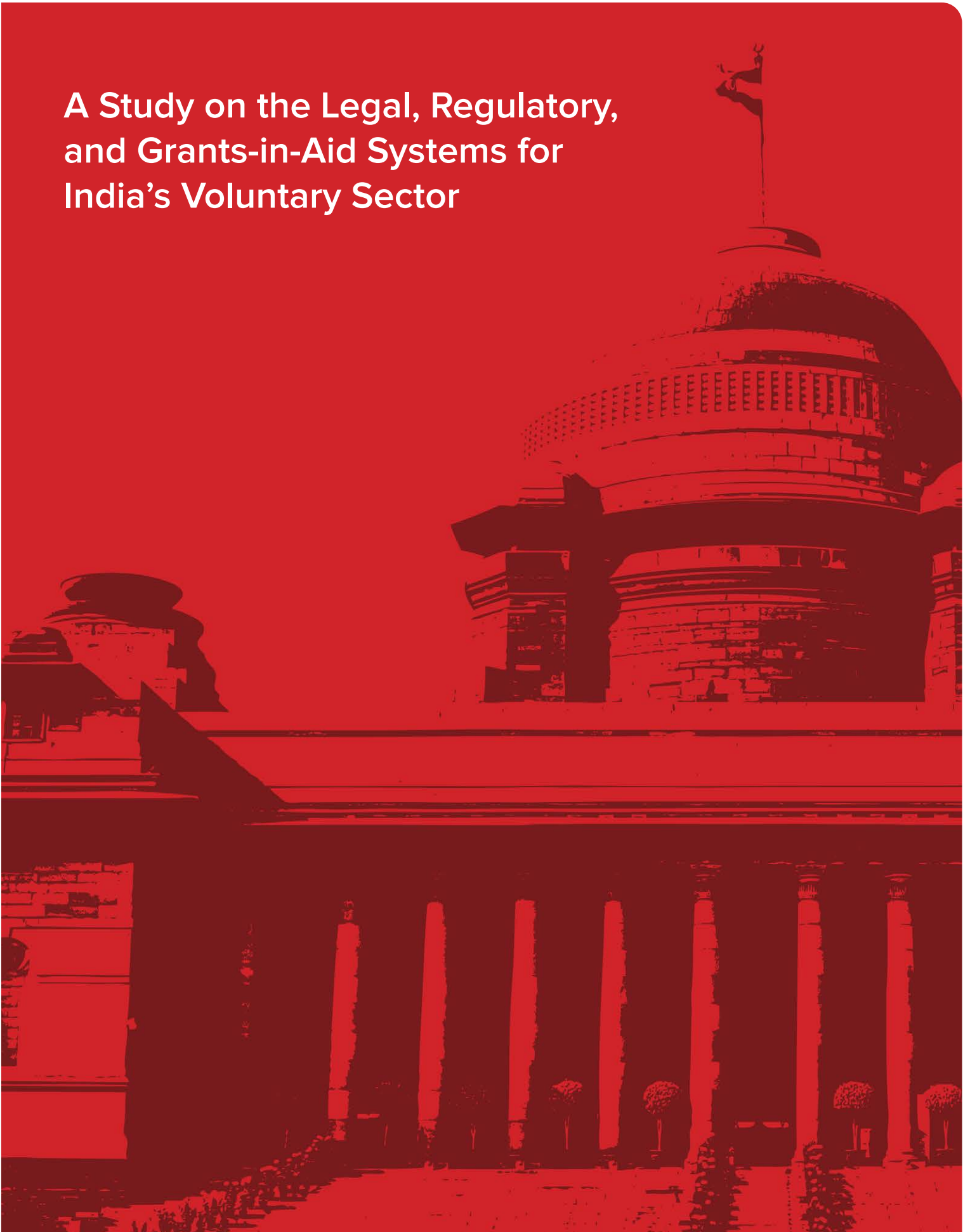


A Study on the Legal, Regulatory, and Grants-in-Aid Systems for India's Voluntary Sector



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Lumen Consulting aspires to make it easier for the development community in India to translate vision into reality. Lumen works with social organisations, funders and intermediaries to provide the insights, solutions and support necessary to advance social change.

Table *of contents*

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6.	 Acknowledgements
8.	 Foreword
10.	 Executive Summary
12.	 Key Recommended Actions
14.	 Introduction
16.	 Section 1 - Rationale, Methodology and Report Structure
18.	 Section 2 - Legal and Regulatory Frameworks
26.	 Section 3 - Engaging the Voluntary Sector: Grants-in-Aid and Consultative Planning
34.	 Section 4 - Creating an Enabling Ecosystem
37.	 Way Forward
38.	 <i>Appendix 1 - Secondary Data Collection</i>
40.	 <i>Appendix 2 - Primary Data Collection</i>
42.	 <i>Appendix 3 - Comparative Assessment of the Legal Structures Adopted by Formal VOs</i>
44.	 <i>Appendix 4 - List of Central Schemes Under Some Ministries involving NGOs/VOs</i>
46.	 <i>Appendix 5 - Partnerships between Government and UN Agencies</i>
48.	 <i>Appendix 6 - Key Insights and Recommendations</i>
51.	 Endnotes

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Foreword



In India, as in other parts of the world, civil society faces both unprecedented opportunity and multiple threats. Growing recognition of the limitations of market mechanisms in addressing societal issues, especially those like the climate crisis that pose existential threats, has highlighted the unique roles that civil society organisations can and do play in

ensuring just, sustainable solutions and in strengthening democratic participation. Across India's myriad villages, towns and mega-cities, a diverse range of non-governmental organisations provide basic services, amplify citizen concerns, guard against excesses of state and business, and protect the rights and freedoms that are fundamental pillars of democracy. Simultaneously, the voluntary sector in India faces unprecedented criticism and challenge from both those who are intolerant of dissent as well as those who seek untrammelled licence to profit from the exploitation of resources.

The rapid growth in Indian philanthropy, from individuals and businesses alike, and the evolution of forms adopted by social impact organisations, combined with the opportunities and challenges posed by emerging technologies, heighten the need to ensure that regulatory frameworks keep pace with the swiftly changing environment. This context presents a tremendous opportunity to clearly articulate the unique value of civil society in a contemporary democracy and answer the following questions: What role does civil society fulfil in the social, economic and political lives of the modern Indian nation-state? How do these roles relate to the roles of the government and the private sector? Is there an independent area of civil society action or does civil society locate itself only in the spaces vacated by the government and the private sector, or is it a specific combination of the two, determined by the needs of the political fields in which Indian civil society finds itself?

Legal, regulatory, and grants-in-aid frameworks are critical in determining the logic and identity of Indian civil society. Legal and regulatory frameworks by their very nature are less responsive to the vagaries of time and topical realities. In India, some laws governing the voluntary sector belong to colonial times; others have internally inconsistent compliance requirements. At its most basic, inadequate frameworks instil mistrust, not only between the government and civil society but also between civil society and the public. In a similar vein, the grants-in-aid system, while ubiquitous across ministries and departments at the national and state levels, is far less than optimal in making the best use of civil society resources towards the goals of development.

This study seeks to bring together the multiple aspects of voluntary sector regulation and the rich history of past analyses with the quotidian reality of civil society organisations and those who are charged with their oversight. The recommendations discussed in the following pages are composed of both bold and basic measures. If implemented together, they will transform the voluntary sector. More importantly, this study lays out the template in terms of the levels and depth at which the legal, regulatory, and grants-in-aid systems may be reviewed to reflect the respectful, facilitative and transparent relationship between the government and civil society as torchbearers for well-being for all.

Ingrid Srinath

Director

Centre for Social Impact and Philanthropy, Ashoka University





Executive *summary*



This study examines the legal and regulatory frameworks and government systems for governing and engaging with the voluntary sector across five focus areas namely, Registration, Taxation, Regulation, Grants-in-Aid and Consultative Planning, and Enabling Ecosystem. The study recommendations aim to make the legal and regulatory frameworks coherent and aligned with contemporary realities of the voluntary sector, the grants-in-aid systems transparent, and the consultative policy-making systems effective and efficient.

The study methodology involves an analysis of primary legal sources such as laws, statutes and policies, a review of secondary sources, and interviews and consultations with critical stakeholders. The objective of this approach is to triangulate and corroborate across primary and secondary data, the challenges, strengths and solutions emerging in each of the study focus areas. Secondary documents include articles, treatises, manuals and reports by government and non-government bodies and sector experts. Interviews and consultations were held with government authorities, sector experts, and voluntary organisation (VO) leaders at the national and state levels, across aspects of government-VO engagement such as regulation, policy-making, and grants-in-aid. State-level consultations were held in five states, i.e. Rajasthan, Maharashtra, Tamil Nadu, Odisha and Delhi, to map perspectives from diverse regions and levels of complexity across India.



A consultative and iterative approach was followed in developing the final report. Inputs from sector experts, VO leaders and NITI Aayog members across key milestones of the project were gathered. The secondary research findings were assessed by a panel of sector experts and the preliminary key insights and recommendations after the first round of data analysis were discussed at a national consultation among experts and VO leaders.

The study recommends modernising legal and regulatory frameworks with the overarching approach of facilitating rather than controlling the voluntary sector to better serve citizens. Technological solutions to increase efficiency and effectiveness, aligning processes to reflect the diversity in size and complexity of organisations in the sector, focusing on capacity-building and collaborating with the sector in the planning and implementation of the development agenda are some key underlying ideas of the proposed recommendations. Six key recommended action points emerged across the five focus areas of this study, i.e. Registration, Taxation, Regulation, Grants-in-Aid and Consultative Planning, and Enabling Ecosystem.

