organizational self-reporting, a clear validation decision, and fairly widespread of information about the

⁴⁵ For the text of the code, see www.ccic.ca/volsect/code_of_ethics/cell-links_other_codes.html.

exercise and the organizations participating. Identified weaknesses included problems of sustainability, the verification of organizational data, difficulty in tracking changes in organizations, difficulties in measuring the impact of organizations and programs, and the relatively small sample of participating organizations (relative to the scope of India's nonprofit sector).

C. Nonprofit ratings

IndianNPOs.com

IndianNPOs.com, a for-profit organization supporting nonprofit activities in India, has performed credit ratings on some Bombay and Maharashtra-based nonprofits since February 2001. The ratings are based on "organizational systems, governance, programmers and services, and financial aspects." IndianNPOs.com has developed parameters within each category and gathers data; an independent board of twelve with corporate, nonprofit, academic and legal members determines the ratings.⁴⁶

D. Nonprofit ratings

Credibility Alliance/Give Foundation

The Give Foundation and Credibility Alliance have reportedly worked on a separate system of nonprofit ratings, for which little information is currently available. See below for other, perhaps related self-regulatory initiatives proposed by the Credibility Alliance.

⁴⁶ Information provided by IndianNPOs.com and derived from the IndianNPOs.com report to the Credibility Alliance, December 2001. For further information on IndianNPOs.com, see the website at www.indianNPOs.com, though unfortunately the website does not provide significant information on the credit ratings process.

E. Nonprofit ratings (Micro finance institutions)

Micro-Credit Ratings International Ltd. (M-CRIL)

M-CRIL has developed a process for evaluating and rating micro finance institutions that includes thirty indicators on management and staff systems, governance and financial issues, and it appears that the rating mechanism is now being applied – at least on an initial basis – in India. Although information is sparse, it appears that an M-CRIL Indian affiliate sends out a rating field team, which reviews the records of micro finance institutions, conducts interviews, and assigns a “relative grading.” “The evaluation results in a risk assessment report as well as a capacity need assessment report.” The ratings are reviewed on an annual basis.⁴⁷

F. Informational transparency

Murray Culshaw Advisory Services

In the late 1990s, Murray Culshaw Advisory Services encouraged nonprofits to increase information provided to the public, donors and the media through more informative annual reports. MCAS has issued several publications on producing effective annual reports, several evaluations of nonprofit sector annual reports, and at least one scorecard of effective reports.⁴⁸

G. “Intranet” self-regulatory mechanisms developed by domestic funders

Accountaid and Child Relief and You (CRY)

Accountaid and CRY have developed a kind of limited self-regulatory process for CRY’s Indian grantees: With Accountaid’s assistance, CRY has established a set of procedures

⁴⁷ See the M-CRIL report at the Working Group for Enhancing Credibility of the Voluntary Sector, Minutes of Meeting, 17 December 2001, at www.credibilityalliance.org.

⁴⁸ For further information, see www.fundraising.org.

and expectations on program, fiscal, accounting and other matters for CRY's grantees to follow and to report back on to CRY – a form of domestic donor-enforced self-regulation mechanism with and for a defined grantee group.

H. Accounting standards

One of the nonprofit self-regulation initiatives in India has been the adoption of recognized accounting standards. The Indian NPOs have studied and opted for American and other accounting standards of international repute.

I. Local and regional initiatives

There also appear to be several smaller nonprofit self-regulation initiatives underway in local and regional areas, for which little information is currently available.

II. A Second Stage of Experimentation: The Credibility Alliance and Give Foundation initiatives

The Indian nonprofit sector has undertaken more experimentation with nonprofit self-regulatory mechanisms than perhaps any other single country in the Asia Pacific region. While that experimentation is laudable, two substantial problems appear to have plagued each of the Indian programs. Because of lack of acceptance, resources, will and unity within the nonprofit community, expansion of any of these structures have been very difficult. And even the sustaining of the limited trial of any one of the individual models has also proven difficult – to the point that most of these models are largely inactive today.

