Ashoka University
Centre for Social Impact and Philanthropy

Regulatory Frameworks for India's Voluntary Sector:

Global and Cross-sectoral Review of Initiatives and Practices

Centre for
Social Impact
and Philanthropy

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Foreword

The urgency of civil society action in India rests uncomfortably on questions on the authenticity and integrity of the voluntary sector. Questions on the state of regulatory compliance, operational efficiency, impact of interventions, and reach among beneficiaries have been asked by the government, funders, civil society leaders, and the public at large. Challenges to legitimacy, accountability and effectiveness coexist with demands for civil society action in more arenas of public life, a more urgent need for its interventions, and a greater appreciation of its value than ever before. Not only have the challenges that impact public well-being increased enormously but so has its complexity.

Civil society organisations need to be mission-driven, purpose-defined, trustworthy and agile to carry this mantle of public responsibility, and to contest the 'shrinking space'. A critical role for civil society in a functioning democracy is to serve as a 'watch-dog' to other sectors, government, and business in particular. Analysing policy and advocating for its improvement or reform are vital to ensuring that they reflect the voices of all citizens, especially marginalised communities. This requires civil society to function independently, without fear of harassment or censorship. The legitimacy of civil society to shape ethical norms and to hold other sectors to account require it, in turn, to define and hold itself to the highest levels of accountability, transparency, inclusion and democratic functioning. Sector-initiated regulation is one of the key ways in which civil society can ensure it remains 'fit for purpose'. Reimagining the existing sector-led regulatory initiatives or designing new ones is a process underway across the world.

Conversations around sector-led regulatory initiatives have emerged in a sporadic manner across forums to not only address questions of legitimacy and transparency, but also to set the standards for organisational conduct, worthy to be emulated by other organisations working in public life, within the government and the private sector. The diversity and sheer size of Indian civil society adds significantly to this global conversation on a responsive and resilient civil society. Regulation plays the critical role of articulating the rules of operation. It builds trust, as both the regulator and the regulated form a common language of communication and mutually define the purpose of their existence. Sector-led regulation goes a few steps beyond this. Sector-led regulation, builds and adds to the requirements of statutory regulation and in doing so, defines the terms of transparent and inclusive working in far more substantive terms.

This study aims to define sector-led regulatory initiatives in order to achieve these larger moral and ethical ambitions for Indian civil society. It draws on global accountability conversations, learns from statutory and sector-led regulatory institutions and those in other sectors in India which have faced similar dilemmas of working within the public sphere, speaking for the 'public' as the 'public', at times in consonance with the government and at times in dissonance. It recommends initiatives and ideas on sector-led regulation and hopes to trigger deeper conversations on ways to make Indian civil society the torchbearer of accountability standards.

Ingrid Srinath
Director
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Executive *summary*

This report explores regulatory frameworks and practices, and recommends a 'sector-led' approach to regulating India's voluntary sector. This approach conceptually overlaps with self-regulation and self-regulatory bodies, which are discussed in the literature on the sector. The two are similar because in each case, the sector takes the lead in improving standards. However, they differ in the level of engagement with the government and other stakeholders. The study discusses the strengths of a sector-led approach in increasing public confidence, reducing the regulatory burden, and ensuring autonomy and high standards of professionalism.

The case for a sector-led approach is made by reviewing self-regulatory (SR) initiatives and self-regulatory organisations (SROs) in the Charity sectors of three countries and other sectors in India. More specifically a review of initiatives in the charities sectors of UK, Australia, and the Philippines, and India's Microfinance, Advertising and Journalism sectors, was conducted. These were selected for the strengths and variety of their self-regulatory initiatives as well as relevance of the contexts to the case of the Indian voluntary sector. As part of the study, a detailed secondary document review of policies, acts and laws, and government and non-government reports was undertaken. Primary data was collected through interviews with civil society leaders from

India and abroad, and from experts on self-regulatory initiatives and frameworks. Overall, the study recommends the need for government-recognised, multiple sector-led initiatives for regulating the voluntary sector in India.

The report consists of seven sections. The introduction describes the importance of sector-led initiatives in introducing accountability standards, and in administering and supporting the voluntary sector. Section 1 articulates the rationale and research methodology followed for conducting the study. Section 2 aims to provide an overview of the five key models of self-regulation adopted globally: cooperative, delegated, devolved, facilitative, and tacit. It also provides examples from self-regulatory organisations examined in this study, i.e. UK Charity Commissioner for England and Wales, Fundraising Regulator for England, Wales and Northern Ireland, Australia Charities and Nonprofit Commission (ACNC), The Philippines Council for NGO Certification (PCNC), The Caucus of Development NGO Network, M-FIN and Sa-Dhan (Microfinance), Advertising Standards Council of India, Press Council of India (PCI), and News Broadcasting Standards Authority (NBSA). Section 3 briefly discusses some sector-led initiatives that have been attempted in India's voluntary sector and analyses why these efforts failed to have wide-scale impact including reasons such as low rates of membership and lack of enforcement mechanisms. Section 4 documents key research findings from our analysis of self-regulatory initiatives backed with illustrative examples. Section 5 enumerates the key recommendations set out below and the report concludes with some proposed next steps to move the discussion forward in the Way Forward.

Key Recommended *Actions*

1.

Establish multiple sector-led initiatives

Multiple initiatives led by umbrella organisations within the sector, having government recognition, need to be established to manage and support VOs across diverse geographies, communities and focus areas in India.

2.

Government should actively encourage such initiatives

An enabling legal environment is essential for sector-led initiatives to flouish; government recognition to such initiatives is critical for ensuring this outcome.

3.

Improve regulatory compliance and sector standards

Sector-led initiatives can focus on improving the sector's credibility, increasing efficiencies of VOs, and reducing donor risks and regulatory burden on the government by providing support with registration and accreditation, and encouraging legal and regulatory compliance among their members.

4.

Use a mix of approaches to ensure financial sustainability and evaluation of sector-led initiatives

A combination of government grants, membership fees, and donor support can be used to fund sector-led initiatives and evaluate their impact.

Introduction

“While government regulation can set minimum standards for the sector, these should not become too detailed or overly prescriptive, as it can affect the abilities of smaller organisations to comply. Instead, self-regulation can play the role of inspiring the sector to go beyond the letter of the law and to aspire to higher standards of ethics and good governance.”

— David Moore, International Centre for Not for Profit Law

As described by the World Economic Forum in 2013, the voluntary sector should be the glue that binds public and private activity together to strengthen the common good.[1] It is a key pillar of a vibrant and democratic society. In India, in particular, VOs have historically supported the government in implementing policies for poverty alleviation and successfully advocated for laws and policies critical to India’s development, while also holding the state accountable to the public. Some laws, policies and programs influenced by VOs include the Right to Information Act, 2005 and the ‘Integrated Child Development Scheme’ (ICDS). The role played by VOs in creating transformative impact and holding all stakeholders in public life to the highest levels of accountability has bee acknowledged by the Planning Commission through its National Policy for the Voluntary Sector, 2007.

Yet, in recent years, public confidence in the voluntary sector has waned. Reports of scams and misuse of funds by a few organisations have detrimentally affected the narrative around the work of all VOs. This negative perception was reinforced by the Intelligence Bureau’s 2015 report indicating that VOs were negatively impacting India’s GDP[2] and the 2017 Supreme Court’s directive to ensure monitoring of funds utilisation by VOs.[3] As the voluntary sector grows in the scale, impact, and influence, the complexity of regulating such organisations increases for the government. Since VOs are driven by values of trust and public service and are often required to hold a mirror up to government and society, the sector has both the obligation and responsibility to ensure accountability and uphold high standards of conduct and professionalism within itself.

Sector-led initiatives to administer and support VOs can help address this need, as they can ensure accountability while also protecting VOs from restrictive and complex regulation. For example, in the UK, scams and public concerns around fundraising practices by charities led to the establishment of the Fundraising Regulator – a sector-led initiative that improved sector practices and helped change public perceptions of the sector. In the case of the microfinance industry in India, self-regulation (MFIN/Sa-dhan) helped ensure that ethical standards were being upheld by all organisations and improved public opinion about the sector as a whole. The value of such initiatives has also been recognised by the National Policy on the Voluntary Sector 2007.[4] Even the Steering Committee for the 12th Five Year Plan proposed the establishment of a separate Ministry of Voluntary Affairs, under which a self-administering agency would be established.[5]

Sector-led initiatives could have many benefits. However, while ad-hoc initiatives have been experimented with in India’s charities sector, there is limited concrete evidence of their efficacy. It is thus critical to understand how these should be implemented to ensure positive outcomes.

Section 1
Rationale and Methodology

In the absence of widely accepted, independent, sector-driven initiatives that enable and uphold best practices in the sector, the misconduct of a few organisations affects the credibility of the whole. In the Indian case, while efforts to increase accountability such as Credibility Alliance do exist, these have not managed to impact accountability standards across the sector. Hence, public trust in the voluntary sector remains low; consequently, limited funds flow into the sector.