The report consists of six sections. The introduction seeks to provide a brief overview of India's voluntary sector. Study rationale and methodology are discussed in detail in Section 1. Section 2 examines applicable laws and regulations as well as key issues and challenges voluntary organisations experience in ensuring compliance and submits related recommendations. Section 3 reviews the key areas of engagement between government and the voluntary sector such as grants-in-aid, and consultative policy planning, and presents the key issues, challenges and recommendations. Section 4 examines the necessity of creating an enabling environment for VOs, related challenges and recommendations for achieving the same. In the last section, Way Forward, a roadmap on implementing the recommendations and action points is discussed.

The report aims to inform government action, drive discussions among sector experts, and strengthen narratives around the voluntary sector.

Key Recommended Actions

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The study proposes recommendations mapped to specific action points for its implementation (see Appendix 6). Of the 10 recommendations initially proposed, the following six are most critical in their impact on the sector. If implemented, these action points, can collectively transform the voluntary sector and its relationship with the government.

1.

REGISTRATION

Modernise and streamline the registration process across all laws at the central and state level by developing:

- an online registration process
- a common definition of charitable purpose
- a common typology of VOs
- a clear distinction between social impact and non-social impact focused VOs
- a national registration law that coexists with current state level registration laws and can be emulated by the states in their own jurisdictions. VOs would have the option to register under the new national law or the existing state laws.



2.

COMPLIANCE

Establish a grievance redressal cell comprising representatives from VOs, the Central Board of Direct Taxes (CBDT), the Foreign Contribution Regulation Act division (FCRA) and other regulatory authorities to register VO complaints (with defined turn-around times and escalation processes) for any cancellation of licenses or registrations, such as FCRA and to communicate reasoning for such cancellation, in writing.



3.

TAXATION

Amend India's tax laws to

- provide enabling thresholds for smaller VOs (e.g., lower compliance requirements for VOs with small budgets)
- provide a clear definition of charitable purpose
- permit charitable activity outside India by Indian VOs



4.

GRANTS-IN-AID (GIA)



Allocate additional funds to VOs receiving grants-in-aid for impact assessment and other institutional costs such as human resources, technology, financial management costs and employee statutory benefits such as Provident Fund, Gratuity, Insurance and Maternity benefits.

5.

CONSULTATIVE PLANNING



Increase engagement between central and state governments and VOs on development programmes and schemes by institutionalising platforms for convergence and consultation across all levels of planning.

6.

ENABLING ECOSYSTEM



Provide recognition and accreditation to multiple sector-led initiatives so VOs are encouraged to join and comply with sector standards and best practices.

Introduction

Voluntary Organisations (VOs) contribute significantly to India's development by playing a variety of roles. Complementing institutions of the state and the market, VOs are an integral component of a vibrant, democratic society. They offer alternative perspectives to social issues, technical expertise, an understanding of the local opportunities and constraints, and perhaps most importantly, the capacity to enable meaningful dialogue within vulnerable communities. Yet, while the right to association is guaranteed under Article 19(1) (c) of the Indian Constitution, India still has a long way to go in developing an enabling and conducive environment for VOs that use this fundamental right to advance public welfare.

Roles that Voluntary Organisations Play

- Enable the fundamental right of citizens to form associations or unions as enshrined in Article 19(1)(c) of the Indian Constitution
- Promote transparency and public accountability
- Drive advocacy and policy change
- Provide free or low cost public services
- Provide technical expertise to government
- Act as capacity builders and incubators
- Uphold the rights of the marginalised or the under-represented
- Check abuse of state power and encourage citizen participation in governance

For instance, while VOs consistently engage with government ministries and departments in multiple ways that are firmly embedded within a comprehensive regulatory framework, there remain significant barriers to effective and successful government and VO interactions. These range from regulatory complexities that affect daily operations of VOs, to a lack of shared understanding of their role in social transformation and feelings of mutual distrust between government and voluntary sector stakeholders.

The National Policy on the Voluntary Sector, developed by the erstwhile Planning Commission in 2007, also acknowledged these challenges. It aimed to promote a cooperative and collaborative relationship between the government and VOs as opposed to one of mistrust and hostility. It also stressed upon the need for the government to facilitate and enable VOs instead of taking a 'command and control' approach to regulating the sector. Yet, despite multiple attempts to streamline and improve government-VO engagements, many challenges remain. It is essential to identify and address these gaps in regulation and streamline the crucial relationship between the government and the voluntary sector, so the sector can contribute more meaningfully and substantially to India's development.

The presence of a wide variety of organisations working on a range of objectives, positive recognition from the government and the society at large, and responsible sources of funding are indicators of a strong voluntary sector. Enabling legal, regulatory, and grants-in-aid frameworks are critical to achieving these. This study seeks to review current frameworks in order to improve and align them with the vision of a vibrant and diverse voluntary sector in India.



Section 1

Rationale, Methodology and Report Structure

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RATIONALE

This study aims to advance the objectives of the National Policy on the Voluntary Sector, 2007. It analyses the legal, regulatory, and grants-in-aid systems for the voluntary sector in India across five focus areas: namely Registration, Taxation, Regulation, Grants-in-Aid and Consultative Planning, and Enabling Ecosystem. For the purposes of this report, the definition of voluntary sector includes organisations registered as Trusts, Societies or Section 8 companies.

RESEARCH METHODOLOGY

This study adopted a qualitative methodology and was conducted in two phases:

PHASE I

A comprehensive review and analysis (see Appendix 1) of the following categories of documents was undertaken:

- Policies, Acts, and recommendations by various committees
- Research reports from the voluntary sector, including from VOs, academia, and think tanks
- Information from news articles, opinion pieces, and publications by policymakers and practitioners

Based on the review, a draft of preliminary findings from desk-based research was developed and shared with the following three expert reviewers for their inputs and feedback:

- Manoj Fogla, Chartered Accountant and Legal specialist on VO governance and finance
- Pushpa Sundar, Independent Development Specialist
- Sanjay Patra, Executive Director, Financial Management Services Foundation

PHASE II

The preliminary findings document was strengthened and amended on the basis of a primary research exercise* (see Appendix 2) which involved:

- Interviews with 14 national ministries which are involved in registration, taxation, regulation and grants-in-aid for the voluntary sector
- Eight consultations with VO leaders and officials from multiple departments across the following five states selected to obtain differing state level perspectives:
 - Maharashtra
 - Tamil Nadu
 - Odisha
 - Delhi
 - Rajasthan
- Interviews with 18 social sector experts from across India

Finally, insights, recommendations (see Appendix 6) and other aspects of the study (i.e. definition and typology of charities) from both phases were consolidated and shared with sector experts to validate the report findings.

REPORT STRUCTURE

The report has been structured to give an overview, highlight challenges and provide recommendations across three chapters: Regulatory and Legal Frameworks; Government Engagement including Grants in Aid; and Enabling Ecosystem; for VOs and concludes with a section that describes the immediate way forward to implement the proposed recommendations.

*Please note that we have not specifically disclosed the identities of the individuals that have been quoted in this report because the information was shared in confidence and/or off the record.

Section 2

Legal and Regulatory Frameworks

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2.1 Overview

2.2 Challenges

2.3 Recommendations and action points

2.1 An Overview

India's voluntary sector is governed by a complex legal framework that comprises multiple central and state laws that govern three aspects of a VO's existence: registration, taxation, and regulatory compliances. Many of these laws overlap and intersect in myriad ways and have undergone multiple amendments with varied state level enforcement mechanisms.¹ This section briefly analyses how VOs are governed in India, scrutinises the challenges they face, and offers recommendations to address those challenges.

2.1.1 Registration and Incorporation

As per the Indian constitution, both the central government and states can pass laws to regulate all 'charities and charitable organisations' including VOs, religious trusts, and endowments.² Faith-based organisations that undertake social welfare activities on the basis of religious beliefs also fall under the purview of India's voluntary sector. These include Christian missions, Waqfs and Hindu charitable trusts that provide services to marginalised communities and are affiliated with religious institutions. These are governed by a variety of laws depending on the religion and the state of origin, such as the legislations in Andhra Pradesh (Charitable and Religious Institutions and Endowments Act 1966) and Tamil Nadu (Hindu Religious and Charitable Endowments Act, 1959) or the law applicable to Islamic trusts (Waqf Act, 1995).

VOs are typically registered either as public trusts, registered societies, or Section 8 companies. The extent of compliance depends on the applicable registration law (which is determined based on the state of origin or nature of entity). For example, while a charitable trust registered in Delhi may not be subject to detailed compliances, a similar trust in Mumbai has to submit annual returns, obtain prior approvals from the regional charities commissioner, etc. On the other hand, a



3.1 Million
societies are
registered in
India as of
2012 *

VO registered under Section 8 of the Indian Companies Act, 2013 has an entirely different set of compliance requirements. A brief snapshot of these three structures is enumerated below (refer to Appendix 3 for a more detailed discussion):

Type of VO	Society	Charitable Trust/Public Trust	Companies with charitable objectives
Applicable National Law	Registration of Societies Act, 1860	While no national legislation governs public trusts, the principles of the Indian Trusts Act, 1882 also apply to charitable/public trusts in states that do not have a Public Trusts Act in force. ³	Indian Companies Act, 2013
Formation timelines	30-45 days	10-15 days	60-75 days
Statutory regulation	Societies have limited statutory regulation. The law sets out basic provisions on how to govern property, alter objects, dissolve societies etc.	Public trusts in states with specific governing laws have to register with the relevant charities commissioner (CC) and inform them of any changes/alterations, maintain audited accounts and are subject to the supervision of the CC.	Companies are subject to exhaustive but mature regulation. They are required to conduct board and general meetings, file annual accounts with the Ministry of Corporate Affairs, maintain requisite registers, etc.