In 2001, several of these trends converged. VANI's guiding principles had been discussed in the sector for several years. CAF's database and validation project with the Planning Commission was coming to a conclusion. The Childline India Foundation, with

support from Price Waterhouse Coopers, conducted a “study concerning a national accreditation body or performance rating body for NPOs and the identification of a possible framework for a future rating.”⁴⁹ And the nonprofit sector was once again gearing up for Parliamentary moves to expand government regulation of nonprofits. The Childline/PWC study led to a British-supported nonprofit sector dialogue that began with a meeting in December 2001. That meeting reviewed Indian self-regulation experiments and comparative experience (including the Philippine PCNC initiative). It decided to form a council, or alliance of voluntary sector organizations “to define norms that organizations should meet,” and to develop a set of those “minimum norms for certification in the voluntary sector.” In turn, this decision resulted in the formation of the Credibility Alliance, a grouping of a number of key nonprofits concerned with governance, accountability and transparency in the Indian nonprofit sector.⁵⁰

A. A new code of conduct: The Minimum Norms for Enhancing Credibility of the Voluntary Sector

As other meetings and discussions have occurred, the norms developed by the members of the Credibility Alliance and the role of those norms has been refined. The Minimum Norms for Enhancing Credibility of the Voluntary Sector cover existence and registration, objectives and performance, governance, programmed, management and human resources, accountability and transparency.⁵¹ “The norms emphasize disclosure, in keeping with the principles of transparency and accountability, rather than for value

⁴⁹ This information is derived from Enhancing the Credibility of the Voluntary Sector in India (Need for Standards/Grading of NPOs), Credibility Alliance, at www.credibilityalliance.org, and other CA documents on the website.

⁵⁰ These developments are also discussed in the India country report for this meeting, written by Aarti Madhusudan with inputs from Noshir Dadrawala and Priya Viswanath.

⁵¹ The Finalized Minimum Norms for Enhancing Credibility of the Voluntary Sector are available at www.credibilityalliance.org.

judgment.” 5,000 copies of the Norms each in English and Hindi have been distributed to voluntary organizations around India; Tamil and Marathi versions have already been printed as well, and translations are underway in another eleven vernacular languages.⁵² Compliance with the minimum norms is voluntary and any accreditation, evaluation or ratings against those norms will be taken by separate agencies, not by the Alliance itself.

In 2002 and 2003 the Credibility Alliance held discussion meetings in Bangalore, Mumbai, Delhi and other major cities to discuss the proposed minimum norms and a range of self-regulation issues. The Alliance also discussed and developed “suggested best practices” in nonprofit accounting procedures (expanding on earlier work done by Accountaid and others), annual reports (based on work development by Murray Culshaw Advisory Services), and human resource policies.⁵³

As of 2003 there was continuing discussion underway on a range of issues, including the structure and form of an accreditation process or some other mechanism for evaluating compliance with the Alliance’s minimum norms. The Credibility Alliance faced an uncertain future with a number of possible roads ahead: as discussed in spring 2003, it might “continue the consensus building process” or “institutionalize the Credibility Alliance structure” or some combination of the two. And there was continuing discussion on the suitable role for the Alliance: Should it continue to focus on building a consensus for self-regulation, accountability and transparency and on the development of the minimum norms? Should it play a role in evaluating compliance with those norms,

⁵² Progress Report – Credibility Alliance (October 2002 – 15 March 2003), at www.credibilityalliance.org.

⁵³ See Presentation on Accounting Procedures; Presentation on Suggested Practices on Human Resource Policies and Procedures; Presentation on Suggested Practices for Annual Reports, at www.credibilityalliance.org

moving toward an evaluative or even an enforcement role? These questions remained under discussion at mid 2003.⁵⁴

B. Give Foundation

Another initiative with self-regulatory implications is the Give Foundation's project to promote giving, fundraising by nonprofits, and nonprofit transparency and accountability. The Give Foundation initiative, described in some detail in the India country paper for the APPC Manila conference, includes careful selection of recipient organizations involving criteria that emphasize accountability and transparency, and encouragement of giving to those selected organizations. Give also offers financial, accounting and management assistance to the selected nonprofits.⁵⁵

3.1.5 SINGAPORE

Initial research fails to uncover any significant dialogues, debates, experiments or initiatives with nonprofit sector self-regulation in Singapore.