The purpose of this study is to identify means and ways to bridge this gap by determining how best to effectively implement sector-led regulatory initiatives in India's voluntary sector. Accordingly, it involves a review of similar initiatives in other sectors and countries across the following focus areas:

- Processes for introduction and effective implementation
- Nature of support required from the government
- Frameworks and best practices to improve transparency and governance
- Benefits of such efforts

International experiences with self-regulation in the voluntary sector

Country	Enabling/Self-Regulatory Bodies	Reason for Selection
United Kingdom	**UK Charity Commission for England and Wales** is a statutory body that regulates the Charity sector. It is a non-ministerial government department accountable to the Parliament. While it was initially established under the Charitable Trusts Act, 1853, it underwent significant legal reform over time. In its current form, it was established under the Charities Act, 2006.[6] The **Fundraising Regulator for England, Wales and Northern Ireland** is an independent, non-statutory body that regulates fundraising across the charitable sector.[7] It was established in 2016, based on recommendations from a review of fundraising regulation in the country commissioned by the UK Government. The Fundraising Regulator replaced the Fund Raising Standards Board (FRSB), largely because the FRSB was not able to offer a credible form of regulation.	Charity sector is well-established with documented data on scope and scale. It is also recognised as a positive force by the government and the private sector. Part of the regulatory system in the Indian voluntary sector was derived from the UK model during the pre-independence era.
Phillipines	**The Philippines Council for NGO Certification** (PCNC) was established in 1997 by several NGO networks including the Caucus of Development NGO Networks (CODE-NGO), Association of Foundations (AF), and the National Council for Social Development Foundation (NCSD). It is a service organisation whose main function is to certify nonprofit organisations that meet established minimum criteria for financial management and accountability.[8] The Philippines government has endorsed PCNC's accreditation systems through an executive order.[9] **The Caucus of Development NGO Network** (CODE-NGO)[10] is the largest coalition of NGOs in the Philippines. The most important role of this network is that it mandatorily requires its network organisations to seek certification of the PCNC, as a pre-condition for membership.	A prominent example of independent self-regulation by the voluntary sector itself.
Australia	**The Australian Charities and Nonprofits Commission** (ACNC) is a statutory body that regulates the Charity sector. It was established in 2012, incorporating recommendations from a scoping study that was conducted to the same end. Its approach to charity regulation was developed in consultation with the Charity sector.[11]	Charity sector is well-established, with recent visible steps taken towards self-regulation.

Indian experience with self-regulation in other sectors

Sector	Enabling/Self-Regulatory Bodies	Reason for Selection
Micro-finance	**Microfinance Institutions Network** (MFIN) and **Sa-Dhan** are recognised by the Reserve Bank of India (RBI) as two self-regulatory organisations (SROs) monitoring the functioning of Non-Banking Financial Companies – Micro Finance Institutions (NBFC-MFIs).[12] Sa-Dhan is an association of community development finance organisations (includes NBFC-MFIs, Trusts, and Section 8 companies etc.) whereas MFIN is a trade association of NBFC-MFIs.	Established a first-of-its-kind self-regulatory body that received recognition from Reserve Bank of India. Has improved standards within the sector.
Journalism	**The Press Council of India** (PCI) is a statutory, quasi-judicial institution that regulates print media. It derives its powers from the Press Council of India Act, 1978.[13] **The News Broadcasting Standards Authority** (NBSA) is a self-regulatory VO that covers news broadcasting and the Broadcasting Content Complaints Council (BCCC) regulates general entertainment. It was established in 2008 and is entirely self-funded.[14] It regulates content being broadcasted on television and ensures sanctions for any violation of its code.	Existence of this sector is premised on the promotion of diverse perspectives. Also has certain ethical and moral responsibilities, as a sector that is the fourth estate and holds the state accountable to the public.
Advertising	**Advertising Standards Council of India** (ASCI), established in 1985, is a self-regulatory voluntary organisation for the advertising industry in India.[15] It has received endorsement and support from the government and its ethics code for advertising has made its way into government regulation.	Has mass outreach and can significantly influence vulnerable communities. As a wide and complex industry with international, national and state players, can be difficult to regulate centrally.

This study has adopted a qualitative methodology and involved the following three steps:

1. A comprehensive literature review (see Appendix 3) of:
   - Recommendations from various national and international committee reports, and government reports.
   - Research reports from the voluntary sector, other Indian sectors with self-regulatory initiatives and international voluntary sector experts including from VOs, academia, and think tanks.
   - Information from news articles, opinion pieces and books by policymakers and practitioners.
2. A report created on the basis of the secondary research that was subsequently reviewed by three social sector experts for inputs and feedback.
3. The preliminary document was then reinforced and validated through a detailed primary research exercise (see Appendix 2), involving:
   - Interviews with 10 experts from the charities sector in Australia, UK, USA, and the Philippines
   - Interviews with five Indian social sector experts.
   - Interviews with five experts in self-regulation in advertising, microfinance, and journalism.

Preliminary key insights and recommendations emerging from the study were presented at a consultation among sector experts in New Delhi on April 11, 2019. (see Appendix 5 for draft version of the recommendations presented.)

“The establishment of the Australian Charities and Nonprofits Commission has really helped Australia’s charities sector. It is knowledgeable about nonprofit law and is able to advise and support charities. This support did not exist in the past and tax departments did not have the same specialisation or understanding of the nuances of charities compliance.”

— John Vaughan-Williams, Not-for-Profit Lawyer, Australia

Section 2
Approaches to Sector-led Initiatives

Regulation involves the legislation, enforcement and adjudication of rules (typically by the State). These can range from heavy ‘command and control’ regulation at one end to responsive co-regulation and self-regulation at the other end. Set out below, several positive outcomes could could emerge from introducing sector-led initiatives to improve regulatory compliance and governance standards in India’s voluntary sector:

- Build the capacity of voluntary organisations to meet the highest standards of operations.
- Create a responsive regulatory environment with the government and voluntary organisations as equal stakeholders.
- Provide a platform to amplify the voices of VOs driving change on the ground.
- Create a cost-effective and flexible structure to promote practices beyond the current regulatory mandate.
- Build a positive narrative around VOs to improve both the government’s and the public’s perception of the voluntary sector, as these are critical stakeholders for all voluntary action.

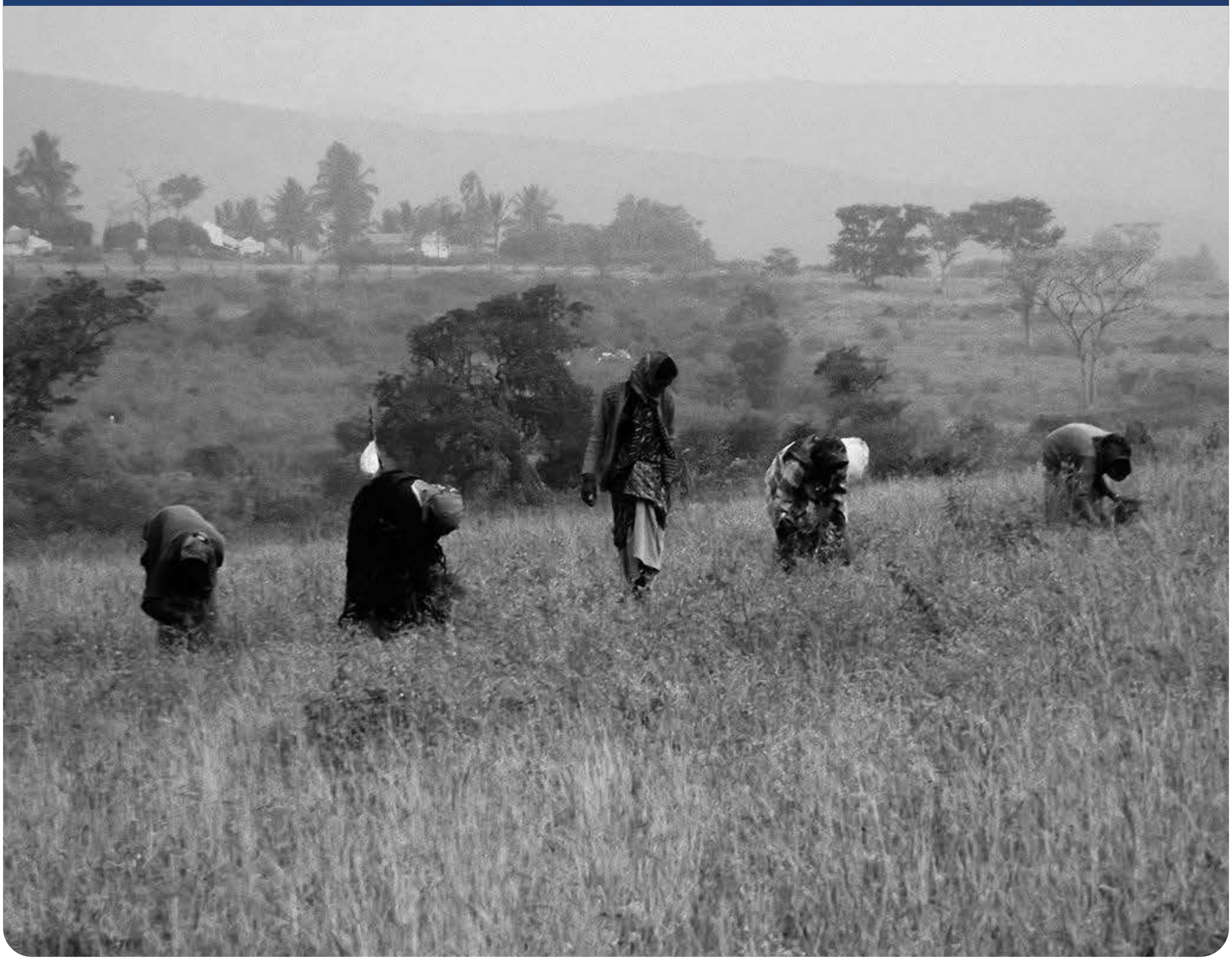
The ‘sector-led’ approach proposed conceptually overlaps the self-regulation approach prominently discussed in literature about the charities sector. This is because both require key players within the relevant industry to unite and lead efforts to improve governance and standards. However, while pure self-regulation assumes limited government involvement, sector-led initiatives for India’s VO sector need to engage closely with government and other stakeholders. Keeping this distinction in mind, this study aims to explore self-regulatory efforts to identify learnings for any future sector-led initiatives in India’s VO sector.