2.1.2 Tax Policies and other Regulatory Compliances

Once registered, all VOs have to comply with the conditions set out under the relevant registration law as well as tax laws and other regulations (such as the Foreign Contribution Regulation Act) that govern two key aspects of their functioning – their sources of income and their expenditures. The key laws that impact the day to day operations of VOs in India are:

- **Income Tax Act:** In order to receive tax exemptions on grants, VOs established for ‘charitable purposes’ as defined under Section 2(15) of the Income Tax Act, 1961 (IT Act) need to be registered under Section 12AA. Their donors can also claim tax exemptions on up to 50% of their donations, if VOs obtain a certification under Section 80G. While these are some key provisions applicable to VOs, there are several other applicable IT provisions as well which require VOs to file annual financial IT returns, be subjected to extensive audit, and invest only in government securities.
- **Foreign Contributions Regulations Act (FCRA):** Under FCRA 2010, a VO requires a registration from the Ministry of Home Affairs to receive foreign funding. It also needs to file and publicly disclose quarterly receipts of all foreign contributions received. This registration is only valid for a period of five years and needs to be renewed thereafter. In the absence of an FCRA registration, a VO can also apply for prior permission to receive a one-time grant from a foreign donor to carry out specific activities/projects.

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“We undertake an exhaustive due diligence process (involving coordination between Ministries) before granting FCRA licenses to VOs – this process takes some time.”

— Senior official, FCRA Division, Ministry of Home Affairs

- **Goods and Services Tax (GST) Act:** Under the GST Act 2017, the Ministry of Finance mandates a collection of tax on the supply of goods and services within the country. This recent law replaced multiple state and central indirect tax legislations. VOs having an annual income of over INR 2 million/INR 20 lakh need to register under the GST Act, unless specifically exempted.⁴ Exemptions under the GST Act are provided to a smaller group of VOs as charitable purpose has been defined differently and more narrowly under the GST Act than under the IT Act discussed above.

“

“The implementation of FCRA should be geared more towards regulating rogue sources of funding and less towards penalising individual NGOs.”

— *Expert, Law and Taxation in the Voluntary Sector*

2.2 Challenges

As per a 2013 report of the Ministry of Statistics and Programme Implementation, over 3.1 million nonprofit societies⁵ are registered in India, yet current laws do not provide any means of differentiating between types of nonprofits (i.e. clubs, associations, schools, colleges, development VOs etc.) This has contributed to regulatory ambiguity and fragmentation within the voluntary sector. Further, the regulatory systems have also had limited success with securing compliance with fiscal and management provisions.⁶ The hurdles to closing down a voluntary organisation result in many defunct or dormant registrations, rendering any coherent analysis or oversight of the sector challenging.

As per a 2004 study of Charities Administration in India by the Sampradaan Indian Centre for Philanthropy commissioned by the Planning Commission, government authorities face the following challenges in regulating the voluntary sector:⁷

- **Inadequate regulation of the sector:** Despite the existence of strict laws for the sector, authorities have faced challenges in securing regulatory compliance to ensure fiscal and management discipline in the sector, which would enhance public confidence in the sector. Authorities lack the resources to visit charities, understand their work, or review and acknowledge returns filed.
- **Limited training and capacity-building activities:** Regulators have also overlooked the need for awareness on laws and compliances within the sector.

2.2.1 Registration and Incorporation

There is no specific legislation that is meant exclusively for the registration of VOs engaged in developmental/charitable activities. This means that a resident's welfare association, a development-focused VO and even a club or association for recreational activities are treated as equivalent entities with the same compliance requirement. Currently, as mentioned above, VOs register as societies, trusts or Section 8 companies under applicable legislations (see Appendix 3). Since some of these laws were passed in the colonial era,⁸ these are no longer in tune with the

current reality of the voluntary sector. For example, the Societies Registration Act, 1860, continues to club all not-for-profits under the same definition, irrespective of whether these have charitable or other motivations. In the absence of streamlined and uniform registration laws, VOs and their leadership often struggle to establish credibility and access funds.

- **Fragmented legal regime:** As discussed above, the current registration laws are not in line with the needs of today's VOs. Multiple registration laws, along with state amendments, lend themselves to confusion, delays, and cumbersome procedures for registering and governing VOs that are committed to work for public welfare.⁹ Further, multiple laws and regulators as well as the lack of a standard definition and categorisation of VOs make it difficult for regulatory authorities to maintain effective oversight of VOs. It is also difficult to gauge the scale, size, nature of work, or areas of interventions of VOs and consequently to engage in informed policy making for the sector.

“

There needs to be a purpose based definition for the sector and development organisations need to be defined separately from other nonprofit associations and societies.

— Finding from the Rajasthan VO Consultation

- **Unnecessary impediments to registration:** A registration under Section 12A of the IT Act is a right of all charitable organisations that satisfy the requirements of Section 2(15) of the Act, yet IT authorities often challenge and refuse 12A registrations to VOs on multiple grounds. In many cases, upon appeal to the IT Tribunal, the reasons for these refusals are determined to be baseless. This not only delays and affects VOs but also wastes government resources. IT authorities need to be more aware of the provisions that affect VOs and aim to be facilitative in their approach.
- **Difficulties in multi-state operations:** Most states have separate registration laws that are not uniform across the country. This limits the operational boundaries of national-level VOs which have programmes in multiple states.¹⁰

2.2.2 Tax Policies

Currently, all VOs (regardless of size or ability) are subjected to the same tax compliances and regulations. This leads to a heavy regulatory burden on both IT authorities and VOs. Some of the key challenges that presently exist under applicable tax policies are enumerated below:

- **Non-uniform definitions and contradictory provisions:** Various laws define 'charitable purpose' differently. The Income Tax Act includes poverty relief, education, medical relief, preservation of the environment, preservation of art or historic places or objects, yoga and the advancement of general public utility; the GST Act provides a narrower definition of charities,¹¹ limited largely to public health, environment protection, education and religious organisations. Additionally, government bodies interpret different Acts in different ways. At times, there is also a dichotomy between state and central laws. For example, the central Income Tax Act, 1961 allows VOs to invest their funds in any mutual fund. However,



58.7%

of VOs
registered as
societies are
based out
of rural
locations *

⁹Source: Mospi.nic.in. (2012). Report on Non Profit Institutions in India: A Profile and Satellite Accounts in the framework of System of National Accounts. [online] Available at: http://mospi.nic.in/sites/default/files/publication_reports/Final_Report_Nonprofit_Institutions_30may12.pdf

FCRA-registered organisations are not allowed investments in any mutual funds, while the Maharashtra Public Trusts Act allows VOs to invest funds only in certain debt-based mutual funds.

- **VOs of all sizes are subject to the same IT compliance requirements:** VOs vary significantly in terms of size, nature of work, location, and source of funding, yet the same compliance and audit requirements apply across all VOs (irrespective of size and ability). This range of organisations and programmes necessitates nuance in terms of reporting and the needed level of compliance so that small VOs without the resources and the funding to comply with higher level of regulation do not crumble under the burden of compliance.
- **Tax provisions running counter to the spirit of Voluntary Organisations:** Many provisions within the regulations pertaining to Income Tax and GST run counter to the principles of voluntary organisations working on a not-for-profit basis.
 - Section 2(15) of the Income Tax Act provides that there are six specific types of charitable activities and a seventh residual category titled ‘any other general public utility’. The seventh category is not eligible to carry out incidental business activity beyond 20% of total receipt, whereas the first six categories can conduct incidental business activity without any financial limit.
 - Grants to VOs are treated as ‘income’ liable to tax (unless VOs obtain exemptions) whereas gifts to individuals are not treated as such under the IT Act. This anomaly was introduced through the Finance Act, 1972, as prior to that voluntary contribution and donations were not treated as income under the Income Tax Act under Section 12.
 - The fact that GST laws apply to VOs when they receive income of above INR 2 million/20 lakh is not in line with its key objectives, as it was established to apply to entities that operate in the furtherance of “business”, on the lines of for-profit organisations.

2.2.3 Regulatory Compliances

Recent laws have undergone multiple amendments, making it harder for VOs to ensure compliance with them because of lack of training on compliance, confusing changes, and lack of adequate information. Even government officials are often unaware of applicable legal provisions; this affects their ability to implement the regulations effectively and ensure accountability across the sector.

- **Laws lack clarity:** Critical provisions in multiple important laws are not articulated clearly, leading to ambiguity and uncertainty. For example, the FCRA, 2010 is still not clear on whether a subsidiary of a foreign company or a Multi-National Corporation (MNC) registered under the Indian Companies Act is a foreign source or not.¹² The Act also does not clearly define what constitutes activities of a ‘political nature’.
- **Lack of robust grievance redressal mechanisms:** In the absence of effective systems of feedback and grievance redressal, granting and renewing FCRA registrations and prior permissions remain opaque and hard to navigate for VOs. For example, recently, over 20,000 NGO licences were cancelled for violations of FCRA 2010,¹³ for reasons ranging from non-compliance with norms to alleged diversion of funds. However, the FCRA currently does not allow any affected

VO to lodge its complaints or concerns, or appeal these decisions except by challenging it in court.

