NGO LAWS IN BANGLADESH: THE NEED TO HARMONIZE

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ABSTRACT: In recent years, although the national Non-Government Organizations (NGO) have become vital items on the development agenda of the Bangladeshi government, however, there is still no single uniform law and authority for regulating and monitoring this sector. The current laws fail to regulate the operation of the sector and that is a big threat to the healthy growth of the organizations to serve the society. This paper will select, analyze and compare the existing statutory laws regarding the regulation of NGOs in Bangladesh. In addition, this paper will critically examine the inadequacies of the existing legal structure to specifically highlight the need to devise a legal framework that both facilitates the operational activities of an NGO and regulates its governance. Finally, the paper will recommend the framing of a modern uniform NGO law in Bangladesh that can commensurately serve the public. Qualitative and quantitative analytical research methods have been applied primarily; besides, a non-doctrinal method has also been applied in this paper.

KEYWORDS: Non-Government, Organization, NGO, Regulation, Bangladesh.

INTRODUCTION

NGOs may be formed as a society, a trust, a non-profit company or a voluntary association in Bangladesh.¹ However, whatever type it is, it still needs to be regulated by the adequately competent authority for greater accountability and transparency of its activities and finances, since at present, there is no single uniform regulatory commission for NGOs in Bangladesh. As a result of this peculiar situation, the NGOs are not properly regulated and monitored and they are not accountable and transparent in their tasks and finances at all to the government.² Only a few NGOs seem to be transparent and honest in their activities and these have become pressing issues in recent years.³

There are two distinct sets of laws in Bangladesh pertaining to non-profit organisations in which one set of laws lays down parameters whereby organizations may acquire legal status to the extent that they can sue and be sued in their own names while another set of laws spells out regulatory measures under which the organisations must operate.⁴ As such, the legal regime governing non-profit organisations should logically involve, on the one hand, laws for the formation, and on the other hand, laws for regulating the activities.

Laws for Regulation

Certain laws have been enacted to regulate and control the functions of the organisations irrespective of their legal status. These laws have a direct bearing upon the relationship

¹Varun Gauri & Julia Galef. (2004). "NGOs in Bangladesh: Activities, Resources, and Governance." *World Development* 33 (12): 2045–65.

²Mohammed Iliyas. (2010). "Legal and Regulatory framework of NGOs in Bangladesh: Critical Overview and my cogitations, Good Governace For All".

³NGO Law Monitor: Bangladesh. *International Center for Not-for-Profit Law*. Retrieved from http://www.icnl.org/research/monitor/bangladesh.html on 28/06/2014.

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between the non-profits organisation and the government as well as the formation and regulation of their activities. They include: (i) The Voluntary Social Welfare Agencies (Registration and Control) Ordinance 1961 (ii) The Foreign Donations (Voluntary Activities) Regulation Rules, 1978 (iii) The Microfinance Regulatory Law, 2006 (iv) The Foreign Contributions (Regulation) Ordinance 1982 (v) The Society Registration Act, 1860 (vi) The Trust Act 1882 (vii) The Companies Act 1994 (viii) The Waqf Ordinance 1962 and (ix) The *Mussalman Waqf* Validating Act 1913.

Other Acts governing the Non-profit or Voluntary Social Welfare and Charitable organisations are the Charitable Endowments Act 1890, Charitable and Religious Trust Act 1920, Co-operative Societies Ordinance 1984, Income Tax Ordinance 1984, and Value Added Tax 1996.

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

An organisation, association or undertaking established for the purpose of rendering welfare services and depending on public subscriptions or government aids is regarded as a voluntary social welfare agency. Such agencies are required to be registered under the Voluntary Social Welfare Agencies (Registration and Control) Ordinance 1961.

All formal as well as informal organizations established to provide welfare services for children, youth, women, family, physically or mentally handicapped, family planning, recreation, civic responsibility, released prisoners, juvenile delinquents, socially handicapped, beggars and the destitute, patients, the aged or infirm, social work, or co-ordination of social welfare agencies must be registered according to the provisions of this ordinance. However, registration is not applicable for, art, science, culture, environment and other non-profit organizations of similar disciplines under this ordinance. All non-profit organizations which have been registered under this ordinance will be administered by the Social Welfare Department of the Ministry of Social Welfare and this department has the right to suspend or dissolve an organization which is involved in unlawful activities and without any exception, no judicial appeal will be permitted against the decision of the Social Welfare Department under this Ordinance.