Like all other kinds of regulation, self-regulation exists across a spectrum and varies from sector to sector.[16] A key identifier of self-regulation is that while it may have legislative backing, its administration and enforcement are not undertaken only by state authorities. Based on the categorisation developed by Bartle and Vass[17] on the basis of the extent of the ‘role of the government in regulation’, self-regulation may take place in five primary ways:

Model	Examples
1. Cooperative: The regulator and regulated cooperate on the basis of provisions under law. Therefore, the regulations are created by government authorities, but implemented in a collaborative manner.	• **UK charity commission** is a government authority that cooperates closely with the charities sector and makes targeted efforts to educate and support the sector. • **Australian Charities and Not-for-profits Commission (ACNC)** is a state regulatory authority that is enabling, responsive, and cooperates closely with the charities sector through stakeholder consultations.
2. Delegated: The government partially delegates power to an umbrella organisation or another association representing VOs to regulate practices or set standards.	• **Microfinance Institutions Network** (MFIN) and **Sa-Dhan** are Reserve Bank of India recognised SROs. Reserve Bank of India encourages NBFC-MFIs to register with either SRO and adhere to their respective codes.[18] • **The Philippines Council for NGO Certification** (PCNC)'s accreditation systems have been endorsed by the Philippines government through an executive order.[19]
3. Devolved: The government devolves statutory powers to self-regulatory bodies, by enacting laws.	• **Press Council of India** has been created by law to uphold journalistic standards.
4. Facilitative: A third party such as a peer VO or watchdog drives self-regulation. This body may be explicitly supported by the state, but not backed by any law.	• **Advertising Standards Council of India** (ASCI) has obtained the support of the Indian government for its code of conduct. • **Fundraising Regulator for England, Wales and Northern Ireland** has entered into a memorandum of understanding with the UK Charity Commission.
5. Tacit: VOs come together to define and promote adherence to common norms and standards.	• **News Broadcasters Association of India** is a private association of different current affairs and news television broadcasters in India. • **The Caucus of Development NGO Network** (CODE-NGO[20] is a global example self-regulation in the charities sector.

In the context of the voluntary sector, any such self-regulation effort would require VOs to come together at national, regional and international levels to develop common norms and standards of practice for public benefit. Adherence to these would be achieved by promoting principles of good governance, transparency and effectiveness, and sharing good practices at the sector level. The key areas that could be self-regulated include registration and accreditation; assistance with legal compliance, governance and other internal functions could also be provided.

Section 3
Sector-led Initiatives in India's Voluntary Sector



"Bodies established by the voluntary sector for self regulation did not have the power or authority to enforce compliance from its members or other VOs, and since we're poor at following laws, no one abided by the regulations."

— Pushpa Sundar, Development Specialist

Several key actors in India's voluntary sector have acknowledged the value of promoting good governance, transparency, and accountability within the sector. Accordingly the Indian voluntary sector has seen several initiatives to improve these standards over the years. These have been highlighted in the timeline below.[21]

Year	Initiative
1980s	Social activist Bunker Roy and others pressed for a code of conduct.
Early 1990s	Several non-mandatory experiments • Guidance and scorecard for effective annual reports by Murray Culshaw Advisory Services • Early standard setting among Indian donors by Indian Centre for Philanthropy and Centre for Advancement of Philanthropy • Interest in adapting the UK model of self-regulation
Late 1990s	Several non-mandatory experiments • Voluntary Action Network India (VANI) developed voluntary guiding principles • Charities Aid Foundation and the Planning Commission validated 1500 nonprofits
2001	Credibility Alliance defined minimum norms for certification
2007	National Policy for the Voluntary Sector (NPVS) encouraged the formation of a self-regulatory body
2010	Guidestar created an information repository for certified NGOs
2015	VANI's Guidelines of the Code of Conduct is established as a self-certification model for voluntary organisations (VOs) to demonstrate their accountability, legitimacy and effectiveness.
2016	Centre for Advancement of Philanthropy begins its Compliance Complete Programme

Yet, these efforts have not always been successful at scale. Key challenges[22] faced by these initiatives include:

Limited participation:

Most self-regulatory initiatives in the past, such as Credibility Alliance, were unable to attract a large number of members. The proposed certification processes were not backed by incentives as they did not have the buy-in of key funders or government. Accordingly, they were not able to obtain wider agreement on norms and introduce their standards at a sector level.

Unsustainable mechanisms:

These initiatives had not considered funding strategies for long-term sustainability. Accordingly, while the codes existed, they were unable to conduct effective outreach or incentivise VOs to adopt these measures in the absence of external recognition from donors or other stakeholders.

Lack of enforceability:

Bodies for self-regulation of the sector were not authorised to enforce compliance among its members. Since these bodies were unable to track or monitor non-compliances and penalise member VOs who failed to comply with their standards, they were not very effective.

Section 4
Key Findings From Sector-led Initiatives Across Sectors and Countries

“The voluntary sector relies on trust from the public to survive, yet instances with international development organisations such as those in Haiti indicate that we have a long way to go and we have to get our own house in order. Not having high standards of accountability and governance can have awful and far-reaching consequences.”

— Karl Wilding, National Council for Voluntary Organisations

This section captures the following key findings based on a review of nine SROs across Charities sectors in UK, Australia and Philippines and the sectors of Micro-finance, Advertising and Journalism in India:

1. **1** Useful to have multiple sector-led initiatives
2. **2** Sector-led Initiatives can reduce regulatory burden on government
3. **3** Sector-led Initiatives can raise industry standards
4. **4** Sector-led Initiatives need to be supported by government
5. **5** Important to plan for financial sustainability

These have been illustrated with examples of relevant initiatives and best practices below.

Finding 1 **Finding 2** **Finding 3** **Finding 4** **Finding 5**

Finding 1:
Useful to have multiple sector-led initiatives

Given the volume and diversity in geographies, types and causes of VOs, it is challenging for one entity (whether state-led or industry-led) to manage the entire gamut of regulation. Therefore, in several sectors, a number of self-regulatory initiatives have emerged to address different aspects of regulation.

Examples

1.
In both UK and Australia, different regions have their own independent fundraising self-regulators. In these countries, self-regulation in the voluntary sector has benefited from having responsive state authorities that encourage and co-operate with multiple self-regulatory bodies to improve best practices in fundraising or governance through the VO-led charities codes.

2.
In the Philippines, multiple VO networks exist such as the Caucus of Development NGO Networks, the Philippine Business for Social Progress, the Association of Foundations, and the National Council for Social Development. All these VO networks came together to promote the Philippines Council for NGO Certification.

3.
The microfinance sector in India has two main self-regulatory organisations to monitor the functioning on Non-Banking Finance Corporations (NBFCs) – Microfinance Institutions Network (MFIN) and Sa-Dhan. With their 51 lenders and 214 members, respectively, MFIN and Sa-Dhan collaborated to develop" a code of conduct manual for the sector.[23]

> "The UK charity commission only has 300 staff members but serves 165,800 charities. So there is a limit to the support we can provide – that is where self-regulation can help"
>
> *— Eleanor Morgan, UK Charity Commission*

Finding 2:
Sector-led initiatives can reduce regulatory burden on government

Sector-led initiatives can reduce the regulatory burden of state authorities by undertaking some regulatory functions such as registration, being the first port of call to resolve complaints or address noncompliance, and by encouraging legal compliance among their members.

- **Registration of information on organisations:** These initiatives can register, verify, and accredit organisations that qualify as 'charities' for tax exemptions or other incentives under applicable law.

Examples

1.

The PCNC in the Philippines is authorised by the government to certify VOs for tax exemptions.[24] This approach has helped to strengthen compliance and promote professionalism, accountability, and transparency in the country's VO, [25] as VOs need to comply with strict governance criteria to obtain the certification.

2.

In UK and Australia, this role is undertaken by the state-led UK Charity Commission and ACNC, respectively.

- **Dissemination of information on organisations:** Sector-led initiatives create publicly available databases containing appropriate information about registered entities to drive transparency within the sector and to help interested donors decide which organisations to support.