- **Transaction costs of complying with multiple regulations and reporting to multiple authorities:** Every registered VO must file annual returns with the registering authority, be it the Charity Commissioner, Registrar of Societies or Registrar of Companies. It must also file annual returns with the Income Tax authorities and quarterly returns under GST with the Ministry of Finance and if it has an FCRA registration, then with the Ministry of Home Affairs (MHA), as well. MHA also requires VOs to make a quarterly disclosure of its funds received on its own website or MHA's website. Therefore, VOs need to file at least six returns every year, over and above all the reports to their different donors and compliance requirements under the Shops and Establishments Act, Provident Fund Act, and others. Further, an FCRA registration can only be obtained by VOs that have been in existence for three years. Additionally, the FCRA registration form is considered detailed and complicated, with procedural delays and technical problems.¹⁴ It also needs to be renewed every five years, thus adding to the compliance burden.

“

While the voluntary sector has changed, the laws that govern it remain 'as is' and are often very burdensome and costly. There is a need for responsive and enabling laws and supportive government officials in India.”

— Finding from the Maharashtra VO Consultation

2.3 Recommendations and Action Points

Key recommendations across specific focus areas are enumerated below:

2.3.1 Registration and Incorporation

- Encourage significant amendments and re-enactments of laws applicable to VOs (across centre and state) to modernise and streamline the registration process across all laws at the central and state level by developing: (i) online registration process (ii) a common definition of charitable purpose (iii) common typology of VOs (iv) clear distinction between social impact and non-social impact focused VOs (v) a national registration law which co-exists with current state level registration laws and can be emulated by the states in their own jurisdictions. VOs would have the option to register under the new national law or the existing state laws.
- Use better terminology for the VO sector, given that it has evolved considerably over the past few decades and now includes large, professionally-run nonprofits as well as social businesses funded by impact investors. The term 'voluntary' does not adequately describe a large part of the social sector.
- Instead of mandating periodic renewal of registrations (required in certain states like Jammu and Kashmir, Uttar Pradesh, Assam etc.) VO registrations to remain active as long as VOs regularly file requisite Income Tax, GST, and FCRA returns.
- Create and maintain an online database of all VOs registered across all laws.

2.3.2 Tax Policies

- Promote increased cooperation between tax and other government departments like FCRA, Registrar of Societies, etc. to reduce the need for multiple filings.
- Provide enabling thresholds for smaller VOs under tax laws (i.e. lesser compliance requirements for VOs with small budgets).
- Conduct a comprehensive study on reviewing the effectiveness of the current IT regime, particularly the tax incentives structures applicable to the voluntary sector, to ensure that the law is aligned to enable and facilitate VOs, rather than to restrict them.
- Revise Section 2 (15) of the Income Tax Act, 1961 so that even the seventh category of charitable activity can undertake incidental business activity without any financial limit. Alternatively, ensure that the category of charitable activity is communicated to a VO in a clear and permanent manner once and there are no ad-hoc revisions to this categorisation every year. Permit charitable activities by Indian VOs outside India.
- For VOs required to undertake audit by a CA, increase the audit limit threshold of total VO income from INR 2.5 lakhs to INR 50 lakhs. INR 2.5 lakhs is disproportionately small as compared to limits for businesses (limit of INR 1 crore as total sales turnover) and individual professionals (limit of INR 50 lakhs as total gross receipts).
- Revise the definitions of “Income” under the Income Tax Act and provisions pertaining to tax exemptions so as to reduce ambiguity. Voluntary contribution and donations should not be considered a part of income under the Income Tax Act, 1961 under Section 12.

2.3.3 Regulatory Compliances

- Simplify FCRA provisions so that VOs can effectively mobilise resources for their work. There should be a focused effort on making this access as frictionless as possible.
- Strengthen the grievance redressal system with a defined turn-around time and escalation system that can address the concerns of the voluntary sector. This is critical in the case of FCRA because there is no appellate authority under the Act. Greater transparency in regulations, particularly those related to registration under the FCRA or cancellation of such registrations by the authorities, would go a long way toward ensuring greater accountability and compliance from VOs.
- Simplify compliance requirements across states and revisit the need for filing change reports for routine matters of administration and operation by VOs (as in under the Maharashtra Public Trusts Act 1950).
- Improve the physical and digital infrastructure for state charities offices by holding state charities commissioners accountable to using their budgets and hiring a larger number of trained staff.



41%

of VOs engage
in social
services
activities *



Special Mention: State Governments

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The voluntary sector is currently operating without any significant policy initiatives in the states, which presents obstacles to creating an enabling environment for VOs. There is an urgent need for state-level voluntary sector policies on the lines of the national policy, to enable and empower an independent, creative and effective voluntary sector. This could help contribute to the social, cultural and economic advancement of people within each state. This is also necessary for protecting the quality of VO's work, keeping the sector vibrant keeping the sector vibrant enough to meet any developmental and social challenges, and increasing institutional linkages between the sector and state governments. The existence of a policy instrument in each state will be the first step toward institutionalising engagement as well as mobilising the desired fiscal and administrative reforms to strengthen the growth of the voluntary sector. An important consideration is that state-specific policy, laws, rules and regulations relating to VOs categorically safeguard their autonomy as well as ensure accountability.

Section 3

Engaging the Voluntary Sector: Grants-in-Aid and Consultative Planning

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3.1 Overview

3.2 Challenges

3.3 Recommendations and action points

3.1 An Overview

Two prominent mechanisms through which the government engages with the voluntary sector are Grants-in-Aid (GIA) and Consultative Planning. GIA traces its history to the early days of the Indian republic. On the other hand, formalised systems for consultations on the planning process between government and the voluntary sector were opened up for the Approach Paper to the 12th Five-Year Plan. Strengthening GIA will enhance the financial resources available to the sector in terms of the quantum, quality and direction of the resources. Deepening the consultative planning process could ensure that critical learnings and innovations from the experiences of the voluntary sector (facilitated by financial resources from the government) feed into policy-making processes, making new policies locally relevant and responsive.

3.1.1 Grants-in-Aid

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“It is essential that Government officials are sensitised to view NGOs not just as service providers, but as crucial partners in development.”

— Civil Society Leader, Maharashtra

Grants-in-Aid are payments in the nature of assistance, donations or contributions made by one government to another government body, institution or individual. Central and state governments also disburse GIA to institutions such as universities, hospitals, co-operative institutions and others.¹⁵ Government grants are made to multilateral bodies and United Nations agencies such as the United Nations Development Programme (UNDP) and United Nations Children’s Fund (UNICEF) as well. In Appendix 5, a brief snapshot of government engagement with the UN and the UNDP has been captured.

Grants-in-Aid

The grants have emerged as a significant mode of spending for the Union Government for delivery of public goods. In fact, over a period of time, grants-in-aid have constituted, with the exception of debt repayments, the single largest item of expenditure for the Union Government.¹⁶ The sector has received extensive support from the government and estimates suggest that over INR 1,000 crores¹⁷ are given to VOs every year in grants. The Ministry of Social Justice provided grants to over 1,000 VOs in 2017-18.¹⁸

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These grants are a good way for the government to fulfil its duties of public service delivery to citizens without being directly involved. Due to this symbiotic relationship, the government has worked to regulate the voluntary sector.

Funds Flow under Grants-in-Aid:

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“Given the size of grants usually disbursed to VOs, the Government expects these organisations to perform at a high standard.”

— Senior bureaucrat, Union Ministry

VOs receive grants-in-aid from both central ministries and state government departments, under various schemes. GIA is either disbursed directly from a ministry, via a state department, directly from the state’s own funds or through an autonomous body (e.g., the “Central Social Welfare” Board). In response to concerns of preferential treatment of specific VOs by central ministries, GIA is currently primarily disbursed through state government departments that have greater insight into the on-the-ground impact of VOs in their respective states. To receive GIAs, VOs have to comply with certain processes:

I. VO registration on the NGO-Darpan portal

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VOs need to obtain a unique identification number (UIN) by registering with NGO-Darpan to receive GIA from all ministries/state departments. To receive the UINs, VOs need to submit their PAN and Aadhar numbers as well as other details such as their audited accounts, etc. The NGO-Darpan website, established by the NITI Aayog, aims to streamline engagement of government authorities with VOs. It maintains information on VOs and also tracks which VOs are blacklisted by different government ministries/departments.

II. Additional criteria set by ministries/departments

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After receiving the UIN, VOs can engage directly with the relevant ministries and state departments that may have additional requirements for GIA. For example, the Ministry of Electronics and Information Technology has specifications for research and educational institutions that are engaged in academic publication-oriented work, pertaining to rights of publication and ownership of data.

III. Monitoring and Evaluation

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Once VOs receive grants from government ministries and state departments, they may have to undergo a third-party evaluation that assesses the efficacy and impact of the work. The process is supposed to help weed out non-performing VOs. Financial monitoring by government is often done online, and is supported by programmatic oversight conducted through frequent ground visits. Many schemes require information on the timeline of grants, utilisation certificates, audited account statements, details of services rendered and photographs of project work from VOs.

All central grants are released through the Public Financial Management System (PFMS) and all ministries/departments are required to link their own portals to NGO-Darpan to facilitate this. Accounts of VOs receiving grants from the government are regularly audited; if a VO is found to have not been following norms, no further grants-in-aid are released to it, and it may also be blacklisted.

Understanding the Public Financial Management System (PFMS)

The **PFMS** is an online software application developed and implemented by the Office of Controller General of Accounts (CGA). It facilitates sound public financial management for the government by establishing an efficient funds-flow system as well as a payment cum accounting network. PFMS provides various stakeholders with a real time, reliable and meaningful management information system and an effective decision support system, as part of the Digital India initiative. It is integrated with the core banking system in India and is able to make online payments to beneficiaries. It is used to disburse GIAs under all centrally-sponsored GIA schemes.

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This process may appear cumbersome to VOs trying to raise money through government grants. However, the government insists on increased accountability and transparency in the voluntary sector, and stringent compliance requirements are a part of that agenda.

