

Pakistan NGO Legal Regulations

There is no single body of law that governs NGOs in Pakistan. The Constitution guarantees citizens the right to assembly “subject to any reasonable restrictions imposed by law in the interest of Public order.” In addition, depending on the source, there are between 10 to 18 different laws in Pakistan that may govern an NGO. Several of these laws are based on British laws enacted by colonial rulers in the mid- to late 1800s before Pakistan was partitioned from India. The kinds of laws that govern NGOs fall into two categories: registration laws that define internal governance and the reporting relationship between the state and the NGO, and taxation laws.

Registration

Many NGOs in Pakistan are unregistered. According to a 2000 study, unregistered NGOs comprised 38% of all NGOs. Reasons for this high rate vary, but may include high registration fees and the discretionary and inconsistent implementation of the registration laws by the governing authority. For those NGOs that do choose to register, the benefits, although not necessarily enjoyed by every registered NGO, include:

1. the ability to enforce by-laws;
2. statutory requirements that force an NGO to become organized;
3. legal status “at the official level and among donors;”
4. the ability to open a bank account;
5. the ability to sign contracts;
6. the ability to indemnify employees; and
7. the ability to qualify for financial assistance and tax exemption.

There are four main registration laws:

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

Except under the VSWA Ordinance, registration is optional. According to the 2000 study, 40.5% of all registered NGOs are societies, 15% are agencies registered under the VSWA

Ordinance, and 6% are trusts. Other than The Companies Ordinance, the provincial governments may “create and alter the [laws] to suit their own purposes.”

Similarities can be found between and among the laws. For example, none of the registration laws proscribe a time period by which the government must accept or reject the application. Each law requires a “statement of objects and purposes,” which is a legal constraint on an NGO’s activities. Each registration act also requires that accounts be maintained in specific form and manner. However, only the VSWA and The Companies Ordinances require audits be performed on accounts. Furthermore, except under the VSWA Ordinance, registered NGOs may engage in political activity. Each law also has particular benefits, disadvantages, and regulatory schemes, and its own registration authority. For example, the most comprehensive of the laws, the VSWA Ordinance, has several unique characteristics. The provincial Social Welfare Departments (SWD) that oversee NGOs registered under the VSWA Ordinance provide more guidance in operating and managing an agency than the registration offices for societies and companies, which only seem to get involved when there is a dispute or if called upon by a court. Further, the SWD has developed a training institute for agencies; however, it is not automatically available for every registered agency. Additionally, an agency may be eligible for funds from the SWD not available to other types of NGOs.

Types of Registered Organizations

Societies

NGOs can be registered under the Societies Registration Act of 1860 for any literary, scientific or charitable purpose. The Societies Registration Act is the oldest NGO registration act and societies are the most common and convenient form. Societies that may be registered under this Act include: [c]haritable societies, societies established for the promotion of science, literature, or the fine arts, for instruction, the diffusion of useful knowledge, the diffusion of political education the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public, or public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments or designs.

Basic Requirements to Establish a Society

- At least seven founders,
- A signed Memorandum of Association,
- A copy of the society’s rules and regulations,

A fee of 50 Pakistan rupees, and

An application submitted to the Registrar of Joint Stock Companies in the province in which the NGO is located.

The Memorandum of Association must include:

1. the name of the NGO;
2. the province in which it is located;
3. the objects for which it is established;
4. names, addresses, and descriptions of the members of the governing body; and
5. the signatures of those members.

The rules and regulations must contain:

1. membership requirements,
2. the makeup of the governing body,
3. meeting and quorum requirements,
4. meeting notice requirements,
5. procedures for the election and removal of officers, and
6. accounting and audit procedures.

Upon the filing of the Memorandum of Association, the registrar certifies that the society is registered. Registration can take as little as two weeks and there are no compliance costs.

Once registered, a society is considered a legal person, which can enter into a contract, sue and be sued, have judgments enforced against it, sue its members, maintain bank accounts and own property.