Example

The Fundraising Regulator in the UK publishes a directory of all organisations registered with them to demonstrate their commitment to good fundraising practices.[26]

- **Developing operational guidance and tools:** These initiatives also provide guidance and tools to help establish, run and grow charities as effectively as possible.

Example

MFIN provides capacity building inputs to assist its members in complying with regulations through multiple channels like research, benchmarking, publication of guidance, and evaluations tools and training.

Finding 3:
Sector-led initiatives can raise industry standards

The sector can collectively develop codes of conduct and maintain high standards internally by educating and incentivising organisations to follow best practices and by monitoring and supporting at-risk organisations. Some SROs are also empowered (by government endorsement) to impose sanctions in cases of noncompliance. Some of these initiatives by SROs have been discussed below.

- **Professional and ethical standards and best practices:** Self-regulatory bodies develop and disseminate professional codes of conduct and publicise best practices to help charities meet the highest standards of practice.

Examples

1.
The UK Fundraising Regulator sets and promotes standards for fundraising in consultation with the public, fundraising stakeholders and legislators, through written consultations, meetings, interviews with trustees etc.

2.
MFIN develops and disseminates minimum performance standards for its members and others in India's microfinance sector.

3.
The PCI holds India's journalists accountable to the 'norms of journalistic conduct' in collecting and disseminating news by conducting inquiries into complaints of misconduct.[27] Its principles range from ensuring authenticity of the news to use of appropriate language for objectivity and fairness in reporting.

- **Surveillance of at-risk organisations:** Self-regulators also closely monitor at-risk organisations for early identification of non-compliance.

Examples

1.
MFIN looks at trends around organisations, complaints, findings from past investigations to identify risks posed to their objectives. It closely monitors at-risk issues and charities through research, inspection of organisations' records, compliance visits, correspondence with trustees, and external evaluations.

2.
The UK Charity Commission made efforts to raise general awareness among trustees of their requirement to report concerns, with serious incident reports more than doubling between 2009-10 and 2010-11 and also endorsed the Charities Governance Code to drive good governance in the sector.[28] Multiple reviews of the Charity Commission find it to be effective in achieving most of its objectives.[29]

3.
ASCI has started proactively monitoring India's advertising industry through its National Advertising Monitoring Service (NAMS) initiative. This was launched in 2012-13 to monitor leading newspapers and TV Channels to ensure that no advertisements making unsubstantiated, misleading or false claims escape their scrutiny.

- **Complaints redressal system:** SROs have also established systems to address complaints around failure to comply with their codes and standards.

Example

In ASCI, the Consumer Complaints Council (CCC) handles complaints. Its members include prominent professionals, opinion leaders and advertising practitioners. The CCC is completely independent and lays down its own rules to deliberate and decide on complaints. ASCI's Fast Track Intra Industry complaint (FTCC) redressal process ensures that complaints are decided upon within seven days. Its Suspension Pending Investigation (SPI) process enables ASCI to ask an advertiser to suspend an advertisement if it seems to cause immense harm or hurt to consumers and society, while CCC takes the final decision on it.

- **Sanctions:** In the case of continued non-compliance, some SROs are able to impose sanctions.

Examples

1. The NBSA has the authority to impose sanctions, such as warnings, formal written directives, inquiries and injunction through court orders.

2. The PCI can censure newspapers or editors,[30] but does not have the power to impose any punitive sanctions against delinquent journalists.

3. The Philippines' CODE-NGO has strong enforcement mechanisms; member VOs that had failed to obtain PCNC certification (a compliance criterion) were removed from the network's roster in 2014.[31] It has also cancelled memberships for VOs that failed to account for funds received either from the network or from other donors. The network has also established a permanent Commission on Internal Reform Initiative to determine the sanctions to be imposed on members that violate its rules and regulations as well as a Commission on Capacity Building to assist its members in complying with its standards and adapting to the changing environment.[32]

Finding 4:
Sector-led initiatives need to be supported by the government

> "Identify potential champions in government who are influential. Though they may not champion everything you do, get them to understand the sector better and get them to recognise the contribution of sector."
>
> *— Rory Tolentino, PCNC*

Most self-regulatory initiatives only flourish in enabling legal environments with the collaboration and support of the government. Government-led regulatory authorities play a key role in enabling sector-led initiatives internally.

- **Enabling national regulatory bodies:**
  When the government takes an enabling and responsive approach to regulation, it helps create an environment where sector-led initiatives can thrive.

Examples

1.
The UK Charity Commission established through the Charities Act 2006, derives its powers and functions from the Charities Act 2011[33] and reports to Parliament. It has supported various sector-led initiatives like the Charities Governance Code and the fundraising regulators.

2.
The ACNC, established through the ACNC Consequential and Transitional Act 2012,[34] Itis required to assess and is required to assess its performance against the Australian Government's Regulator Performance Framework (RPF). It introduced a secure online system called the 'charities passport' to save charities from reporting the same information to multiple government agencies. The charities passport allows authorised government agencies access to the data directly. This reduces duplication of reporting for charities. It includes VO information around financials, beneficiaries, size, locations, governance, and enforcement.

- **SROs supported by legislation:**
  Functions of a few SROs are often supported by legislation.

Example

ASCI's initiatives are supported by legislation. It lobbied successfully for an amendment to the Cable TV Network Rules' that makes it mandatory for advertisements to comply with ASCI's code.

- **SROs recognised by the government:** SROs may be recognised by government authorities, not directly by law, but through a notification.

Example

MFIN and Sa-Dhan are recognised by the Reserve Bank of India as self-regulatory bodies for the microfinance sector.[35] These were established in 2010 in the aftermath of the crisis in the microfinance sector in Andhra Pradesh,[36] following the recommendations of the Malegam Committee to self-regulate NBFCs and MFIs and ensure compliance with RBI regulations and ethical standards.

- **Collaboration with the government:** SROs and governments may also collaborate with each other in practice, even in the absence of legal backing by statute or order.

Example

The UK Charity Commission and the Fundraising Regulator have memorandums of understanding with each other and relevant government departments, where there are issues of mutual interest or concern. These set out how they intend to work together to achieve efficiency and clarify their roles.

Finding 5:
Important to plan for financial sustainability

Sector-led initiatives need sustainable funding if they are to support and maintain standards within the sector. Most self-regulators are funded via membership fees and government grants, as indicated below.

- **Membership fee:** Many SROs are funded through membership fees However, when SROs rely on their members for financing, their authority to enforce compliance becomes diluted

Examples

1.
The Fundraising Regulator in UK is primarily funded through a voluntary levy on charities spending GBP 100,000 or more each year on fundraising. It also receives income from registration fees from commercial organisations spending less than GBP 100,000 a year on fundraising.

2.
MFIN is funded by membership fees, including an initial membership fee of INR 100,000 (with additional INR 1000 one-time application fee). Subsequently, the annual subscription fee is equivalent to a percentage of each member's 'total gross loan portfolio' after some adjustments.[37]

3.
Sa-dhan charges a one-time processing membership fee of INR 11,800 (includes GST). The annual subscription charges for members depend on each member's outstanding 'total gross loan portfolio' respectively and can range from INR 23,600 to INR 413,000.

- **Accreditation Fee:** SROs that certify and register entities within their sector can also charge a fee for that service and use that as a means of financing its day-to-day operations.

Example

The PCNC certifies VOs "that meet the established criteria for financial management and accountability." VOs that have been in existence for at least two years can apply for accreditation along with an initial fee of PHP 1,000. The balance fee has to be paid along with completed forms and relevant documents, and depends on the total asset size of the relevant VO. It typically ranges from PHP 10,000 to PHP 15,000 per VO.[38]

- **Diversified funding:** A few SROs are funded through a mix of membership fees and government grants. However, philanthropic funding for SROs is not very common, despite the fact that donors do benefit from the development of credible organisations.

Example

PCI is funded by the fee it levies on registered newspapers (with circulation of more than 5,000 copies). The deficit is met through grants from the Ministry of Information and Broadcasting.

Section 5
Recommendations for India's Voluntary Sector

"Considering the size of the sector in India, no single organisation can conduct self-regulation. Further since there are numerous organisations at a grass-roots level, they will need to be supported. It is not just about setting up a code of conduct but also about supporting organisations to achieve those standards."

— Harsh Jaitli, Voluntary Action Network India

Based on the findings above as well as lessons from past sector-led initiatives in India's charities space, this section seeks to capture some key considerations to establish a rational system that combines appropriate government regulation with sector-led efforts. The aim is for VOs to develop a framework that drives transparency, accountability, and builds sector capacity, while also protecting the autonomy of the sector from excessive government interference.

> **"In the excellent 'hundred flowers blooming' (to use a Chinese reference) environment of the Indian nonprofit sector, there have been and will be multiple efforts, initiatives, frameworks and experiments in self-regulation underway."**
>
> *— Mark Sidel, International Centre for Nonprofit Law*

1. Establish multiple sector-led initiatives:

Instead of an independent, single, national-level self-regulatory agency, a more decentralised sector-led approach appears to have worked better across other sectors. Different independent, sector-led initiatives can be established across functions of VOs (e.g., education organisations or health organisations) or regions (e.g., all within a particular state). A wide array of initiatives and frameworks would be suitable for a large and varied country like India with a diverse and active nonprofit sector. All such initiatives need to be promoted by umbrella organisations with strong and credible leadership from the sector. These organisations also need to have large networks of VOs to ensure the participation necessary to establish, drive, and sustain self-regulation. Each initiative could be required to satisfy basic requirements to obtain government recognition and to then support and certify the VOs that fall within their subsector and regions.