3.1.2 Consultative Planning

The 12th Five-Year Plan lists 54 schemes across nine Union ministries and agencies that rely on VOs for plan implementation and service delivery (ref. Appendix 4). VOs work with government ministries and departments at both the central and state level, on issues ranging from social justice and preservation of culture to rural technology and AIDS control. Non-financial partnership between government and VOs necessitates identifying shared goals and defining complementary roles. The 2007 National Policy on the Voluntary Sector recognises the following areas of partnership:

- **Consultations, through a formal process of interaction at the Centre, State, and District levels**

There have been successful consultative approaches to co-creating policies such as the 12th Five-Year Plan and designing programmes like the Rashtriya Kishor Swasthya Karyakram by the government in partnership with VOs.¹⁹ Certain ministries, such as the Ministry of Health and Family Welfare, also set out clear guidelines on how VOs can be involved in implementing the National Health Mission.



49
Union
government
schemes across
17 ministries
contain
provisions for
grants-in-aid
to VOs *

Effective Government Consultations for Policy

The erstwhile Planning Commission opened up the planning process for the Approach Paper to the 12th Five-Year Plan by identifying 12 challenges for the country and organising a widely participative process for suggestions for how they should be managed. About 1,000 VOs, representing all sections of society, especially those that felt insufficiently included in India's growth and plans, came together on a common platform of their own called Wada Na Todo Abhiyan. The member organisations returned to their communities to discuss the systemic challenges identified by the Planning Commission and then provided their collective views to the Commission.



- **Strategic collaboration for sustained social mobilisation**

India has had numerous instances of VOs partnering with the government to tackle complex social problems in myriad areas, including education, sanitation, social justice, and environmental conservation. For example, VOs help administer and support Integrated Child Development Services projects across several states. Many VOs partner with the government without expecting or availing any grants from the government, instead contributing substantially to improving delivery of services, raising awareness, and helping build the capacity of government workers at the grassroots, e.g., primary healthcare service providers, teachers, and ASHA workers. Organisations that have succeeded in providing this kind of healthcare support in vulnerable regions include SEARCH in Gadchiroli, Maharashtra and Sewa Rural in Jhagadia, Gujarat.

*Source: Ngodarpn.gov.in. (2019). NGO Darpan. [online] Available at: <https://ngodarpn.gov.in/index.php/searchschemes/> [Accessed 2 Aug. 2019].

3.2 Challenges

In practice, a variety of challenges²⁰ are experienced by VOs across the aforementioned areas of partnerships.

3.2.1 Grants-in-Aid

- **Variations in procedures and guidelines for scheme implementation:**

There is considerable variation in how different departments of the central and state governments involve VOs in scheme implementation. Different departments and ministries follow different procedures and guidelines which often causes delays in work approval, assignment of resources, and ultimately, on-ground impact. Funding schemes for the voluntary sector, and their implementation processes, do not allow for timely and targeted outreach to the VOs. These schemes are limited in innovation or implementation, largely due to limited resources but also due to a lack of imagination. For example, the use of technology, e.g., drones or tablets for data collection, could be an effective way to understand farming practices — but the government tends to use VOs largely for service delivery, not ideation. During the implementation phase, VOs often face multiple and arbitrary procedures. In addition to the requirements of NGO-Darpan, VOs also need to comply with the requirements of every ministry to which they apply for a grant.

- **Glitches and inconsistencies in technology result in delays:**

Delays and other technical issues in grant disbursement through the PFMS prevent VOs from applying for GIA. When funding gets delayed, it could affect the VO's ability to pay its employees, or even to run the relevant programme.

NGO Darpan: Key Challenges

- I. VOs and government representatives have indicated that the NGO-Darpan portal experiences multiple technical glitches and delays.
- II. User interface design is not very easy to understand or use.
- III. There have also been limited efforts to educate the voluntary sector on using this portal or to facilitate the use of NGO-Darpan (especially for VOs from remote and vulnerable regions).
- IV. Option to select specific and key thematic areas of work is not available. VOs end up selecting all available thematic areas which makes sorting and selection of VOs difficult.

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- **Lack of institutional funding:**

GIA funds are typically aimed at programmatic costs. Hence, VOs have to ensure that their institutional costs are met through other sources in order to provide quality services to their target populations. Further this also restricts their ability to retain employees or provide them social welfare benefits.

3.2.2 Consultative Planning

- **Lack of a constructive environment during consultative endeavours:**

While the guidelines of several ministries are supportive of the VOs that participate in planning, design, and other consultative work, the guidelines of most ministries reflect a lack of understanding of the context of the voluntary sector and its concerns. Consequently, issues emerge, such as conflict of interest, not supporting the independence of small VOs, bureaucratic hurdles in funds disbursement. A related challenge is the fact that the emphasis in engagements remains on individuals and not on their organisations. Thus, in many instances of participative planning, individuals are engaged without similar recognition accorded to the institutions that they represent.



78,977

**VOs registered
with the
NGO-Darpan
portal of the
Government of
India ***

3.3 Recommendations and Action Points

3.3.1 Grants-in-Aid

- Identify programmes that can be implemented in partnership with VOs such as large scale national programmes where VOs can assist by providing technical support or by implementing programmes in vulnerable regions.
- Create alignment and transparency on eligibility criteria across ministries and departments in the state and central governments to reduce arbitrary decision-making. The reasoning should also be made public so that VOs understand the gaps in their proposals and have an opportunity to learn from them.
- Leverage technology by removing bugs and tackling execution problems in systems that are crucial for disbursing and monitoring Grants-in-Aid, like the Public Financial Management System.
- Create simple and error-free online interfaces, move GIA processes online and reduce human interface.
- Provide capacity-building and facilitation centres to encourage VOs to use online platforms.
- Outsource GIA application and selection processes to a professional service provider across all ministries/departments with the concerned authorities retaining the right to pass only the final approval within a clear tracking system.
- Allocate additional funds for impact assessment, and other institutional costs such as human resources, training, technology, financial management costs and employee statutory benefits (e.g., provident fund, gratuity, insurance, minimum wages and maternity benefits). Moreover, the current rates of expenses, both per diem and honorarium are outdated and unrealistic. These should be updated as per pay commission revisions from time to time.

*Source: Ngodarpan.gov.in. (2019). NGO Darpan. [online] Available at: <https://ngodarpan.gov.in/index.php/home/statewise/> [Accessed 2 Aug. 2019].

3.3.2 Consultative Planning

- Improve platforms for convergence between central ministries, state departments and VOs on development programmes and schemes by adopting a multi-stakeholder consultative approach that is institutionalised at all levels of planning including the village (panchayat), block, district, state and central levels.
- Form permanent joint consultative forums, develop joint machineries of government and VOs and develop a structured process for selection of VO members. Within this framework, VOs can participate in the debates that precede the design and development of policies and schemes and ensure that regional/cultural contexts are accounted for in the planning. VOs can also be involved in mid-course corrective measures.
- Some central agencies have achieved good results by decentralising the process of project funding. Rather than administering various schemes directly, they appoint regional or state level intermediary organisations to do so on their behalf. This allows for closer interaction with, as well as better selection and monitoring of VOs. Intermediaries could include umbrella VOs, professional or academic institutions, state government agencies, or multi-stakeholder standing committees. The government should review the experience of such decentralised funding and make suitable recommendations to all central agencies/ministries.



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“Some organisations are doing great work and have expertise. Yet, they work in isolation and their impact is very small. There needs to be a forum where these organisations can share best practices with government and influence policy implementation.”

- Representative, Bharat Rural Livelihood Foundation

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Section 4

Creating an Enabling Ecosystem

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4.1 Overview

4.2 Challenges

4.3 Recommendations and action points



4.1 An Overview

The Preamble to the National Policy on the Voluntary Sector 2007 highlights the importance of encouraging, enabling and empowering an independent, creative and effective voluntary sector, with diversity in form and function. This can ensure critical contributions to the social, cultural and economic advancement of the people of India. The national policy clearly captures and highlights importance of developing a legal and regulatory environment that not only governs VOs but also cultivates and promotes voluntary action and public service by private individuals.

The key attributes of an enabling ecosystem for VOs are:

- Increased public trust in VOs and high levels of domestic philanthropy.
- Legal frameworks that build such trust by maintaining a balance between facilitation of the VO sector and increased accountability for misconduct.
- Regulations that promote efficiency for VOs and are low on red tape and complex burdensome processes.
- Administration of regulations by trained authorities who are sensitive and enabling in their approach, who encourage VOs through incentives and only use punitive measures as a last resort.

4.2 Challenges

There are several barriers to creating an enabling ecosystem for VOs in India today. These include:

- **Negative public perception:**

Public confidence in the voluntary sector has waned in recent years. Reports of misuse of funds by a few VOs have detrimentally affected the narrative around the work of all VOs.

- **Limited funding:**

Since the sector is not perceived as trustworthy, and because of the lack of faith in the current laws to hold them accountable, domestic philanthropy for the sector is depressed. Further even public sector undertakings with corporate social responsibility obligations currently route their funds through self-run foundations, impacting government funds flow to the sector.

- **Lack of government support:**

There are hardly any efforts to highlight the transformative impact of VOs on developmental outcomes, or to build their capacity to ensure compliance (except in Rajasthan as discussed below). Nor are there any schemes in place to encourage voluntary action or recognise and reward good initiatives by VOs at a wide scale. In fact, the government often reinforces the negative perception of VOs, as in the Intelligence Bureau's 2015 report indicating that VOs were hindering India's GDP growth.²¹

- **No sector-led initiative:**

Considering that the professional standards and ethics of the VO sector have been called into question, it would definitely help if the sector made a collective effort to get its own house in order. However, no such initiative to adopt any ethical standards has achieved wide-scale adoption.