3.1.6 SOUTH KOREA

Professor Ku-Hyun Jung reports that there is little self-regulation of NPOs or NPOs in Korea, and specifically that there is no certification, rating or ranking mechanisms other than donor evaluation of nonprofit organizational work.

⁵⁴ See The Way Ahead, Credibility Alliance, spring 2003, at www.credibilityalliance.org. By 2003 donor support for the work of the Alliance had expanded from the British High Commission, now including US AID as well as a grant from the Ford Foundation, pending grant clearance from the Government of India. Thirty zonal workshops, four regional workshops, and a national workshop were planned for the spring and summer of 2003.

⁵⁵ Aarti Madhusudan, "Governance, Organizational Effectiveness and the Non-Profit Sector (Country Report: India)", (Delhi: July 2003), 31.

A. Nascent “intranet” mechanism?

Community Chest of Korea

According to Professor Jung, the Community Chest of Korea, established in 1998 as an independent fundraising intermediary with its own board of directors, “replaced governmental fundraising efforts” in response to natural disasters and poverty campaigns. The Community Chest raises about US\$50 million each year for grants to many social service institutions.

“This involves,” according to Prof. Jung, “a quite extensive evaluation of institutions themselves as well as their proposals. And a large number of outside experts participate in the evaluation process.” This may be a general example of an “intranet” form of self-regulatory mechanism, at least at an early stage, though the evaluation information is not generally available and “the organization and participants ... do not have the concept of self-regulation ... in this case.”

3.1.7 SRI LANKA

The research conducted by the Sri Lanka team of the APPC Philanthropy and the Law in South Asia (PALISA) project reveals no significant initiatives to develop nonprofit self-regulation in Sri Lanka. The Sri Lanka PALISA researchers have noted:

“The very thought of “self regulation”, even in the case of large public quoted companies, is unusual in Sri Lanka, and in any event viewed with widespread cynicism. “Self regulation” generally evolves within an industry, based on its perceptions of common needs for maintaining its integrity and public confidence. However, this has not taken place to date within the nonprofit sector. In fact,

nonprofit organizations in Sri Lanka are, by and large, diverse in various ways having little in common. Consequently, there are no Codes of Conduct or Best Practices within the industry in any form. It is also optimistic and unreal to expect the observance of such standards by non-profit organizations in the near future.... In these circumstances, it would be a fair assessment to state that there is presently little or hardly any self-regulation of non-profit organizations. It is also unlikely that such measures will be adopted meaningfully in the future.”⁵⁶

3.1.8 The UNITED KINGDOM

The United Kingdom has a centuries-long history of regulating nonprofits, dating back to 1601 and the Statute of Charitable Uses. "However, it was only with the advent of the Charities (Statement of Accounts) Regulations 1960 (SI 1960 No. 2425) that charities were required to keep proper books of accounts, prepare financial reporting consisting of an income and expenditure account as well as a balance sheet, and keep those records for at least seven years"⁵⁷.

Today, the economic and financial reporting of nonprofits in the United Kingdom is governed by Accounting and Reporting by Charities: Statement of Recommended Practice (SORP). The current SORP is the result of continuous updating since 1988. It took several adjustments to adapt the model of reporting to the needs of nonprofit entities and to bring it into line with the different accounting standards and financial institutions in the United Kingdom. The SORP currently in force is the result of a dialogue between the members of Charity Commission and the Accounting Standards Board. The interaction has resulted in a model of reporting consistent throughout the UK based on

⁵⁶ Arittha Wikramanayake, *"The Legal Context for Philanthropy and Law in Sri Lanka (Philanthropy and Law in South Asia)"*, (Colombo: APPC, 2003), 61.

⁵⁷ http://www.icnl.org/KNOWLEDGE/ijnl/vol11iss1/special_4.htm accessed 22-04-2009.

accounting standards for small businesses that refer to specific International Accounting Standards.

The SORP aims to provide a clear and transparent representation of the activities and financial standing of nonprofit entities with an annual income exceeding £ 100.000. The charity Commission seeks to enable citizens to compare the results and activities of organizations operating within the national territory, as well as to give operators of those organizations a guide for compliance.