2. Government to encourage sector-led initiatives:

Central and state government authorities that engage with the voluntary sector need to cultivate a responsive approach to regulation to effectively enable sector-led efforts. This needs to be implemented by:

- Introducing enabling and supportive policies and legal reform in consultation with VO stakeholders.
- Encouraging government authorities to use a responsive approach to regulating VOs that supports, educates, enables and only penalises as an option of last resort (similar to the ACNC or the UK Charity Commission).
- Facilitating convergence between existing regulators through an independent, national commission.
- Encouraging umbrella organisations/intermediaries, key donors and VOs to participate in sector-led initiatives.
- Endorsing initiatives by recognising codes and standards developed, and by empanelling accreditation agencies to certify VOs that are compliant.

3. Improve compliance and standards:

Sector-led initiatives can improve the sector's credibility, increase efficiencies of VOs, and reduce donor risks as well as the regulatory burden on the government. Some functions that SROs can take up to address gaps in existing regulation are set out as follows:

- **Collaborate with government regulators:** To enable comprehensive self-regulation of the sector, regulatory government bodies and sector-led initiatives should work closely together incentivising each other's membership and compliance with each other's requirements.

- **Accountability standards:** Such initiatives could collectively develop a set of common good governance and ethical standards for the voluntary sector and provide government-endorsed accreditations to organisations that adhere to these standards. This could involve reviewing and adopting an updated version of earlier initiatives such as Credibility Alliance or by approaching the Indian Bureau of Standards to develop a new set of standards. Irrespective of the approach adopted, introducing such standards could enable donors to identify quality VOs that are committed to upholding ethical and accountability practices. It would also increase credibility of accredited VOs and help them attract funding.
- **Align reporting requirements of different regulators:** Sector-led initiatives could also advocate with government authorities to align reporting requirements across laws to reduce red tape for charities and cut related costs. This would also reduce the risk of non-compliance and improve public perception. To this end, these entities could partner with government to explore adopting an initiative that is similar to the ACNC's Charity Passport.
- **Registration, accreditation and compliance:** Sector-led initiatives could encourage compliance with applicable laws among VOs. However, this should be achieved by championing positive examples or encouraging best practices as opposed to imposing financial sanctions or increasing the compliance burden on VOs. These organisations could also educate and promote cross-learning across VOs and increase understanding of regulatory requirementsby creating a database of relevant legal requirements and advisory platforms for member VOs to help at-risk VOs on managing their compliance. They should also be authorised to impose sanctions in case of continued noncompliance.
- **Ensure compliance, report non-compliance and disseminate information:** VO trustees should be made accountable for ensuring compliance within their organisations and for reporting any cases of non-compliances. Further, VOs should also be encouraged to proactively and widely disseminate information themselves about their practices, financials and impact.

4. Plan for financial sustainability and evaluation of initiatives:

Three critical priorities may be addressed.

- **Hybrid funding models that combine government grants with membership fees from VOs:** Sector-led initiatives should prioritise long-term financial planning from the start, so that they can make long-term plans for risk identification and education of charities, instead of just responding to cases of non-compliance. The government could assist and encourage these initiatives by providing grant funding to these entities, so that each can hire the right leadership and team and build technology-based systems. Technology-based systems could make it easier for VOs to submit documentation and more cost effective for the bodies to monitor the sector. They would also enhance transparency and access to information on the sector.
- **Obtain donor support:** Such initiatives also need to seek donor support for their organisations either in terms of direct funding or even indirect support. For instance, donors could incentivise VOs to participate in such initiatives to improve industry standards and minimise as well as align their reporting requirements with those endorsed by sector-led initiatives.
- **Key performance indicators and progress reports:** Sector-led initiatives need to set goals and define key performance indicators aligned with their operating models and monitor these to assess success of its initiatives. These should be accountable to member VOs for impact, effectiveness, transparency and compliance as well as share timely reports on their progress and cost effectiveness with them.

“If a central body is created by government to enable and encourage sector-led initiatives, it needs to have members from VOs and the support and buy-in of the voluntary sector. This will help ensure that it is supportive and not controlling in its approach.”

— Noshir Dadrawala, Centre for Advancing Philanthropy

Way *Forward*

In terms of next steps, the following actions could be undertaken immediately to move forward efforts to implement a sector-led initiative in India:

- The government could adopt regulations/guidelines for endorsing sector-led initiatives by recognising codes and standards developed and by empanelling accreditation agencies (refer to Appendix 4 for a draft version of regulations for accreditation agencies developed by Guidestar India for discussion purposes only) to certify VOs that are compliant.

- Umbrella organisations such as VANI could be approached by NITI Aayog and key sector players to form initiatives based on functional gaps and sector incentives to ensure benefits and participation.

- Interested VOs could use their networks to raise awareness, and educate stakeholders for increased membership in sector-led initiatives.

- Both the government and the voluntary sector need to engage with domestic philanthropists to obtain their buy-in and financial support for these initiatives.

- NITI Aayog could adopt the role of an independent central authority to coordinate between government departments, bring convergence between multiple laws, and adopt responsive regulation.

Appendix 1 - Additional Details on Sector-led Initiatives

UK Charity Commission's objectives and responsibilities

The UK Charity Commission's core role is to ensure that charities focus on the purposes which give them charitable status and carry them out for the public benefit. Its strategic objectives are to:

- hold charities to account
- deal with wrongdoing and harm
- inform public choice about donations to charities
- give charities the understanding and tools they need to succeed and to keep charities relevant for today's world

Its responsibilities are to:

- Decide whether organisations are charitable, register charities, and deregister organisations that are not charitable, in-operational or have closed down
- Ensure charities meet their legal requirements, including those around campaigning and providing information on their activities each year
- Take enforcement action when there is malpractice or misconduct
- Make appropriate information about each registered charity widely available to the public
- Provide guidance to help charities be established, run and grown as effectively as possible
- Provide online services on registration, updation of charity details, reporting etc.

UK Fundraising Regulator's objectives and functions

UK's Fundraising Regulator stands up for best practices in fundraising, to protect donors and support the vital work of fundraisers.[40] It works in partnership with other regulators and representative bodies in the charitable and fundraising sectors, to build public confidence and ensure consistent fundraising standards across the UK. It does this by:

- Setting and promoting the standards for fundraising in consultation with the public, fundraising stakeholders and legislators, through written consultations, meetings, interviews with trustees etc
- Investigating complaints from the public about fundraising, where these cannot be resolved by the charities themselves
- Investigating fundraising that has caused significant public concern
- Enabling people to manage their contact with charities
- Publishing a public directory of all organisations who have registered with it to demonstrate their commitment to best practices in fundraising

From street fundraising to large-scale fundraising events, it regulates all fundraising. This is done for charities registered with the Charity Commission, exempt charities, other organisations with charitable, philanthropic and benevolent objectives, as well as agencies employed by charities to raise funds for them.

MFIN

MFIN tracks at-risk organisations through has a comprehensive surveillance mechanism based on information and data from member NBFC-MFIs, peer monitoring, field investigations through third-party agencies and own staff and credit bureaus among others. MFIN key surveillance tools include: [41]

- The Industry Compliance Index is a bi-annual self-assessment tool which all member NBFC-MFIs use to draw up a compliance and performance scorecard to assess their business policies and practices on client interface.
- Periodic and ad-hoc data is captured by MFIN from members on insurance claims settlement, grievance redressal etc.
- MFIN takes extensive data from the Credit Bureau to understand emerging risks and non-compliances such as over lending to individuals.
- MFIN has a comprehensive external evaluation mechanism that validates members' compliance with various Reserve Bank of India Directions and Industry Codes of Conduct.

MFIN is funded by membership fees. MFIN's annual membership fee is INR 100,000, with an INR 1,000 processing fee. Some experts argue that due to this fee-based model, members can be less stringent with the application of some laws. [42]

ACNC review

The ACNC, as a national self-regulator, is required to assess its performance against the Australian Government's Regulator Performance Framework (RPF).[43] This framework is a core element of the government's deregulation agenda. The framework is designed to drive cultural change in 'the way regulators administer regulations' (their regulatory approach). It consists of six 'outcomes-based key performance indicators' that articulate the government's overarching expectations of regulator performance. The RPF provides accountability through requiring stakeholder validated self-assessment and reporting (along with the option of targeted external review). The ACNC has developed a set of measures (metrics) that are used to evaluate its performance against this framework on an annual basis through self-assessment. The results of this assessment must be validated by an external consultative body approved by the Assistant Treasurer.