4.3 Recommendations and action points

To address the challenges highlighted above, interested stakeholders need to come together and carry out the following actions:

- Undertake efforts such as the examples mentioned below to articulate, recognise and publicise the critical range of roles the voluntary sector plays in India's development to improve public perception and encourage domestic philanthropy.
 - Conduct events and develop proactive communication to build a positive narrative around the impact created by VOs in India at the state and central levels.
 - NITI Aayog to publicise annual best practices of the sector with a view to encourage peer learning and create a better understanding of the voluntary sector among the government and the general public.
- Require public sector undertakings to use their corporate social responsibility funds to support VOs. These funds can also be routed through PFMS and under the wider grants-in-aid framework.
- Take a 'responsive' approach to regulating VOs that supports, educates, enables and only penalises as an option of last resort by:
 - Sensitising VOs and government officials to each other's challenges through multi-stakeholder engagements.

CASE STUDY

Case Study for an Enabling and Responsive Initiative by State Government:

Association for Rural Advancement through Voluntary Action and Local Involvement (ARAVALI) is the result of the joint effort of the Government of Rajasthan and a few leading voluntary agencies in 1994 to promote innovations in development and act as an interface between the Government and voluntary organisations. ARAVALI's mission is to ensure an increased number of effective voluntary organisations working closely with marginalised communities in every district of Rajasthan, developing an enabling environment within which the government and these organisations can form effective partnerships.

In line with this mission, ARAVALI performs the following roles:

- Building an environment for collaboration
 - Facilitating partnerships
 - Building the capacity of voluntary organisations
 - Promoting development innovations and their up-scaling
 - Instituting standards and self-regulation
 - Spearheading policy and strategic research
-
- Promoting the understanding of responsive and enabling approaches to regulation among government functionaries.
 - Encourage the emergence of multiple sector-led initiatives for the voluntary sector and formally endorse their efforts in defining standards for the sector and its assessment through the following actions:
 - Promoting sector-led initiatives that meet the needs of the sector.
 - Providing recognition to umbrella organisations and empanelling them as accreditation agencies so VOs are encouraged to join and comply with their codes and practices.
 - Sector-led initiatives using networks to raise awareness, educate VOs on best practices, and identify champions to ensure good governance within the sector.

Way Forward

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India's current laws and systems for voluntary organisations inhibit the government from regulating VOs in an enabling and supportive manner — and VOs from ensuring compliance in a timely and cost-effective way. Further, procedural opacity and density of the grants-in-aid system prevents both the government and the voluntary sector from channelling precious government resources towards addressing critical developmental problems. The piecemeal approach to consultative planning between the government and the voluntary sector significantly impedes the transfer of learnings and innovations from the voluntary sector to government policy-making. The existing systems reviewed in this study have many strengths, including, the clearly defined role of state governments in implementing laws and managing grants to VOs, participatory approach to engaging VOs in policy-making and implementation, and the allocated provisions of grants-in-aid across government welfare initiatives. However, these need to be realigned to the contemporary reality of the sector which is growing in number of organisations, complexity of work, and quantum and quality of funds reaching the sector. The recommendations and actions points detailed in this report are an important first step towards initiating this realignment.

The study recommendations need to be implemented collectively and in a coordinated manner for the desired outcomes to be achieved. We propose that a consultative and iterative yet, action-oriented and time-bound approach be followed to implement the recommendations. A tentative implementation plan and process would include the following:

- **Rally stakeholders:** Early identification of relevant stakeholders in the government and voluntary sector in terms of the relevant bodies and representatives to form the core group in implementing the action items is critical. This is to ensure the inclusion of varied perspectives and that due attention is provided to all proposed actions.
- **Identify or create a committee to lead the implementation:** A national-level advisory group consisting of the identified stakeholders within the NITI Aayog or an empowered committee with due representation from the NITI Aayog should be set up to oversee and guide the implementation of the proposed actions.
- **Develop a roadmap:** Each proposed recommendation and action point should be analysed to develop a roadmap consisting of the timelines and resources required to implement these.
- **Monitor implementation:** In cases where large and complex changes are proposed, constant monitoring of their implementation with regular engagement of state governments should be undertaken.
- **Review and revise:** Timely course correction in implementation should be undertaken, if required.
- **Discuss and disseminate:** As recommendations are actioned, targeted dissemination of the key changes undertaken and their impact on the everyday functioning of VOs will be critical for timely uptake and compliance.

This study envisions a stronger voluntary sector and a respectful and broadly harmonious relationship between the government and the voluntary sector. By speaking to government officials, VOs and experts, we hope these recommendations produce the requisite momentum for timely and effective implementation.

Appendix 1- Secondary Data Collection

Nature of documents	Documents Reviewed
Policies	1. National Policy on the Voluntary Sector 2007 2. National Policy on Cooperatives 2002 3. Income Tax Act- 1961 and subsequent amendments 4. FCRA- 1976 5. Societies Registration Act 1860 6. Indian Trust Act 1882 7. Charitable and Religious Trust act 1860 8. Bombay Public Trust Act 1950
Acts and Judgements	9. Indian Companies Act 1950 10. Indian Companies Act 2013 11. Trade Union Act 1926 12. Multi State Cooperative Societies Act 2002 (Proposed) 13. Multi State Society Registration Bill 2002 14. CSR Law under the Indian Companies Act 2013 15. Hanmantram Ramnath vs Commissioner Of Income-Tax 1946 14 ITR 716 Bom
Guidelines	16. Guidelines for Organisations seeking CAPART assistance (2006) 17. Common Guidelines for Implementation of Centrally-sponsored Schemes (CSS)/ Central Sector (CS) Schemes through Non-Governmental Organisations (NGOs) 18. Guidelines for NGOs applying for Grants-In-Aid under the schemes of the Ministry of Social Justice and Empowerment
Reports (Government)	19. Planning Commission, Government of India - Report Of Task Force On Proposed Central Law For Registering Voluntary Organisations 20. Report of Steering Committee on Voluntary Sector by Planning Commission (10th, 11th, & 12th Five-Year Plan) 21. Report of the Task forces (1-3) on laws related to the voluntary sector (Recommendations made by 2001) 22. Report of the Task Force to examine the issues related to the evolution of and independent, national-level, self-regulatory agency for the voluntary sector (CAPART, 2009) 23. Norms of Good Governance in the Voluntary Sector (NITI Aayog) 24. Ministry of Statistics and Programme Implementation, Government of India - Final Report on Nonprofit Institutions In India A Profile And Satellite Accounts In The Framework Of System Of National Accounts (Including State-Wise Comparison Of Profiles) 25. Planning Commission, Government of India - Approaching Equity: Civil Society Inputs for the Approach Paper to the 12th Five-Year Plan 26. Financial Audit of Accounts of the Union Government - Comptroller and Auditor General of India, Report 50 of 2015 27. Social Sector Service Delivery – Good Practices Resource Book – 2015 28. Report of the Committee on the Roadmap for Fiscal Consolidation 29. Analysis of the Kelkar Committee Report

Nature of documents

Documents Reviewed

Reports (Non-Government)

30. A Study Report on Revisiting the National Policy on the Voluntary Sector (VANI)
31. Voluntary Sector in India: Challenges, Opportunities and Voices from the Field (IRMA)
32. Defining the Sector in India: Voluntary, Civil and Non-profit (PRIA and John Hopkins, 2000)
33. Invisible yet widespread: The Non-profit Sector in India (PRIA, 2002)
34. A review of Charities Administration in India (Sampradan Indian Centre for Philanthropy, 2004)
35. Voluntary Action Network India, Towards an enabling environment for the voluntary sector in India, 2018
36. Voluntary Sector at the Crossroads – Pushpa Sundar
37. The Law affecting Civil Society in Asia – Development and Challenges for Non-Profit and Civil Society Organisations – Report prepared by the International Centre for Non-Profit Law
38. Shrinking Space for Dissent – Pushpa Sundar
39. Revisiting The National Policy on Voluntary Sector – Need for a National Policy on Volunteering, A Study Report by VANI
40. The Carrot and the Stick – Chap. 4 of book – Giving with a Thousand Hands by Pushpa Sundar
41. Why India's Non-Profit Sector needs comprehensive legal reform – Pushpa Sundar
42. Income Tax Act for the Voluntary Sector – A study Report (VANI, 2016)
43. The Hidden Universe of Non-Profit Organisations in India – Rajesh Tandon

Appendix 2 - Primary Data Collection

1. Ministry Interviews

S. No.	Ministry/Mission/Board/State Department
1	FCRA division, Ministry of Home Affairs
2	Department of Revenue, Ministry of Finance
3	Ministry of Social Justice and Empowerment
4	Ministry of Corporate Affairs
5	Ministry of Rural Development
6	Bharat Rural Livelihood Foundation
7	Central Social Welfare Board
8	National Institute for Social Defence
9	National Health Mission
10	National Human Rights Commission
11	Ministry of Tribal Affairs
12	Maulana Azad Education Foundation, Ministry of Minority Affairs
13	Swachh Bharat Abhiyan
14	Department of Women and Child Development, Maharashtra

2. Summary list of attendees at the government consultations at the state level

S. No.	Organisation
1	Planning and Coordination Department
2	Department of Women and Children
3	Livelihoods Department
4	SC Welfare, SC & ST Development
5	Rural Development Department
6	Department of Health and Family Welfare
7	Swabhiman
8	Planning and Coordination Department
9	Director, General Health Service
10	AH Unit Dev Department
11	Transport Department
12	Industries Department
13	Registrar of Societies
14	Development Department
15	Department of Higher Education
16	Social Welfare Department
17	Environment Department
18	Urban Development Department