Structure of a Society

Societies are composed of a governing body and members. The governing body is the groups of governors, council, directors, commission trustees, or other body entrusted with the management of the affairs of the society and must consist of at least three members. The property of the society, if not vested in trustees, vests in the governing body. Its duties include filing all required documents on an annual basis and holding annual meetings in compliance with the rules and regulations. Meeting and Reporting Requirements

The governing body is also responsible for holding annual general meetings (AGMs) of the members. A quorum, consisting of a “major part of the members,” is required for the meeting. The accounting records of receipts, assets and expenditures audited by a qualified

auditor must be submitted to the members at the AGM along with a statement of the organization's affairs. By the 14th day following the AGM or if there is no AGM, within the month of January, the society must file with the registrar a list of the names, addresses, and occupations of the governing body. There are no other reporting requirements.

Suspension/Dissolution

The provincial government may take over management of the society from the governing body for up to one year if it determines that the governing body:

1. is unable to discharge its duties;
2. is unable to administer the society's affairs or meet its financial obligations; or
3. "acts in a manner contrary to the public interest or the interests of the members of the society."

At the end of the period, the society is reconstituted in accordance with the Memorandum of Association and its rules and regulations.

A society may be dissolved by a three-fifths vote of its members or the members can ask a court to order dissolution. However, if the government is a "member of, a contributor to, or otherwise interested in [the] society," the society needs the consent of the provincial government to dissolve. Upon dissolution no member of the society may obtain any of the profit. The property of the dissolved society must go to another society agreed to by three-fifths of the members or ordered by the court.

Trusts

Trusts

A trust is a "gift" of property to a person or institution providing benefit to both parties," and may be either a public trust, which benefits the public at large, or a private trust, which benefits individuals. Private trusts for public charity are governed by the Trusts Act, 1882. There is no law specifically governing public charitable trusts. However, a public charitable trust may register under one of the other registration acts. The advantages to registering as a trust under the Trusts Act include:

1. a high level of control over the administration and management of the NGO - there is a succession in place and there are no members;
2. little to no interference from the outside;
3. a simple registration procedure;
4. irrevocability; and

5. eligibility for income tax exemption.

There are also no meeting or account maintenance requirements for a trust. A trust may be created for any lawful purpose and “is created when the author of the trust indicates with reasonable certainty by words or acts (a) an intention ... to create ... a trust, (b) the purpose of the trust, (c) the beneficiary, and (d) the trust property and ... transfers the property to the trustee.” A trust is registered when the trustees (any number) file the trust deed or other instrument with the registration authority that then stamps the document. Trustee Duties

A trustee is bound to fulfill the purpose of the trust and to obey the directives of the author of the trust. A trustee is also bound to deal with the trust property as carefully as a man of “ordinary prudence.” A trustee must keep clear and accurate accounts of the trust property and furnish the beneficiary with full and accurate information. The beneficiary has the right to inspect and take copies of the trust instrument and other trust documents. A trustee may be discharged

1. upon extinction of the trust;
2. completion of his duties;
3. according to the trust instrument;
4. upon appointment of a new trustee;
5. by consent of the trustee and beneficiary; or
6. by order of the court.

A new trustee may be appointed according to the trust instrument or by the author of the trust.

Dissolution

Under the Trusts Act, a trust is extinguished if:

1. the purpose for which it was created is completed;
2. the purpose becomes unlawful;
3. the fulfillment of the purpose becomes impossible; or
4. the trust is revoked.

2.1.1.2.2. Waqfs (Muslim Trusts)

Another type of trust that may serve as an NGO is a waqf. Waqfs (also spelled wakf) are Muslim trusts initially created for personal benefit or the benefit of one’s descendants, but eventually expand to benefit the public. Waqfs may be created for “any purpose recognized by Islam as religious, pious or charitable.” Waqfs are “created for the ultimate benefit of mankind,” thus, Waqf property vests in God. The Mussalman Waqf Act, 1923 and the Provincial Waqf Property Ordinances, 1979, govern the management and administration of a

waqf. The Mussalman Waqf Act, 1923, requires that within six months of creation, the mutawalli (trustee) of every waqf must submit a statement of particulars to the local court which include: 1. a description of the waqf property; 2. gross annual income; 3. gross amount of income since creation of the waqf; 4. amount of government revenues, taxes, and rents annually paid; 5. an estimate of annual expenditures; 6. an accounting of the amounts for salary and allowance; and 7. “any other particulars.”