Appendix 2 - Experts Interviewed and Secondary Research Report Reviewers

Sr. No	Expert	Organization	Category
		Indian Experts	
1.	Shweta Purandare	Advertising	Advertising SRO
2.	Harsh Jaitli	Voluntary Action Network India	India charities
3.	Pushpa Sundar	Development sector expert	India charities
4.	Sanjay Patra	Financial Management Service Foundation	India charities
5.	Noshir Dadrawala	CAP India	India charities
6.	Mathew Cherian	ex-Credibility Alliance	India charities
7.	Geeta Seshu	Independent Journalist	Media SR
8.	Confidential	Confidential	Media SR
9.	Chris Turillo	Medha/ex-SKS Microfinance	Microfinance
10.	Ratna Vishwanathan	ex-M-FIN	Microfinance
		International Experts	
11.	Ian Murray	University of Western Australia	Australia charities
12.	John Vaughan William	Mills Oakley	Australia charities
13.	Marissa Camacho	WINGS	Philippines charities
14.	Rory Tolentino	Nonprofit management consultant	Philippines charities
15.	Eleanor Morgan	UK Charity Commission	UK charities
16.	Gerald Oppenheim	UK Fundraising Regulator	UK charities
17.	Karl Wilding	National Council for Voluntary Organisations (NCVO)	UK charities
18.	Kate Sayer	Sayer Vincent	UK charities
19.	Catherine Shea	International Centre for Not for Profit Law	US charities
20.	David Moore	International Centre for Not for Profit Law	US charities

Secondary Research Report Reviewers

1. Sanjay Aggarwal, Chartered Accountant
2. Venkat Krishnan, India Welfare Trust
3. Mathew Titus, Market and Ecosystem Advisory

Appendix 3 - List of Documents Reviewed

Nature of documents	Documents reviewed
Policies	1. National Policy on the Voluntary Sector 2007
Acts and case laws	2. UK Charities Act 2011 3. Australian Charities and Nonprofits Commission (ACNC) Act 2012 4. ACNC Regulations 2013 5. Executive Order No. 720, s. 2008 (Philippines)
Reports (Government)	6. Planning Commission, Government of India - Report Of Task Force On Proposed Central Law For Registering Voluntary Organisations 7. Report of Steering Committee on Voluntary Sector by Planning Commission (10th, 11th, & 12th Five Year Plan) 8. Report of the Task forces (1-3) on laws related to the voluntary sector (Recommendations made by 2001) 9. 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) 10. Norms of Good Governance in the Voluntary Sector (Niti Aayog) 11. 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 12. Planning Commission, Government of India - Approaching Equity: Civil Society Inputs for the Approach Paper to the Twelfth Five Year Plan 13. Financial Audit of Accounts of the Union Government - Comptroller and Auditor General of India, Report 50 of 2015 14. Social Sector Service Delivery – Good Practices Resource Book – 2015 15. Report of the Committee on the Roadmap for Fiscal Consolidation 16. Analysis of the Kelkar Committee Report
Reports (Non-Government)	17. A Study Report on Revisiting the National Policy on the Voluntary Sector (VANI) 18. Voluntary Sector in India: Challenges, Opportunities and Voices from the Field (IRMA) 19. Defining the Sector in India: Voluntary, Civil and Nonprofit (PRIA and John Hopkins, 2000) 20. Invisible yet widespread: The Nonprofit Sector in India (PRIA, 2002) 21. A review of Charities Administration in India (Sampradan Indian Centre for Philanthropy, 2004) 22. Voluntary Action Network India, Towards an enabling environment for the voluntary sector in India, 2018 23. Voluntary Sector at the Crossroads – Pushpa Sundar 24. The Law affecting Civil Society in Asia – Development and Challenges for Nonprofit and Civil Society Organisations – Report prepared by the International Centre for Nonprofit Law 25. Shrinking Space for Dissent – Pushpa Sundar 26. Revisiting The National Policy on Voluntary Sector – Need for a National Policy on Volunteering, A Study Report by VANI 27. The Carrot and the Stick – Chap. 4 of book – Giving with a Thousand Hands by Pushpa Sundar 28. Why India's Nonprofit Sector needs comprehensive legal reform – Pushpa Sundar 29. Income Tax Act for the Voluntary Sector – A study Report (VANI, 2016) 30. The Hidden Universe of Nonprofit Organisations in India – Rajesh Tandon 31. The Legal and Regulatory Framework for NGOs – Global trends in 2012-13, Report of the special rapporteur on the rights to freedom of peaceful assembly and of association (UN, 2013) 32. Voluntarism and Government – Policy, Programme, and Assistance (VANI) 33. Legal and Regulatory Frameworks for CSOs in India – Noshir Dadrawala, CAP

Nature of documents	Documents reviewed
Reports (Non-Government)	34. Civil Society Self Regulation: The Global Picture, One World Trust Shana Warren and Robert Lloyd, 2009 35. Self-regulation and the Regulatory State, Bartle and Vass, 2005 36. The Guardians Guarding Themselves: A Comparative Perspective on Nonprofit Self-Regulation, Chicago Kent Law Review, Mark Sidel, 2005 37. The Media Self-Regulation Guidebook, Organisation for Security and Organisation in Europe, 2008 38. Microfinance: To Hell And Back, Tamal Bandhopadhyay, 2019 39. The future of charity regulation in Australia: Complexities of Change, Adelaide Law Review, John Vaughan-Williams, 2016 40. The ACNC reform or Unreform, Charity Law and Practice Review, Ian Murray, 2014 41. Strengthening for Purpose: Australian charities and not-for –profits commission, 2018 42. Regulating Charity in a Federated State: The Australian Perspective, Ian Murray, 2019 43. Accountability, Governance, and Non-governmental Organisations, Kim 44. Trends in nonprofit self-regulation in the Asia Pacific region, Mark Sidel, 2003 45. Governance, Organisational Effectiveness and the Nonprofit Sector: Country Report (Philippine), compilation of papers of Asia Pacific Philanthrophy Consortium (APPC) Conference, Makati City, Philippine, Carmencita T. Abella and MA. Amor L. Dimalanta, 2003 46. The Evolution of NGO Accountability Practices and their Implications on Philippine NGOs, Songco 47. Microcapital Brief: India's Sa-Dhan, Microfinance Institutions Network (MFIN) Revise Code of Conduct, Kevin Van Der Brink, 2016 48. NGO Accreditation and Certification, Shea and Sitar 49. Norms of Journalistic Conduct, Press Council of India, 2010 50. Television: Freedom of press and self-regulation, Geeta Seshu 51. Regulatory and Risk Framework, Charity Commission, 2018 52. Regulating charities: a landscape review: Briefing for the House of Commons Public Administration Select Committee, National Audit Office (NAO), 2012 53. Regulating fundraising for the future: Trust in charities, confidence in fundraising regulation, National Council for Voluntary Organisations, 2015 54. NAO UK, 2015, Charity Commission: Progress report 55. UK Charity Commission, official website: gov.uk/government/organisations/charity-commission 56. UK Fundraising Regulator, official website: fundraisingregulator.org.uk 57. Press Council of India, official website: presscouncil.nic.in 58. News Broadcasters Association, official website: nbanewdelhi.com 59. Editors Guild of India, official website: editorsguild.in 60. The Advertising Standards Council Of India, official website: ascionline.org 61. The Microfinance Institutions Network, India, official website: mfinindia.org 62. The Australian Charities and Not-for-Profits Commission, official website: acnc.gov.au 63. Philippines Council for NGO Certification, official website: pcnc.com.ph 64. NGO:PH, online resource for NGOs in Philippines: ngoph.com/faqs-pcnc

Appendix 4 - Draft Regulations for Accreditation Agencies

Developed by GuideStar (India) for reference and discussion only. Kindly do not cite.

(This document has been made on the lines of SEBI's regulation for Credit Rating agencies for the corporate sector)

CHAPTER I

PRELIMINARY - Short title and commencement

These regulations may be called the Charity Administration of India (Accreditation Agencies) Regulations, 2019.

2. They shall come into force on the date of their publication in the Official Gazette.

Definitions

1. In these regulations, unless the context otherwise requires, -

(a) "Act" Charity Administration of India (Accreditation Agencies) Regulations, 2019;

(b) "associate", in relation to an accreditation agency, includes a person–

 (i) who, directly or indirectly, by himself/ herself, or in combination with relatives, owns or controls interests/ membership/ voting rights of the accreditation agency

(c) "Board" means the Board of the regulatory body as defined in the Act

(d) "certificate" means a certificate of registration granted by the Board under these regulations;

(e) "client" means any voluntary organisation that is accredited by the accreditation agency

(f) "accreditation agency" means a body corporate which is engaged in, or proposes to be engaged in, the activity of accrediting voluntary organisations or CSR programmes or social benefit programmes of other organisations

(g) "accreditation committee" means a committee constituted by an accreditation agency to assign due diligence level or rating

CHAPTER II

REGISTRATION OF ACCREDITATION AGENCIES - Application for grant of certificate

1. Any person proposing to commence any activity as an accreditation agency on or after the date of commencement of these regulations shall make an application to the Board for the grant of a certificate of registration for the purpose.