3. Summary list of organisations which attended the state consultations

S. No.	Organisation
1	Action Aid
2	Anasuya Foundation for Women and Children
3	APMAS
4	CAP India
5	CBA
6	Child Rights and You
7	CHRI
8	Concept Society
9	CYDA
10	CYSD
11	Development Support Team
12	Discipleship Centre
13	DST, Pune
14	FMSF
15	Help Age
16	Integrated Woman Development Institute
17	Jeeva Jyothi
18	Kasturba Gandhi Kanya Gurukulam
19	Manvel Bardeskar Education Society
20	Mattsen Kumar
21	Population Foundation of India
22	Pradan
23	Prayas
24	PRIA
25	PRIDE India
26	Rangoonwala Foundation
27	Rishihood University
28	Sabuj Sangha
29	Save The Children
30	SHG Promotional Forum
31	SIPA
32	VANI
33	Vikas Sahyog Pratishthan
34	Voluntary Health Association of India
35	Yuva Rural Association

Appendix 3 - Comparative Assessment of the Legal Structures Adopted by Formal VOs

Type of VO	Society	Charitable Trust/Public Trust	Companies with charitable objectives Trust
Overview	<p>A society is an association of persons who come together to achieve common objectives that could be scientific, literary or charitable.</p> <p>In order to establish a society for charitable purposes, seven individuals need to subscribe their names to a memorandum of association that contains the name of the society, its objectives and its governing body.</p>	<p>A public trust is a mechanism through which properties irrevocably donated by a settlor are held 'in trust' by trustees and used for public benefit.</p> <p>Trustees are authorised to manage the trust and accept donations/funds on behalf of the trust for charitable purposes.</p>	<p>A company set up under Section. 8 of the Indian Companies Act, 2013 has to satisfy the following requirements:</p> <p>(i) It needs to have charitable objectives (such as promoting commerce, art, education, research, social welfare, charity, etc.)</p> <p>(ii) all of its incomes/profits need to be applied towards these objects; and</p> <p>(iii) it cannot pay out dividends to its members.</p>
Applicable National Law	Registration of Societies Act- 1860	<p>While no national legislation governs public trusts the Indian Trusts Act- 1882 governs private trusts – i.e. trusts that are for the personal benefit of specific individuals and not for public welfare.</p> <p>However, the principles of the Indian Trusts Act, 1882 also apply to charitable/ public trusts in states that do not have a Public Trusts Act in force.²²</p>	Indian Companies Act- 2013
Applicable State Laws <i>(Indicative list, other states may have their own acts)</i>	<ul style="list-style-type: none"> • The Rajasthan Societies Registration Act- 1958 • The Karnataka Societies Registration Act- 1960 • The West Bengal Societies Registration Act- 1961 • The Madhya Pradesh Registration Adhiniyam- 1961 • The Tamil Nadu Societies Registration Act- 1975 • Manipur Societies Registration Act- 1989 • The Jammu – Kashmir Societies Registration Act- 1998 • Societies Registration (Uttar Pradesh Amendment) Act- 2000 	<ul style="list-style-type: none"> • Maharashtra Public Trusts Act- 1950 • Madhya Pradesh Public Trusts Act- 1951 • Rajasthan Public Trusts Act- 1959 • Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act- 1987 • Tamil Nadu Hindu Religious and Charitable Endowments Act- 1959 	NA

Type of VO	Society	Charitable Trust/Public Trust	Companies with charitable objectives Trust
Apparent object of the legislation ²³	For scientific, literary or cultural associations	To safeguard charitable endowments	For trade associations and clubs
Minimum Members required for registration	7	2	2
Nature and extent of documentation	Memorandum of Association, rule and regulations	Trust Deed	Memorandum of Association and Articles of Association
Internal management	Governing body	Board of Trustees	Board of Directors
Formation timelines	30-45 days	10-15 days	60-75 days
Statutory regulation	Societies have limited statutory regulation. The law sets out basic provisions on how to govern property, alter objects, dissolve societies etc.	Public trusts in states with specific governing laws have to register with the relevant charities commissioner (CC) and inform them of any changes/alterations, maintain audited accounts and are subject to the supervision of the CC.	Companies are subject to exhaustive but mature regulation. These are required to conduct board and general meetings, file annual accounts with the Ministry of Corporate Affairs, maintain requisite registers etc.

Appendix 4 - List of Central Schemes under some Ministries involving NGOs/VOs

Name of Ministry	Schemes Focussing on VOs
Ministry of Social Justice and Empowerment Acts and Judgements	● Assistance to Disabled Persons for Purchase / Fitting of Aids / Appliances.
	● Assistance to Voluntary Organisations for Welfare of Other Backward Classes-(OBCs).
	● Central Sector Scheme of Free Coaching for SC and OBC Students.
	● Deendayal Disabled Rehabilitation Scheme.
	● Grant-in-Aid to Voluntary Organisations working for Scheduled Castes.
	● Integrated Programme for Older Persons.
	● Scheme for Prevention of Alcoholism and Substance (Drugs) Abuse.
Ministry of Culture	● Assistance for Preservation & Development of Cultural Heritage of Himalayas.
	● Financial Assistance for Preservation and Development of Buddhist/Tibetan Culture and Art.
	● Financial Assistance for Professional Groups and Individuals for Specified Performing Arts Projects (Salary Grant & Production Grant).
	● Promotion and Strengthening of Regional and Local Museums.
	● Scheme for Building Grant to Cultural Organisations.
Ministry of Tribal Affairs	● Scheme for Financial Assistance for Research Support to Voluntary Organisations Engaged in Cultural Activities, ie., Literary, Visual and Performing Arts.
	● Award of Special Incentive (ASI) to NGO for improvement of Infrastructure.
	● Coaching for Scheduled Tribes.
	● Development of Primitive Tribal Groups (PTGs).
	● Grant-in-Aid to Voluntary Organisations working for the Welfare of Scheduled Tribes.
Ministry of Women and Child Welfare	● Scheme of Strengthening Education among Scheduled Tribes Girls in Low Districts.
	● Gender Budgeting.
	● General Grant-In-Aid Scheme for Assistance to Voluntary Organisations.
	● Grant-In-Aid for Research, Publications and Monitoring.
	● Scheme for Welfare of Working Children in Need of Care and Protection.
	● Scheme of Assistance for the Construction/Expansion of Hostel Building for Working Women with a Day Care Centre.
	● Support to Training and Employment Programme for Women (STEP).
	● Swadhar
	● Ujjawala

Name of Ministry	Schemes Focussing on VOs
Ministry of Health and Family Welfare	● National Cancer Control Programme.
	● National Leprosy Eradication Programme.
	● National Mental Health Programme.
	● National Tobacco Control Programme.
Ministry of Human Resource Development	● Assistance to Agencies for Education in Human Values.
	● Inclusive Education for the Disabled at Secondary Stage
	● Innovative & Experimental Education Scheme, a component under the Sarva Shiksha Abhiyan.
	● Integrated Education for Disabled Children (IEDC).
	● Proposals from Non-governmental Organisations for setting up SRC (Adv.21.10.09).
	● Scheme of Support to Voluntary Agencies for Adult Education and Skill Development.
National Aids Control Organisation (NACO)	● Support to NGOs/Institutions/SRCs for Adult Education and Skill Development Scheme.
	● Community Care Centres .
	● Targeted Interventions (TI) under NACP III.
Council FOR Advancement of People's Action and Rural Technology (CAPART)	● Advancement of Rural Technology Scheme (ARTS).
	● DISABILITY.
	● Gram Shree Mela(GSM)/Buyer Seller Meet(BSM).
	● OB (Organisation of Beneficiaries).
	● Public Cooperation.
Central Social Welfare Board (CSWB)	● Scheme of Short Stay Home for Women and Girls.
	● Family Counselling Centres.
	● Condensed Courses of Education for Women.
	● Awareness Generation Projects for Rural and Poor Women.
	● Rajiv Gandhi National Creche Scheme for the Children of Working Mothers.
	● Innovative Schemes.

Appendix 5 - Partnerships between Government and UN Agencies

Overview

- Twenty-six UN agencies work in India including UNDP, UNICEF and UN Women. While their head offices are located in New Delhi, they also have field presences across multiple states. In 2019, the Indian government's contribution to these UN agencies has been USD 23.5 Million.
- In India, as in other countries in the world, the efforts of these agencies are guided by the United Nations Sustainable Development Framework (UNSDF): a framework of cooperation, results and strategies between the Government of India and the United Nations system in India to contribute to the achievement of national priorities and the Sustainable Development Goals (SDGs).
- NITI Aayog and United Nations in India signed the Sustainable Development Framework for 2018-2022 in September, 2018. This includes a list of UN flagship programmes that are aligned with major government schemes.
- The UNDP has the most detailed engagement with the Government of India and appears to receive the largest amount of funds in grants from them. It conducts advisory, research as well as infrastructural work on behalf of the government and their partnerships are discussed below.

Partnerships Between UNDP and Government of India

- UNDP develops a country programme document that is their 5 year strategy. In India, it is developed in partnership with the government and acts as a guiding light for all of its individual programmes in India. As a multilateral, it enters into direct agreements or memoranda of understandings with the government for funds. This is in the nature of an equal partnership and it does not go through any of the GIA processes once a project is sanctioned.
- UNDP's representatives are embedded in relevant government departments and obtain approvals from relevant authorities before a project is implemented. For UNDP, the government is a part of the solution so they do not only work with voluntary organisations. For example, for a project in Assam, while the plan could emerge as a part of an international round table or conference, the initial plans are submitted through central/state UNDP representatives to key government partners. Then a concept note is developed and the project document is approved by state government/national government before it is implemented. For UNDP, it is usually the Department of Economic Affairs that approves these projects.
- Once a project is approved, the request for proposal is issued in accordance with UNDP conditions and terms of reference are uploaded on websites. Implementation partners are selected through a micro audit of applying organisations. At the programmatic level, everything is managed in accordance with UNDP's guidelines and processes. However, the UNDP conducts annual reviews of projects and submits their findings to government authorities (also typically the Department of Economic Affairs).