The statement must be accompanied by the deed or other creation instrument. Additionally, the mutawalli must annually file with the court an audited statement of accounts of funds received and expended. In contrast to other types of NGOs, waqfs cannot be modified or terminated. Further, the property of a waqf may not be confiscated by the government, although in certain circumstances the government may assume the administration of the property, such as when the founder dies. The government may also dispose of the property and invest the proceeds in accordance with the Waqf’s directives. 2.1.1.3. Agencies

NGOs may register under The Voluntary Social Welfare Agencies (Registration and Control) (VSWA) Ordinance, 1961. A voluntary social welfare agency (agency) is “an organization, association or undertaking established by persons of their own free will for the purpose of rendering welfare services in any one or more of [the proscribed] fields ... and depending for its resources on public subscription, donations or Government aid.” The proscribed fields are: • child welfare • welfare and rehabilitation of released prisoners, • youth welfare • welfare of juvenile delinquents, • women’s welfare • welfare of the beggars and destitutes, • training in social work • welfare and rehabilitation of patients, • family planning • welfare of aged and infirm, • recreational programs • welfare of the physically and mentally handicapped, and • social education • coordination of social welfare agencies.

Registration under this Ordinance is mandatory for any NGO which performs in one of these fields. The application process for agencies is more stringent than for most of the other types of NGOs. Application Process

Agency founders must submit an application to the Director of Social Welfare along with the constitution of the agency and a receipt for 25 Pakistan rupees paid to the provincial Social Welfare Department (SWD). The application must state 1. the name; 2. the address; 3. the aims and objectives; 4. the area of operation; 5. how the agency will be financed; 6. the names, occupations, and addresses of the founding members; and 7. the name of the agency’s bank.

Further, the founders must attach to the application a “brief statement of the steps to be taken for the establishment of the agency.” The constitution must include:

1. the name, address, area of operation, and aims of the agency;
2. the requirements for membership, such as eligibility, categories, administrative procedures, rights and privileges, procedure for suspension or cancellation, and procedure for restoring membership;
3. the location of any agency branches;
4. the organizational structure;
5. the procedure for calling and noticing meetings and the constitution of a quorum;
6. financial administration, such as the procedure for withdrawing funds and appointing an auditor; and
7. the procedure for amending the constitution.

Upon receipt of the application, the registrar may make any necessary inquiries into the “necessity and feasibility” of the agency’s programs, and its financial status, state of affairs, and standard of service. If the application is granted, the registrar will issue a certificate of registration. If the application is rejected, the founders may appeal the decision within 30 days. The agency may start functioning three months from the date of certification and must inform the registrar of its start within 15 days.

Government Involvement and Reporting Requirements

Government participation in agency operations under the VSWA Ordinance is greater than for most other types of NGOs. For example, like a society an agency consists of a governing body and members, however, the VSWA Ordinance outlines the types of memberships that can be offered (which member can vote, hold office, etc.), and mandates governance responsibilities and meeting requirements. Further, the government “can act as arbitrator in the case of disputes or dissolution.” In addition, the SWD controls the awarding of government grants to agencies. For agencies there are also strict reporting, accounting, and audit requirements. An agency must

1. maintain audited accounts and submit them to the registrar;
2. publish an annual report along with the audited accounts;
3. deposit its funds in a separate account in a bank approved by the registrar; and
4. give the registrar other information it may require.

The annual report must contain the general management of the agency, the details and nature of the extent of the services rendered, the program for next year, and its audited accounts. A copy of this report must be submitted to the registrar immediately upon publication. Additionally, the agency must maintain at its office a cash book, a ledger of accounts, income and expenditure accounts, a members’ book, a minutes book of the agency’s meetings, and an inspection book. The registrar may inspect the books and records at its discretion.

Suspension/Dissolution

The registrar may suspend the governing body of an agency if there is an irregularity in the funds, maladministration in the conduct of affairs, or failure to comply with the Ordinance.