The model annual report that the SORP proposes provides a series of qualitative information, such as describing the evolution of the nonprofit during the accounting year of reference, as well as quantitative data. The SORP Annual Report must include the following:

1. Reference and Administrative Details of the Charity, its Trustees and Advisors: This information specifies the nonprofit, its directors, and any independent or dependent auditor.
2. Structure, Governance and Management: The nonprofit must state its internal organization, its choice of legal form, and its governance structure and rules.
3. Objectives and Activities: The institution must highlight its objectives, role, and methods.
4. Achievements and Performance: The activities must also be shown through performance indicators or sectoral comparisons, to highlight the role and importance of nonprofit. This section must include fundraising activities and results.
5. Financial Review: This section should present the financial position of the entity and explain the reserves and the change that occurred over the previous period, giving reasons for such change.

6. Plans for Future Periods: Here the nonprofit should present its objectives and plans for the next accounting year.
7. Statement of Financial Activities: This document accounts for how the nonprofit has used its resources.
8. Balance sheet: This document discloses assets and liabilities, including intangible assets.
9. Cash Flow Statement: The document supplements the Statement of Financial Activities, representing cash flows, their origins, and their uses.
10. Notes on the Accounts: Here the nonprofit should explain the accounting standards used and how they were interpreted.

The document is then drawn up under the supervision of auditors, who may be independent (an independent person who is reasonably believed by the charity trustees to have the requisite ability and practical experience to carry out a competent examination of the accounts) or internal, depending on the income levels of the nonprofit.

3.1.9 SPAIN

In Spain the rules of accounting for nonprofits were promulgated by Royal Decree 776/1998, de 30 de abril. The decree imposes a model derived from the Plan Countable General usually applied to commercial entities. The result has allowed the integration of accounting models, but without modification in light of the real needs of nonprofits. The Spanish model, however, is still relatively young, so it may be premature to judge its operation⁵⁸.

⁵⁸ http://www.icnl.org/KNOWLEDGE/ijnl/vol11iss1/special_4.htm accessed 25-04-2009.

Spain provides two standards, depending on the value of a nonprofit's assets, the level of its revenues, and its average number of employees. Smaller nonprofits are subject to fewer accounting rules.

The "model de cuenta anuales" includes these requirements:

1. Balance: This document lists balances, debts, and equity.
2. Cuenta de resultados: This document aims to explain the economic situation of the nonprofit, integrating information on receipts and expenditures.
3. Memory: This document, predominantly qualitative, gives information relating to the organization, its administrators and governing bodies, as well as information on changes during the accounting year.

A comparison of the two models shows that both nations first proposed a general pattern of reporting, which was then revised and supplemented with the help of national accounting organizations. The result seeks to harmonize regulators' need for information with nonprofits' situations.

CHAPTER IV.

CONCLUSIONS AND RECOMMENDATIONS FOR THE EFFECTIVE REGULATION OF NPOs

CONCLUSIONS

The non-profit organization sector has not developed an effective system of self regulation. While a number of regulatory bodies serve as watchdogs, since their coverage is limited therefore the public is not aware of their activities. Moreover they do not constitute effective barriers to abuse or promote good practices without the credible threat of public exposure. Further these organizations do not provide guidance to NPO with respect of practices to be followed by them therefore they make the entire system of regulation ineffective. Finally, the sector as a whole is suffering from a crisis of governance because specific issues vary from organization to organization, e.g. paying high compensation to top executives and board members, spending lavishly on office, travel and other administrative expenses, conflicts of interest, failure to adhere to the organization's mission, unethical and dishonest fundraising practices, and a lack of disclosure of information.

With a very few exceptions, NPOs in Pakistan do not have well defined governance, transparency and accountability structures while some rely entirely on financial support from the Pakistani public and Pakistani institutions, a large proportion rely almost entirely on project aid from international funding agencies. They are constantly challenged to prove their integrity.

Most of the nonprofit organizations are undertaking charitable or development work on a voluntary or professional basis. They are not based on business oriented principles, hence, are unable to generate funds at their own for sustaining their activities. They have

to rely on grants and contributions from donor agencies and people. This is because they have been established on the humanitarian and volunteer grounds.