2. An application for the grant of a certificate under sub-regulation shall be made to the Board in Form A and shall be accompanied by a non–refundable application fee, as specified in Form A, to be paid in the manner specified in Form A [Form A will have to be designed as an online form with online payment of a nominal application fee of say Rs10,000 for a period of 5 years]

Promoter of Accreditation Agency

The Board shall consider an application if the applicant is registered under any of the following categories, namely:

- Public Charitable Trust
- Society under the Societies Registration Act or similar act
- Section 8 Company under the Indian Companies Act 2013 or Section 25 Company under the Indian Companies Act 1956

[We need to decide whether to allow for profit organisations and if yes, they should be required to make public disclosure of all their documents and information similar to the not for profit entities as mentioned in the Eligibility Criteria below except for their 12AA, however they should make disclosure of their audited financials and other documents.]

Eligibility criteria

The Board shall not consider an application for the grant of a certificate under regulation 3, unless the applicant satisfies the following conditions, namely:

- The applicant is set up and registered as a Trust, Society or Sec 8/ Sec 25 Company with a valid 12AA/ 12A registration under the Income Tax Act.
- The applicant has, in its Memorandum of Association/ Trust Deed/ Constitution, specified promotion of transparency/ public accountability, NGO accreditation/ due diligence, NGO information systems as one of its main objects;
- The applicant has a minimum operational existence of 3 years post registration as a not for profit.
- The applicant has adequate infrastructure, to enable it to provide accreditation services in accordance with the provisions and these regulations;
- The applicant and the promoters of the applicant have a 3 year old track record in managing a due diligence/vetting programme, financial soundness and general reputation of fairness and integrity in transactions to the satisfaction of the Board.
- Neither the applicant, nor its promoter, nor any director of the applicant or its promoter is connected with an audit or law firm which may give rise to conflict of interest.
- Neither the applicant, nor its promoters, nor any director, of its promoter has at any time in the past been convicted of any offence involving moral turpitude or any economic offence;
- Neither the applicant, nor any person directly or indirectly connected with the applicant has in the past been –
- Refused by the Board a certificate under these regulations or (ii) subjected to any proceedings for a contravention of the Act or of any rules or regulations made under the Act.
- The applicant, in all other respects, is a fit and proper person for the grant of a certificate.

Application to conform to the requirements

Any application for a certificate, which is not complete in all respects or does not conform to the requirement of regulations or instructions specified in Form A shall be rejected by the Board:

Provided that, before rejecting any such application, the applicant shall be given an opportunity to remove, within thirty days of the date of receipt of relevant communication, from the Board such objections as may be indicated by the Board.

Provided further, that the Board may, on sufficient reason being shown, extend the time for removal of objections by such further time, not exceeding thirty days, as the Board may consider fit to enable the applicant to remove such objections.

Furnishing of information, clarification and personal representation

1. The Board may require the applicant to furnish such further information or clarification as the Board may consider necessary, for the purpose of processing of the application.
2. The Board, if it so desires, may ask the applicant or its authorised representative to appear before the Board, for personal representation in connection with the grant of a certificate.

Grant of certificate of registration.

1. The Board, on being satisfied that the applicant is eligible, shall grant a certificate of registration in Form B and shall send an intimation to the applicant.
2. The certificate of registration granted shall be valid for a period of 5 years to be renewed further, automatically for further periods of every 5 years unless it is suspended or cancelled by the Board or the applicant does not apply for renewal.
3. The grant of a certificate of registration shall be subject to payment of the registration fees as specified in Form A
4. The grant of the certificate shall not take more than 30 days from the date of application.

Conditions of certificate

The certificate granted shall be, subject to the following conditions, namely:
(a) the accreditation agency shall comply with the provisions of the Act, the regulations made there under and the guidelines, directives, circulars and instructions issued by the Board from time to time on the subject of accreditation.
(b) where any information or particulars furnished to the Board by an accreditation agency:
    (i) is found to be false or misleading in any material particular ; or
    (ii) has undergone change subsequently to its furnishing at the time of the application for a certificate; the accreditation agency shall forthwith inform the Board in writing
(c) where the accreditation agency proposes change in its not for profit nature, it shall obtain prior approval of the Board for continuing to act as such after the change.

Procedure where certificate is not granted

If, after considering an application made under regulation 3, the Board is of the opinion that a certificate of registration should not be granted, it may, after giving the applicant a reasonable opportunity of being heard, reject the application.
The decision of the Board, not to grant certificate of registration, as the case may be

1. shall be communicated by the Board to the applicant within a period of thirty days of such decision, stating the grounds of the decision.
2. Any applicant aggrieved by the decision of the Board rejecting his may, within a period of thirty days from the date of receipt by him of the communication referred to in sub-regulation
3. apply to the Board in writing for reconsideration of such decision.

CHAPTER III

GENERAL OBLIGATIONS OF ACCREDITATION AGENCIES - Code of Conduct

Every accreditation agency shall abide by the Code of Conduct contained in the Schedule XYZ (to be developed).

Agreement with the client

Every accreditation agency shall enter into a written agreement with each client whose organisation/ programme it proposes to accredit, and every such agreement shall include the following provisions, namely:-

(a) the rights and duties of each party in respect of the accreditation shall be defined

(b) the cost to be recovered by the accreditation agency shall be specified; the period of validity of the accreditation shall be specified; the validity period cannot be beyond 24 months from the end of the financial year based on which the due diligence is carried out.

(c) the accreditation agency shall disclose to the client the accreditation level/ rating assigned through regular methods of dissemination, irrespective of whether the level/ ranking is or is not accepted by the client

(d) The client shall agree to disclose, in its funding proposals, donation appeals, website, annual report

(i) the accreditation level/ rating assigned to the client by any accreditation agency during the last three years and

(ii) any accreditation level/ rating given by any other credit rating agency, which has not been accepted by the client.

(e) Promoters, employees, consultants, etc of the accreditation agency should not be on the board of any client and should disclose details of any direct or indirect dealings with them.

Monitoring

1. Every accreditation agency shall disseminate information regarding newly assigned accreditation levels/ ratings, and changes in earlier accreditation level/ rating promptly through its website,
2. An accreditation agency shall not withdraw an accreditation level/ rating so long as there is no change in the compliance status across all parameters evaluated during the validity period or as may be specified by the Board from time to time.

Internal procedures to be framed

Every accreditation agency shall frame appropriate procedures and systems for its staff/ consultants/ representatives. The accreditation agency may decide the profile of its accreditation officers and may further empanel or consult experts/ advisors to carry out its work. However, peer to peer review by clients is discouraged given the scope for conflict of interest and the need for an objective view as well as the exposure to due diligence of a wide range of organisations.

Disclosure of Level/ Rating Definitions and Rationale

1. Every accreditation agency –
   (a) shall make public the definitions of the concerned level/ rating, along with the symbol and,
   (b) shall also state that the levels/ ratings do not constitute recommendations to fund or support a specific organisation.
2. Every accreditation agency shall make available to the general public information relating

to the rationale of the levels/ ratings, which shall cover an analysis of the various factors justifying a favourable assessment, as well as factors constituting a risk.
3. The norms of good governance and best practices put out by the Credibility Alliance will form the core of the criteria for due diligence.

Submission of information to the Board

1. Where any information is called for by the Board from an accreditation agency for the purposes of these regulations, including any report relating to its activities, the accreditation agency shall furnish such information to the Board –
   (a) within a period specified by the Board or
   (b) if no such period is specified, then within a reasonable time.
2. Every accreditation agency shall, at the close of each accounting period, furnish to the Board copies of its balance sheet and income and expenditure account.

Compliance with circulars etc., issued by the Board

Every accreditation agency shall comply with such guidelines, directives, circulars and instructions as may be issued by the Board from time to time.

Appointment of Compliance Officer

1. Every accreditation agency shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines, instructions etc. issued by the Board or the Central Government.
2. The compliance officer shall immediately and independently report to the Board any non-compliance observed by him/ her.

Appointment of Ombudsman

1. Every accreditation agency shall appoint an ombudsman, a person of long standing repute from the civil society or philanthropy space.

Maintenance of Books of Accounts, records, etc.

1. Every accreditation agency shall keep and maintain, for a minimum period of five years, the books of accounts, records and documents.
2. Every accreditation shall intimate to the Board the place where the books of accounts, records and documents required to be maintained under these regulations are being maintained.
3. Every accreditation agency must display in the public domain, its legal and financial documents, including but not limited to: PAN, registration certificate as a not for profit, governing document (MoA, AoA/ Deed/ Bye-laws), 12AA, 80G, audited accounts, ITR-V, form 10B.

Steps on auditor's report

Every accreditation agency shall, within two month's from the date of the auditor's report, take steps to rectify the deficiencies if any, made out in the auditor's report, insofar as they relate to the activity of accreditation.

Confidentiality

Every accreditation agency shall treat, as confidential, information supplied to it by the client specified as confidential and no accreditation agency shall disclose the same to any other person, except where such disclosure is required or permitted by under or any law for the time being in force. However, every accreditation agency will require public disclosure of information by the client required for meeting norms and standards for transparency and public accountability through public discosure on the client's website/ government websites or an aggregator's website such as www.guidestarindia.org.