The registrar will then appoint a caretaker governing body of not more than five persons who have the authority and power of the governing body under the constitution. Thereafter, the provincial government may reinstate the original governing body, dissolve the agency, or reconstitute the governing body as it thinks fit. The agency may appeal within 30 days of the suspension. The provincial government may also dissolve an agency, after giving it an opportunity to be heard, if the registrar finds that the NGO is “acting in contravention of its constitution” or the Ordinance and its rules, “or in a manner prejudicial to the interests of the public.” Additionally, the governing body or its members cannot dissolve the agency on their own; however, three-fifths of the members may apply to the provincial government to dissolve it. Once an agency is dissolved, the provincial government may appoint a competent person to wind up its affairs and order the remaining assets, after satisfaction of the NGO’s debts, to be transferred to another agency with a similar purpose. Penalties

Unlike the other registration acts, the VSWA Ordinance contains a penalty provision for noncompliance. Any person involved with an agency that contravenes the provisions of the VSWA Ordinance or makes false statements can be punished with up to six months in jail and a fine of 2,000 Pakistan rupees. Every director or officer of the agency “unless he proves that the offense was committed without his knowledge or consent [is] deemed to be guilty of such offense.” 2.1.1.4. Nonprofit Companies

NGOs may register as nonprofit companies under § 42 of The Companies Ordinance, 1984, “for promoting commerce, art, science, religion, sports, social services, charity or any other useful object.” A nonprofit company must direct its profits to achieving its objectives and not return any to its members. Registering as a company requires more documents and greater costs than for other types of NGOs. The Companies Act, like the VSWA Ordinance, also specifies “stringent accounting, audit and reporting requirements.” However, the benefit, according to those who study Pakistan NGOs, is that the “high level of regulatory control to which charitable companies are subjected can be said to enhance the credibility of such companies.” Registration/Application Process

There is a two step process for registering a non-profit company.

Step 1. The NGO must obtain a license from the Securities and Exchange Commission of Pakistan (SECP) in Islamabad. At least seven applicants must submit a Memorandum of Association to the Corporate Law Authority. Thereafter, according to insiders, several meetings over several months will occur which may “result in changing and reprinting [the memorandum] before a license is obtained and submission to the Registrar may proceed.” The investigation for obtaining a license can take up to a year. There is no appeal if a license

application is rejected. Further, the license of a § 42 company may be revoked at any time by the government. The government must give its reasons for revocation in writing and the NGO must have an opportunity to submit its opposition. Step 2. The NGO must then register at the Registrar, Joint Stock Companies at the Directorate of Industries in the provincial office where the company is located. The founders must file a Memorandum of Company and Articles of Association with a declaration from the directors that all requirements have been fulfilled. The memorandum must include: 1. the name of the company, 2. the location of the company, 3. the purpose(s) for which the company was formed, 4. a statement confirming that the members have limited liability, and 5. a statement that upon the winding up of the company the members must contribute to the assets of the company to pay its debts, liabilities and costs.

The memorandum must also be printed; in numbered paragraphs; signed by the founders with their full name, their father's and/or husband's name; witnessed; and dated. The articles must set out the regulations of the company and likewise be signed by the founders. The articles must also state the number of members with which the company proposes to be registered. If any of the registering documents:

- contain unlawful matters or are not in compliance;
- contain a defect, error, or omission;
- contain illegible marks; or
- are not authenticated

the registrar may require the company to file revised documents in a form and within a period specified or may refuse to accept the registration. If the registrar is satisfied that the company is being formed for a lawful purpose, the objects are appropriate and the rules have been complied with, he or she will register the memorandum and articles. If the registrar rejects the registration, the founders may correct the deficiency or defect or within 30 days appeal the decision. Upon registration, the registrar certifies that the company is incorporated and the company's liability is limited by guarantee. Management Structure

A company is managed by a board of directors and a chief executive. The board of directors must contain at least seven natural persons. Directors "may exercise all such powers of the company as are not by [law] or by a special resolution required to be exercised by the company in a general meeting." The initial board must be named by a majority of the founders and holds office until the first AGM. At the first AGM, the initial board is retired and a new board of directors is elected who serve a term of three years. Directors lose their position if they are absent without leave from three consecutive meetings or from all meetings of directors for three months. The board of directors of every company must appoint a chief executive within 15 days of incorporation who will hold office until the

AGM. Thereafter, chief executives are appointed by the directors within 14 days of the date of the directors' election. Chief executives must file written consents with the registrar before they may be appointed or nominated. The chief executive may be removed before the expiration of his or her term upon resolution by at least three-fourths of the directors or upon special resolution by the company. Record Retention and Filing Requirements

The company must keep a register of its members with their names; their father's and/or husband's names; their nationalities, addresses and occupations; the date they became a member; and, if applicable, the date they ceased to be a member and why. The company must also keep a register of the directors, officers, chief executives, accountants, and auditors containing each members' full name, father's and/or husband/s name, address, nationality, business occupation, and if he or she holds other directorships or offices. The register must be filed with the registrar within 14 days of the date of incorporation and the registrar must be notified of any changes to it within 14 days of the change. A company must also file an annual return with the registering authority within 30 days of the AGM. All documents filed with the registrar are publicly available. Annual General Meetings

A company must hold an AGM within 18 months of the date of incorporation and then every year within six months of the end of the fiscal year and not more than 15 months after the last AGM. The business to be conducted at the general meeting includes considering: • the accounts, balance sheets and the reports of the directors and the auditors; • appointing and paying the auditors; and • electing or appointing directors.