The generation of funds has been one of the most important activity of non-profit organizations. The funds generated have to be spent wisely so that maximum benefits should be obtained. The people associated with these organizations have to live on these resources. Therefore, self regulation and auditing of accounts is deemed necessary in these organizations. Practically the organizations are lagging in this field due to many reasons including limitation of funds for auditing, non-availability of human resource, ineffective accounting procedures, lack of proper accounting systems and documents and to some extent hiding the facts deliberately.

Lack of human resource is one of the major problems in non-profit organizations. Without essential and trained human resource the organizations are unable to prepare their strategies and plan of action. Developing programs is always based on technical human resource whose input is necessary for preparation of strategies, plan of action, budgeting, accounting and documentation. These necessities, if available, could help in involvement of a desirable self regulation and auditing system in non-profit organizations.

RECOMMENDATIONS

It is in the interest of all the non-profit organizations that their sector should be well managed and accountable. Therefore, some suggestions are given below to make the regulation of NPOs effective and transparent because the sector has not developed an effective system of self regulation.

To solve self regulation related problems the NPOs need to pay attention on the following three areas:

First, they need to look at their own governance structures and improve them. They should do a board self-assessment using broad resources to identify and address problems. There are invaluable resources available to NPO boards if they will only take time to use them. Too many NPOs think that governance and accountability problems only apply to others and fail to take action themselves.

Second, organizations need to invest in governance and accountability. This can be made in different form, which can be ranged from asking for guarantees to demonstrate good governance practices to strengthening organizations that promote good governance and accountability. In this sense, governance and accountability should not be seen as just the negative aspects of how to stay out of trouble, but also the positive aspects of how effective governance and institutional capacity building leads to positive outcomes.

Finally, the sector needs to demonstrate credible commitment to effective government regulation. Right now, the problem is not lack of effective regulations, but rather lack of resources for government to ensure compliance.

Moreover to ensure that government need the resources to carry out audits and make efforts to stop those who abuse public trust by using NPOs for their own personal gain.

Besides addressing the issues of governance and accountability NPOs should also struggle to carry out their missions effectively. They need to speak out boldly on the issues of the day. They need to hold government and business accountable for what they do and what the implications of their actions are. They need to ensure that their research is sound and they are true to their missions. They must take care of the great assets they have, including the public's trust, solid information and high moral purpose since there is no compromise on these issues.

4.1 KEY STEPS FOR REGULATIONS OF NPO

There are few steps the authorities need to take them for effective regulation, governance and accountability:

4.1.1 Registration of Organizations

To regulate NPOs effectively, the authorities in a country need to know of the existence of organizations and be able to identify who runs them. Given the variety of legal forms and often informal and local nature of organizations which would be classified as NPOs, most jurisdictions will rely on individual organizations identifying themselves to regulatory authorities and many introduce regulations to make it a legal requirement for NPOs to register. Many also create financial incentives for NPOs to register, for example tax relief. It is important that the law of a country clearly defines what is and what is not considered to be an "NPO" for the purposes of regulation. Many NPOs in a country will be small and informal. A key question to be considered is whether the regulator need to know about/has the capacity to monitor the activities of all such organizations. Regulators in some countries have adopted thresholds for compulsory registration - based on level of income, legal form and activity (for example, public fundraising) - to target resources where regulation is thought to be most warranted. An up to date database of NPOs in existence (including information about the purpose of the NPO, the people running it, the location of its head office, annual income and expenditure) is an extremely useful monitoring tool.

4.1.2 Monitoring the NPOs

Routine scrutiny of accounts and annual reports may alert the regulator to problems in NPOs which need corrective advice or, if serious, investigation. It should be remembered that the vast majority of NPOs would be carrying out their work honestly and diligently. Regulation must try to find the balance between securing sufficient quality of information to scrutinize the NPO sector without overburdening the organizations that have to produce it. NPOs vary greatly in size and function. It would not be appropriate to demand complex reports, annual returns and the auditing of accounts from NPOs with a small annual income. Countries must judge for themselves at what level of annual income the risk of malfeasance becomes unacceptable. Regulatory authorities may want to consider a 'stepped' approach to the requirement to produce information, with the most detailed requirements asked of those whose programmes are extensive and/or unregulated by overseas regulatory authorities in donor countries. This would help to ensure that resources are not overstretched.