Accreditation process

1. Every accreditation agency shall –
   (a) specify the accreditation process which is to be predominantly an online process; display details of the process on its website;
   (b) file a copy of the same with the Board for record; and file with the Board any modifications or additions made therein from time to time.
2. Every accreditation agency shall, in all cases, follow a proper due diligence process.
3. Every accreditation agency shall inform the Board about new accreditation levels/ ratings or symbols introduced by it.
4. Every accreditation agency shall exercise due diligence in order to ensure that the accreditation level/ rating given by the accreditation agency is fair and appropriate.
5. Every accreditation agency shall ensure that the client displays the required information and documents online for public view to ensure transparency and public accountability through public disclosure on the client's website/ government websites or an aggregator's website such as www.guidestarindia.org.
6. Every accreditation agency should make available the due diligence report for a nominal cost. A copy of such report should be made available to the client (organisation accredited) within the cost recovered for due diligence.
7. The period of validity of the accreditation shall be specified; the validity period cannot be beyond 24 months from the end of the financial year based on which the due diligence is carried out.
8. Every accreditation agency must specify service standards, aiming to complete the process on an average within 3 months of application. If there is an inordinate delay from the accreditation agency, the client should be given a credit for future process or a refund. If the client is not responsive for 90 days, such cases can be closed without any refund of the cost recovered.
9. The client should know the progress of accreditation throughout the process from the website of the accreditation agency.
10. Every accreditation agency must display the list of accredited organisations/ programmes with the PAN of the client, level/ rating assigned and the validity period.

CHAPTER IV
PROCEDURE FOR INSPECTION AND INVESTIGATION

1. The Board may appoint one or more persons as inspecting officers, to undertake inspection or investigation of the accreditation agencies, for any of the purposes specified.
2. The purposes shall be the following:
   (i) The inspections ordered by the Board under sub-regulation (1) shall not ordinarily go into an examination of the appropriateness of the assigned accreditation levels/ ratings on the merits.
   (ii) Inspections to judge the appropriateness of the accreditation ratings/ levels may be ordered by the Board, only in case of complaints which are serious in nature.
   (iii) Inspections shall be carried out either by the officers of the Board or independent experts, with relevant experience or combination of both.

Notice before inspection or investigation

Before ordering an inspection or investigation the Board shall give not less than ten days written notice to the credit rating agency for that purpose.

Obligations of accreditation agency on inspection or investigation by the Board

1. It shall be the duty of every accreditation agency whose affairs are being inspected or investigated, and of every director, officer or employee thereof, to produce to the inspecting or investigating officer such books, accounts and other documents in its or his custody or control and furnish him/ her with such statements and information relating to its rating activities, as the inspecting officer may require within such reasonable period as may be specified by the said officer.
2. The accreditation rating agency shall -
   (a) allow the inspecting officer to have reasonable access to the premises occupied by such accreditation agency or by any other person on its behalf;
   (b) extend to the inspecting officer reasonable facility for examining any books, records, documents and computer data in the possession of the accreditation agency; and
   (c) provide copies of documents or other materials which, in the opinion of the inspecting officer, are relevant for the purposes of the inspection or investigation, as the case may be.
3. The inspecting officer, in the course of inspection or investigation, shall be entitled to examine, or record the statements, of any officer, director or employee of the accreditation agency for the purposes connected with the inspection or investigation.
4. Every director, officer or employee of the accreditation agency shall be bound to render to the inspecting officer all assistance in connection with the inspection or investigation which the inspecting officer may reasonably require.

Submission of Report to the Board

The inspecting officer shall, as soon as possible, on completion of the inspection or investigation, submit a report to the Board. Provided that if directed to do so by the Board, she/he may submit an interim report.

CHAPTER V
PROCEDURE FOR ACTION IN CASE OF DEFAULT

An accreditation agency which contravenes any of the provisions of the Act, Rules, or Regulations framed there under shall be liable for one or more actions specified there in.

Appendix 5 - Key Insights and Recommendations Presented at a National Consultation in Delhi

A study on the Regulatory Frameworks for the Voluntary Sector - Global and Cross-sectoral Review of Frameworks and Practices

Summary of Key Findings and Recommendations

Set out below are a summary of preliminary recommendations to develop a comprehensive, coherent and enabling regulatory framework for voluntary organisations and to enhance the working relationships between civil society and government in India. These are based on a secondary review of existing documents on legal, regulatory and the grants-in-aid systems for the voluntary sector and an analysis of primary data collected through one-on-one meetings, interviews and consultations with government officials, sector experts and civil society leaders.

By analysing the characteristics, successes and challenges of different regulatory mechanisms it has been concluded that self-regulation could be explored to strengthen the voluntary sector as a whole. Key reasons for recommending self-regulation include (but not limited to):

- Build trust with the public and the government as recipients of programmes, donors and supporting partners.
- Present a unified voice with increased participation of voluntary organisations driving change on the ground.
- Need to build the capacity of voluntary organisations to meet the highest standards of operations.
- Create a responsive regulatory environment with the government and voluntary organisations as equal stakeholders.
- Leverage a cost-effective and flexible structure to promote practices beyond the current regulatory mandate.

Self-regulation has many benefits as evident from the above. However, while ad-hoc initiatives have been experimented with in India there is limited concrete evidence on the level of its success. It is thus critical to understand how self-regulation should be implemented in the Indian voluntary sector to ensure that the sector reaps its benefits. In order to derive how self-regulation may be implemented, practices and lessons from across sectors in India such as Advertising and Journalism and the voluntary sector in the United Kingdom, Australia and the Philippines have been considered. Summary findings are presented below:

Focus Area	Key Findings	Recommendations
Objectives & Functions	● Regulation enables voluntary organisations to be more enterprising and meet the highest standards to achieve their goal of maximising public benefit. Specific initiatives may have ranging objectives such as ○ building public trust and protecting the interests of stakeholders, ○ creating and adhering to high standards of practice, and ○ identifying sector gaps to ensure that they are addressed. ● Since the relationship between the public being served and VOs should be based on trust and is not contractual VOs need to take the initiative to be transparent and accountable to the public. ● Key functions include (but are not limited to) registration, accreditation, certification, strengthening internal organisation practices, capacity building and presenting a unified voice in the sector.	● Enlist a VO to identify benefits to incentivise stakeholders such as reduced regulatory burden on government, increased efficiencies of VOs and reduced risk for donors. ● Once sector gaps and benefits are identified, use umbrella VOs to ensure large scale participation of VOs to set clear and specific objectives and goals that can be monitored. ● Promote the understanding of and different approaches of regulation using a mix of comparative practices such as creating working groups and ensuring compliance through sanctions and government endorsements among others.
Scope	● Regulation for all VOs across size, issues and geographic location by a single entity is challenging ● It is critical to maintain a balance between having a wide membership base and focused regulation on specific aspects of the functioning of the self-regulatory organisations. ● The existing national regulator typically endorses SR initiatives on key functions that are in turn managed by umbrella VOs	● Multiple regulatory bodies are needed to ensure reach and depth in regulation by using a targeted risk-based approach. ● De-centralise initiatives to ensure adequate coverage at the national, state and district level. ● Use umbrella organisations with a large network of VOs to drive self-regulation and ensure participation.
Structure & Governance	● Stakeholders such as the government and donors should be involved to ensure the effectiveness of SR initiatives: ○ The government can enable SR through existing regulators without viewing it as a dilution of regulatory powers. ○ The government currently endorses SR initiatives in sectors such as advertising and micro-finance to give them the credibility and powers to ensure effective regulation. ○ Donors can be incentivising VOs to drive to effective SR. ● SR initiatives are managed by an independent management teams and a board that follows strong governance practices.	● Government should adopt a responsive regulation approach (such as that in Australia) to reform laws and enable SR. ● SR should be endorsed by the government and large donors. ● Given the diversity of laws and regulations in India, a national level body, like NITI Aayog, can bring convergence between multiple laws and support SR initiatives by VOs. ● The SR body should be managed independently and work collaboratively with the government and NITI Aayog. ● VO leaders with a good understanding of regulations and sector gaps, who all have a large network, credibility among VOs and a track record among donors should drive SR.

Focus Area	Key Findings	Recommendations
Financial Sustainability	● Ensuring financial stability of SR bodies is critical, particularly for long term plans like risk assessment and training. ● Available models for funding are membership, levies and grants. Financing plans based on any of these in a standalone manner can result in reduced availability of funding and diluted authority to ensure compliance.	● Plan for financial sustainability at the stage of establishment. ● A hybrid social business model with grant funding, membership fees and charges for services may be adopted. ● The government can provide seed funding and key donors can be engaged at the initial stages for long term funding.
Compliance	● SR encourages compliance by educating the sector on standards and best practices and monitoring at-risk organisations. ● Some self-regulators are empowered to impose sanctions but financial penalties may not ensuring compliance. ● Robust compliance processes such as proactive monitoring or having an independent Complaints Council has been successful. ● The public should be aware of the codes and grievance mechanisms.	● Use networks, raise awareness, educate stakeholders, create peer pressure and provide positive examples to emulate. ● Instead of threats and sanctions, use champions from VOs, donors and the government to promote and encourage SR. ● Leverage technology to institute a targeted, risk-based monitoring process to assess VO performance. ● Establish an independent body with representatives from among VOs to probe violations and complaints.

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