A general meeting must have a quorum to conduct business, which under the Ordinance is more than three members or more than 25% of the total voting power of the company. As stated above, copies of the reports and documents considered at the AGM and signed by the chief executive, directors, chairman, and auditors must be filed with the registrar after the AGM. Termination

A company may be wound up voluntarily or upon order of the court. A company may voluntarily wind up if the articles provide for it by a fixed period or event and the general meeting passes a resolution to dissolve the company. A court may terminate a company if the company: 1. voted by special resolution to wind up the company, 2. defaulted on two consecutive AGMs, 3. has done no business for a year, 4. has less than seven members, 5. cannot pay its debts, or 6. ceases to be a company.

Additionally, a court can wind up a company if it finds winding up to be just and equitable; the company has performed unlawful acts, unauthorized business, or oppressive business; the company fails to maintain accounts; or the company refuses to act in accordance with the

Ordinance. An order to dissolve can only be appealed to the provincial government whose decision on appeal is final. Upon dissolution, the assets and property of a company that is not tax exempt are transferred to a similar company approved by the SECP or if it is tax exempt to a similar company approved by the income tax authority. 2.1.2. Future Registration Law Reform?

To improve the legal environment for NGOs in Pakistan, the Pakistan Centre for Philanthropy (PCP), an NGO established in 2001 to promote philanthropy in Pakistan and provide support services to NGOs engaging in direct philanthropy, developed the Enabling Environment Initiative (EEI). According to the PCP, the purpose of the EEI is to seek “state and civic action to advance the role, growth, and development of civil society and its effort for public benefit.” In connection with the EEI, PCP drafted a proposed law to replace some of the existing registration laws with a consolidated legal framework. The draft Non-Profit Organization (Governance & Support) Ordinance, 2002 would replace the VSWA Ordinance and create a Commission for NGOs. According to researchers, the charity commission would “encourage voluntary registration, and monitor and facilitate the operations” of NGOs. The draft ordinance was submitted to the government in 2003 for comment and is still being reviewed. As described by one news report it “remains in cold storage.” 2.2. Taxation

The income tax obligations of NGOs are governed by the Income Tax Ordinance 2001 and the Income Tax Rules 2002. There are also additional provincial tax laws that apply to NGOs. Tax benefits depend on the type of NGO and the type of income. There is no automatic tax exemption for NGOs for registering under one of the registration laws. 2.2.1. Finances and Tax Laws

For NGOs in Pakistan, there are no limits on raising capital and financial resources or on the sources of income, whether domestic or foreign. NGOs may form capital through “the accumulation of surpluses set aside as reserves or invested; and[/or] through the creation of an endowment fund, the income of which is used to finance the activities of the [NGO].” Moreover, NGOs may raise resource funding through: • membership fees, • donations from public/private agencies and persons in cash or in-kind, • investment and property income, and • income from business or other activities.”

2.2.1.1. Income Tax

NGOs may be eligible for income tax exemption under the Income Tax Ordinance. The Ordinance provides for a relatively complicated and confusing system. Only registered NGOs may apply for an income tax exemption to the Central Board of Revenue (CBR), the federal tax authority in Pakistan. The CBR recognizes three categories of charity: informal,

trusts and other legal obligations, which include waqfs, societies, agencies and non-profit companies, and organizations approved by the Commissioner of Income Tax or the CBR.