4.1.3 Providing advice and guidance to NPOs

Regulation should be supportive as well as interventionist. It is important for NPOs to be able to easily access advice and guidance if the regulator is to be successful in promoting compliance with legal requirements and encouraging good governance and accountability in the sector.

4.1.4 Investigating and addressing misuse of NPOs

Whilst allegations of misuse of NPOs should always be explored, the regulatory authority will need to balance the 'quality' of the evidence supporting allegations - remembering that some accusations may be vindictive - with the estimated risk.

The process of investigating an allegation requires the methodical and careful acquisition of financial, written and verbal (subsequently transcribed) information from a number of sources, not least from those implicated in the allegations, who must be given an opportunity to put their case. The process must be neutral and good teamwork is essential in both the gathering and also the sifting and evaluation of information. The latter involves assessing the reliability of the source as well as the quality of the information.

Briefly we can say that the key components of effective NPO regulation are: an effective legal framework; a competent regulator; and sector capacity (and dialogue with the regulator).

4.2 AN EFFECTIVE LEGAL FRAMEWORK

4.2.1 Compulsory registration (though can use thresholds)

Alongside powers to:

- Monitor and follow up
- Investigate abuses
- Remove/replace trustees
- Seize assets
- Dissolve/de-register organizations
- Share information with other government agencies

4.3 A COMPETENT REGULATOR

- Targeted and risk based policies and actions
- Based on a good analysis of the sector
- Using a proportionate approach

- Offers quality, free advice and guidance to NPOs
- Invests in the training and development of its own staff
- Communicates openly with the sector
- Accountable and transparent in its actions
- Seen to be fair and unbiased
- Works for the good of the sector and the wider public benefit
- Moves with the times

4.4 SECTOR CAPACITY

- Enjoys good dialogue with the regulator
- Able to represent its interests to government s

It is crucial for cultivation of the third sector in Pakistan to improve the relationship between government and NPOs. Firstly, we should improve taxation policy for NPOs and enhance their capacity of independence, self-governance and self-support. Secondly, we should build a legal framework suitable for the development of the third sector in Pakistan, and the laws for NPOs should consider protection, empowerment and regulation but not only regulation. Thirdly, we should reshape the relationship between NPOs and government and build a new pattern of relationship on a basis of partnership and positive interaction; finally, there should be a transition from dominance to social governance through cooperation, negotiation and partnership between the government, and NPOs.

In order to create a better environment for the development of the third sector in Pakistan, the relationship between NPOs and government should have a fundamental transformation, that is,

- 1) from direct administration to indirect regulation (by law, regulations and taxation policy etc.)
- 2) from direct provision of public goods and services to indirect provision of them
- 3) from dominated-subordinated relation to partnership
- 4) from singular administration to broad social governance with a multi-sectoral participation (including government, business and the third sector etc.).

On the other hand, various NPOs should strengthen internal governance in order to increase their accountability and capacity:

- 1) They should increase the organizational transparency and make their information of internal structure, programs and finance known to the public;
- 2) They should comply with some ethics, values and principals;
- 3) They should enhance their governance and functioning capacity;
- 4) They should be good at opening up and utilizing various kinds of resources, especially civil or social resources;
- 5) They should borrow the experience of business management and improve the efficiency of functioning;
- 6) They should strive for understanding, support and participation from the public.

In short, for better collaboration between the government and the NPOs following suggestions are made:

- 1) Provision of an enabling and conducive environment for mutually rewarding collaboration.
- 2) Provision of defined and clear cut frameworks for partnerships, i.e. 'principles of collaboration'.
- 3) Promotion, advocacy and awareness raising the concept and practice of public-private partnership.

- 4) Simplification of government procedures and removal of red tape.
- 5) Ensuring partners' ownership and involvement throughout the process, i.e. the collaboration cycle.
- 6) Capacity building of both partners.
- 7) Work towards stronger partnership through a viable demonstrative partnership model.

Altogether, not only is their case for expanding the level of government support to NPOs, but also of streamlining the system and making it more autonomous, transparent and accountable. The government needs to develop a policy paper for establishing a framework for effective and productive collaboration. The NPOs, too, need to realize the constraints of the government. The donors also need to review their policies, procedures and guidelines while financing the government or the NPOs.

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