Where a non-profit agency is dissolved by the authority, the government may order a bank or person who holds money, securities or other assets on behalf of the agency not to part with it without the permission of the government; to appoint a competent person to institute and defend suits on behalf of the agency and to take such action as and when necessary. The government may also order the transfer of any money, securities and assets of the affected agency to another agency with similar objectives after discharging all debts and liabilities of the agency concerned. Such decisions may be appealed, but the decision on appeal is final as it may be reviewed in court. It is noted that most non-profit organizations are registered under this Ordinance.

The Microfinance Regulatory Law, 2006

This Act has been enacted in 2006 by the Government of Bangladesh to promote and foster the sustainable development of the microfinance sector through creating an enabling environment for the NGOs in Bangladesh. The Microcredit Regulatory Authority (MRA) has been established by the Government of Bangladesh under the "Microcredit Regulatory

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Authority Act 2006" (MRA) which is the central body to monitor and supervise microfinance operations of the NGOs in Bangladesh. A license from the Authority is mandatory to operate microfinance operations in Bangladesh as an NGO.⁵

The Foreign Donations (Voluntary Activities), Regulation Ordinance 1978 (amended in 1982)

This ordinance covers any formal or informal organization formed to carry out any voluntary activity in Bangladesh. Voluntary activity has been defined in the ordinance as:

voluntary activity" means an activity undertaken or carried on [partially or entirely with external assistance] by any person or organisation of his or its own free will to render agricultural, relief, missionary, educational, cultural, vocational, social welfare and developmental services and shall include any such activity as the Government may, from time to time, specify to be a voluntary activity.⁶

Prior permission from the government is mandatory to carry on a voluntary activity by a nonprofit organization formed under this Ordinance.⁷ In the case of receiving foreign funds to carry on voluntary activities, prior permission from the government is also mandatory.⁸ Besides, the organization must be registered with the competent authority of the government, which, however, has not mentioned the name of the competent authority. Normally, a nonprofit organization formed under this Ordinance is registered with the NGO Affairs Bureau (NGOAB), which is formed in the Prime Minister's Office. Every foreign grant must be approved and monitored by the NGOAB.

The government has the right to inspect all the relevant papers of non-profit organizations at any time.⁹ If any unlawful activities by the organization are proven, the government may cancel the registration of the organization as well as a fine may be imposed. The government reserves the right to inspect the yearly audit report of the organization.¹⁰ If foreign funds which should be used for charitable purposes are misused, the responsible officers of the organization may be imprisoned if found guilty of the offence.

The Foreign Contributions (Regulation) Ordinance 1982 (Ordinance XXXI of 1982)

Although this ordinance is very small in size but the scope is vast. This Ordinance is promulgated to extend the scope of all foreign funds.¹¹ This Ordinance has imposed big restrictions on non-profit organizations for receiving foreign contributions. A foreign contribution has been defined in this Ordinance as:

foreign contribution means any donation, grant or assistance, whether in cash or in kind, including a ticket for a journey abroad, made by any Government, organisation or citizen of foreign state.¹²

No organisation or individual can receive any foreign contribution without prior approval from the government.¹³ Similarly, any government, organisation or citizen of a foreign state

⁵Microcredit regulatory authority, http://www.mra.gov.bd/, retrieved on 28/06/2014.