Exempt Income

Tax exemptions for NGOs apply to certain types of income and only the amount of income spent in Pakistan will be exempt. Any income of a trust, welfare institute, or non-profit organization from donations, contributions, subscriptions, property, investments in securities, and “income from business” is exempt from tax if the income was spent towards the objectives of the organization. In addition, income from investments, grants received from the federal or provincial government or property held under trust or other legal obligations for religious or charitable purposes is exempt. Further, income received by a religious or charitable institution from voluntary contributions which apply solely to the religious or charitable purposes of the organization is exempt. Moreover, the income of non-profit educational institutes established solely for educational purposes is also exempt if the income is applied to its educational purposes and not given to any of its members.

Application Process

An NGO may apply for tax-exempt status to the Commissioner of Income Tax of the province or jurisdiction in which the NGO resides if it has been operating in Pakistan for three years. Under the Ordinance, the Commissioner first “recognizes the organization as a non-profit organization and [then] the exemption accrues automatically.” “This recognition not only exempts the income of the organizations, but also the donation given ... to such organizations.” To apply, the NGO must submit an application that provides: 1. the name of the NGO; 2. the address of the NGO; 3. the date registered; 4. its aims and objects; 5. the law under which the NGO was registered, its registration number, and the date of registration; 6. whether the NGO’s registration documents conform to this Ordinance; 7. details of the intended beneficiaries; 8. the number of members; 9. the start and end date of the NGO’s fiscal year; and 10. that books of accounts are regularly maintained.

The application must be submitted with:

1. a copy of the registration documents; 2. the trust deed, if applicable; 3. the registration certification; 4. the balance sheet and revenue accounts as audited by a qualified accountant for the previous year; 5. the names and addresses of the NGO’s officers and/or trustees and family relation; and 6. a detailed report of performance for achieving the NGO’s aims and objects during the previous three years which has been evaluated, certified and rated by an independent agency approved by the government or the CBR.

Upon receipt of the application the Commissioner may make such inquiries as necessary. The Commissioner has wide discretion in reviewing applications for tax-exempt status or for recognition as a non-profit organization and treats each on a “case-by-case basis.” The Ordinance does not provide criteria for recognizing the validity of applications for non-profit status. The Commissioner must provide its decision approving or rejecting an application within two months. If the Commissioner grants approval, the approval will be published in the official gazette, subject to any conditions the Commissioner specifies. Once approval is granted it remains valid unless withdrawn. If tax exempt status is granted an NGO must annually submit to the Commissioner: 1. a statement of the audited accounts; 2. a statement of income and donations received or paid; 3. a list of donees, beneficiaries and their addresses; and 4. a statement showing the amount of unutilized funds and the reasons for setting the funds aside.

Rejection or Withdrawal

An application for tax exemption will not be granted if the registration documents of an NGO do not provide: 1. for the audit of annual accounts; 2. that a quorum of the governing body of a [society or agency] is not less than four or one-third of the total number of members whichever is greater; 3. that a quorum of the governing body of a trust is not less than three or one-third of the total number of trustees whichever is greater; 4. for the transfer of assets upon dissolution to another approved NGO within three months; 5. for the utilization of its funds solely for promoting its objects; 6. for the prohibition of any funds being given to its members or their relatives; 7. for the accounts of the institution being kept in a bank; 8. for the prohibition of making any change to its registration documents without approval of the Commissioner; and 9. for setting aside 25% of its income as capital.

Further, the Commissioner may refuse to approve an NGO for tax exemption if the Commissioner finds that the NGO: 1. was used for personal gain; 2. espoused the views of a political party; 3. personally benefited its members; or 4. has not or will not achieve its aims and objects according to an independent rating agency.

The Commissioner must give the reasons for its refusal in writing and an NGO may appeal the decision. The Commissioner may also withdraw an approval of tax-exempt status of an NGO if it fails to submit any of the required documents and the Commissioner finds that the NGO has failed to use its income and donations to achieve its purposes, and the reasons for setting aside its funds are not valid. The Commissioner must provide a statement of reasons for withdrawing approval; the NGO then has an opportunity to be heard followed by the right

to appeal. The Commissioner may relax or modify these requirements if it is satisfied that the non-compliance was for a reasonable cause. Deductions

The Tax Ordinance also provides that certain charitable donations are deductible. A person is entitled to deduct the amount of Zakat paid by the person in a tax year. Additionally, a person is entitled to a tax credit for any cash or property donated to a 1. board of education or university; 2. an educational institute, hospital or relief fund established by the government; or 3. any non-profit organization.