Appendix 6 - Key Insights and Recommendations

Focus Area	Key Findings	Recommendations	Proposed actions to implement recommendation
Registration	<ul style="list-style-type: none"> Multiple registration laws across states and centre lead to confusion and delays for VOs, affect operations of national level VOs, and make monitoring challenging for the government. Lack of clear definitions and categorisation of VOs makes it difficult for government to ensure effective oversight and informed policy-making FCRA Registrations not time bound. 	<p>Recommendation 1: Simplify laws applicable to VOs and reduce the diversity in compliance and registration requirements.</p>	<ul style="list-style-type: none"> Create a common registration process across all registration laws at centre and state levels which includes: A single online window for registration A common definition of charitable purpose Common typology of VOs based on nature of work such as service delivery, research, and academics A clear distinction between social impact and non-social impact focused VOs Create and maintain an online database of all VOs registered across all laws. Instead of mandating periodic renewal of registrations, VO registrations to remain active as long as they regularly file requisite Income Tax, GST, FCRA and other applicable returns.
Tax Policies	<ul style="list-style-type: none"> All VOs (regardless of size or ability) are subjected to the same tax compliances and regulations; which increases both the regulatory burden of the government and VO compliances. Section 2(15) of the Income Tax Act provides that there are six specific types of charitable activities and a seventh residual category titled 'any other general public utility'. The seventh category is not eligible to have incidental business activity beyond 20% of total receipt, whereas the first six categories can have incidental business activity without any financial limit. A gift to an individual is not at par with a donation to a VO. Income Tax Act treats the Grant/Donation as income in the hands of NPOs making the Grant/Donation subjected to double taxation. Till the Finance Act 1972 voluntary contribution and donations were not a part of income under the Income Tax Act under section 12. It may be noted that under section 37 of Income Tax Act a company cannot claim CSR expenditure. Application of GST laws to VOs is unclear as they do not operate to further any "business", on the lines of for-profit organisations. 	<p>Recommendation 2: Ease the regulatory burden on small VOs and develop policies which enable and encourage VOs</p>	<ul style="list-style-type: none"> Tax laws to be amended to provide enabling thresholds for smaller VOs (i.e. lesser compliance requirements for VOs with small budgets). Provide a clear definition of charitable purpose Permit charitable activity by Indian VOs outside India Revise Section 2 (15) of the Income Tax Act so that even the seventh category of charitable activity can have incidental business activity without any financial limit. Alternatively ensure that the category of charitable activity is communicated to a VO in a clear and permanent manner once and there are no ad-hoc revisions to this categorisation every year. For VOs required to undertake audit by a CA, increase the audit limit threshold of total VO income from INR 2.5 lakhs to INR 50 lakhs. INR 2.5 lakhs is disproportionately small as compared to limits for businesses (limit of INR 1 cr. as total sales turnover) and individual professionals (limit of INR 50 lakhs as total gross receipts)

Focus Area	Key Findings	Recommendations	Proposed actions to implement recommendation
Tax Policies	<ul style="list-style-type: none"> 12 A registration is a right of all charitable initiatives. Most rejections that are contested are quashed by the Tribunal, thus wasting government resources. 	<p>Recommendation 3: Tax policies to be tailored to monitor and prevent tax fraud but enable and encourage initiatives and philanthropic giving.</p>	<ul style="list-style-type: none"> Revise the definitions of “Income” under the Income Tax Act and provisions pertaining to tax exemptions so as to reduce ambiguity. Voluntary contribution and donations should not be considered a part of income under the Income Tax Act under section 12. Conduct a comprehensive study on reviewing the effectiveness of various tax incentives and exemptions so that the law is aligned more with enabling VOs rather than thwarting them.
Regulatory compliances	<ul style="list-style-type: none"> Compliances under laws such as FCRA (i.e. the mandatory renewal requirement every five years) increases both the administrative burden of the state and compliances for VOs. Lack of feedback and grievance redressal mechanisms makes the whole process of granting and renewing FCRA registrations and prior permissions opaque and hard to navigate for VOs. 	<p>Recommendation 4: Introduce feedback and grievance redressal mechanisms for VOs across applicable laws using a single framework.</p>	<ul style="list-style-type: none"> Reasons for not granting/renewing registrations should be communicated clearly and in writing to the relevant VOs. Establish a grievance cell to register VO complaints (with defined turn-around times and escalation processes) for any cancellation of license or registrations.
Government Grants and Project Implementation And Consultative Planning	<ul style="list-style-type: none"> Delays and other technical issues in grant disbursal through the Public Finance Management System (PFMS) prevent VOs from applying for GIA. Revision of budget on a regular basis Bureaucratic processes/red-tapism leads to delays in release of funds by government authorities to selected VOs. Government MoUs require evaluation of activities and documentation, not outcomes and treat VOs as sub-contractors, not partners. Public sector undertakings (PSU) are currently spending Corporate Social Responsibility funds through self-run foundations, these funds could be routed to VOs eligible for GIA. Grants-in-Aid funds to be used do not focus on institution building among VOs 	<p>Recommendation 5: Improve and facilitate use of technology for VO-government engagement and facilitate the use of online platforms for GIA.</p> <p>This applies to the ‘application and selection’ phase of GIA</p>	<ul style="list-style-type: none"> Create simple and error-free online interfaces, move GIA processes online and reduce human interface. Provide capacity-building and facilitation centres to encourage VOs to use online platforms. Eligibility criteria for VO wanting to access Grants-in-Aid can be divided into standard compliance requirements and ministry-specific program requirements. Outsource GIA application and selection processes to professional service provider across all ministries/ departments with the concerned authorities retaining the right to pass only the final approval with a clear tracking system.

Focus Area	Key Findings	Recommendations	Proposed actions to implement recommendation
Government Grants and Project Implementation And Consultative Planning	<ul style="list-style-type: none"> Platforms for discussion between government and VOs and within government bodies working with VOs are not prominent. 	<p>Recommendation 6: GIA processes across all ministries/departments to be simplified and administered by adequately trained workforce.</p> <p><i>This applies to the ‘funds disbursement and implementation’ phase of GIA</i></p>	<ul style="list-style-type: none"> Improve the PFMS platform usability for better auditing and tracking purposes across all ministries and departments. Tackle the technical problems in the PFMS system. MoUs to be drafted to focus on developmental outcomes and also treat VOs as partners in implementation than service providers only PSU CSR funds to be routed through GIA systems to eligible VOs. Earmark funds under GIA for review, impact assessment, and institutional costs (i.e. human resources, training, technology, financial management costs) and employee statutory benefits. (PF, Gratuity, Insurance, Maternity benefits). Relatedly, current rates of expenses, both for per diem and honorarium are outdated and unrealistic. These should be revised as per pay commission revisions from time to time.
		<p>Recommendation 7: Improve platforms for convergence between central ministries, state departments and VOs on voluntary sector issues and their engagement with the government.</p> <p><i>This applies to the ‘Monitoring of VO engagements’ phase of GIA</i></p>	<ul style="list-style-type: none"> Conduct regular meetings and have frequent touch-points on VO engagement between state government and central ministries to increase cooperation and convergence. Reinitiate platforms for dialogue and coordination between the government and the VOs at all levels i.e. district, state and national, particularly at the district and state levels.
Enabling Ecosystem	<ul style="list-style-type: none"> Current public perception of the voluntary sector focuses on instances of fraud and mismanagement and does not highlight transformative impact of VOs on developmental outcomes and their key role in improving the lives of the underserved. Domestic philanthropy for the sector is depressed. Limited initiatives at the state level to encourage VOs or recognise and reward good initiatives by VOs. 	<p>Recommendation 8: Encourage the emergence of multiple bodies for self-regulation for the VO sector and formally endorse their efforts in defining code of conduct and its assessment.</p>	<ul style="list-style-type: none"> Sanction an academic agency to undertake a gaps assessment study to analyse the use of self-regulatory efforts in the VO sector. Promote and encourage self-regulation (SR) initiatives that meet the needs of the sector. Provide recognition and accreditation to SR agencies so VOs are encouraged to join and comply with its codes and practices. SR initiatives to use networks to raise awareness, educate VOs on best practices, and identify champions to ensure good governance within the sector.

Focus Area	Key Findings	Recommendations	Proposed actions to implement recommendation
Enabling Ecosystem		<p>Recommendation 9: Take a 'responsive' approach to regulating VOs that supports, educates, enables VOs and only penalises as an option of last resort.</p>	<ul style="list-style-type: none"> • Sensitise VOs and government officials to each other's challenges through multi-stakeholder engagements. • Promote the understanding of responsive and enabling approaches to regulation amongst government functionaries.
		<p>Recommendation 10: Undertake efforts to articulately recognise and publicise the critical range of roles that the voluntary sector plays in development in India to improve public perception and encourage domestic philanthropy</p>	<ul style="list-style-type: none"> • Conduct events and develop pro-active communication to build a positive narrative around the impact created by VOs in India at the state and central levels. • NITI Aayog to publicise annual best practices of the sector with a view to encourage peer learning and creating a positive narrative for the voluntary sector among the government and the general public.

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