The amount eligible for the tax credit is the lower of the amount given or 30% of an individual's income. 2.2.1.2. Other Taxes and Charges

At the provincial level, NGOs may also have to pay income taxes, real property taxes, motor vehicles taxes, sales tax, and a stamp tax. An NGO may be granted income tax-exempt status from the regional Commissioner of Income Tax of the provincial government in which they are located by following an application process similar to that at the national level, as described above. In addition, there are other national and regional laws that may exempt an NGO from other taxes or reduce the amount it must pay. Further, some utility companies offer special or reduced rates for NGOs. 3. Pakistan NGO Accountability

As an insider observed, the growth of NGOs in Pakistan has "raised many issues regarding the credibility, financial transparency and goal effectiveness of [NGOs]." The diversity in legislation and NGO operation and management has contributed to poor public access to information. According to researchers, the "weakest link in the accountability chain ... is that between [NGOs] and their beneficiaries." Only The Companies Act and the VSWA Ordinance contain provisions regarding accountability to members and the government such as the requirements for auditing accounts, holding meetings, allowing access to records, and reporting to the government. However, without government oversight or industry self-regulation even these requirements may not be adequate to ensure transparency and accountability. 3.1. Government Oversight

The hostility between the government and the NGO sector and poor enforcement of the laws hinder attempts at transparency and access to NGO information. The registering authority is responsible for registering NGOs, enforcing compliance with the law, and monitoring the work of NGOs. However, according to insiders, the state does not provide the authorities with enough resources to sufficiently monitor compliance of the laws or "promote transparency and good governance." In addition, the wide discretion in applying the provisions that the registration laws give to the registering authority leads to inconsistent

enforcement, corruption, and distrust. This increases the need for NGOs to monitor their own sector to improve accountability. 3.2. Self-Regulation

3.2.1. Certification

One method of self-regulation that is being attempted by some NGOs is creating a certification program in which NGOs must demonstrate a certain level of good governance, transparency and efficiency to qualify. At the government's request, the PCP created a mechanism/evaluation process to monitor and evaluate NGOs using "a professional, objective and standardized approach." According to the PCP, the certification process will enhance NGO credibility with the public, and help the government assess whether an NGO meets conditions for tax benefits, while allowing NGOs to forgo the "bureaucratic discretion and arbitrariness" of the CBR. Additionally, if an NGO does not pass their system, they will be connected with special organizations that will help them build "organizational capacity" to meet the requirements. Other NGOs have criticized and challenged the PCP's system because of the potential for using the certification mechanism to exclude certain NGOs and resentment at being judged by another NGO as opposed to the state. 3.2.2. Codes of Conduct

Another method of self-regulation attempted by Pakistan NGOs is the adoption of a code of conduct to promote "disclosure, openness, good governance and efficiency." The Pakistan NGO Forum (PNF), a coalition of NGOs, created a voluntary code for NGOs to follow to ensure transparency and accountability. However, because it is voluntary there is no assured implementation by NGOs and there is no enforcement mechanism for a breach of the code. In the spring of 2007, the government through the Ministry of Social Welfare and Special Education led by Zobaida Jalal and assisted by the PCP, proposed to impose a mandatory code of conduct on NGOs, which, if it was violated, would allow NGO funding to be frozen. Several NGOs criticized the proposal as an attempt to further control NGOs. In addition, these critics argue that the document was confusing, drafted in English, and circulated only over the Internet. The government countered that it was a draft document open for change once the public has reviewed it and that the new code puts NGOs on the same footing as the government. The document is circulating on the ministry's Web site for public debate. 4.

Pakistan Civil Society: Legacy

Due largely to insufficient social development and unsupportive governments, the legal regulations governing NGOs in Pakistan are unconnected and often incompatible. One common feature, however, is that whether NGOs successfully satisfy their legal obligations is usually up to the discretion of government officials and not based on objective criteria. The biggest casualties of the "system" are NGO accountability and the effectiveness of NGOs in

achieving their objectives, though not all blame falls on the government. The inability of NGOs to, so far, come together and successfully regulate themselves also contributes to a lack of credibility. Continuing on this path will only further alienate a public too ready to believe in hidden agendas. Only through a sustained effort by the state and the NGO sector working together to reform the registration and tax laws into a cohesive and hospitable legal regime will they improve the lot of those they profess to represent - the people of Pakistan. Unfortunately, with the present political system, such cooperation is a long way off.