⁶See, section 2(d) of The Foreign Donations (Voluntary Activities), Regulation Ordinance 1978 (amended in 1982)

⁷See, section 3(1), of The Foreign Donations (Voluntary Activities), Regulation Ordinance 1978 (amended in 1982)

⁸Section 3(2) of The Foreign Donations (Voluntary Activities), Regulation Ordinance 1978 (amended in 1982) ⁹Section 4 (1) The Foreign Donations (Voluntary Activities), Regulation Ordinance 1978 (amended in 1982)

¹⁰See, section 5(1) The Foreign Donations (Voluntary Activities), Regulation Ordinance 1978 (amended in 1982)

¹¹See, section 2 of The Foreign Contributions (Regulation) Ordinance 1982 (Ordinance XXXI of 1982)

¹²See, section 3 of The Foreign Contributions (Regulation) Ordinance 1982 (Ordinance XXXI of 1982)

¹³See, section 4 of The Foreign Contributions (Regulation) Ordinance 1982 (Ordinance XXXI of 1982)

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will not make any donation, grants or assistance in cash or in kind, to any citizen or organisation in Bangladesh without prior permission from the Bangladeshi government.¹⁴ If any non-profit organization violates the provision of the Ordinance, it may be fined up to double the amount of received or the responsible officer of the organization may be imprisoned up to six months.¹⁵ In fact, the purpose of this ordinance was to regulate and control funds channelled through specific political groups for political purposes to destabilize the political integrity and sovereignty of the host country.¹⁶

The Societies Registration Act 1860

The most commonly used legal enactment governing philanthropic activities in Bangladesh is the Societies Registration Act 1860 adopted during the British colonial period. The Act lays down the parameters for the formation, management and control of societies. Section 20 of the Societies Registration Act 1860 provides that societies that may be formed and registered include a wide range of organisations, such as, charitable societies and societies established for the promotion of science, literature and fine arts; societies for the foundation and the maintenance of libraries, public museums and collections of natural history, mechanical inventions and philosophical enlightenment. A great majority of non-profit organisations in Bangladesh are formed and registered under this act because of its wide scope and flexibility to permit a broad range of activities.

Seven or more persons associated in any literary, scientific, charitable purpose or any other similar purposes may apply to the Registrar of Joint Stock Companies to form a society by subscribing to its memorandum of association, accompanied by the society's rules and regulations. There must be a formal governing body, constituted under the law, which is responsible for the management of the affairs of the society, in accordance with the rules and regulations attached therewith. Societies must hold annual general meetings except where their rules allow otherwise. Special meeting may be convened to consider a change in a society's purpose. These changes require a three-fifths vote.

Societies established under the Societies Registration Act automatically acquire legal status and can enforce their rules against the members to hold bank accounts under the society's name, and can sue and be sued in legal proceedings. Since it is a non-profit organization, a society's members are barred from gaining a pecuniary benefit from the society. If a member misappropriates the society's money he shall be subjected to a criminal prosecution. From the above discussion it is seen that the Societies Act states the requirement of an annual meeting of the executive members of the society only but the Act is silent on the annual accounts. Besides, there are no provisions for fines, penalties, or involuntary dissolution should the commission of any misdeed in the society is encountered to redress the issue.

The Trust Act 1882

The Trust Act provides legitimacy to charities by setting up a trust for the benefit of children, for public good, or for religious purpose. Many non-profit organisations prefer to establish the trust under the Trust Act 1882 because it affords relatively greater flexibility in terms of status, registration and management. Usually an organisation creates a trust through a trust

¹⁴ Ibid.

¹⁵See, section 5 (1) of The Foreign Contributions (Regulation) Ordinance 1982 (Ordinance XXXI of 1982).

¹⁶Mohammad Mohabbat Khan, (2003). "Accountability of NGOs in Bangladesh." *Public Management Review* 5 (2): 268–77.

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deed specifying the intention of the author of the trust. Certainty of words in unambiguous terms indicating intention, subject matter and specific objective are required for the creation of a valid trust. By registration of the trust deed the concerned organisation can start functioning.

A trust may be created for any lawful purpose which is not prohibited by law or does not defeat the provision of any law or is not fraudulent or does not injure any person or property of another person or is not considered by any court as immoral or opposed to public policy. A trust created for unlawful purposes is automatically rendered void. Where a trust has two purposes, where one is lawful while the other is unlawful, the whole purposes shall be void if the two purposes cannot be distinctly separated. A trustee cannot deal with a trust property for his or her own profit or for any other purpose not connected with an express purpose of the trust. A trustee is not entitled to remuneration in the absence of an express provision in the trust deed or the consent of the beneficiary or the order of the court.

A trust created under the Trust Act 1882 may be extinguished when its purpose is fulfilled or when its purpose becomes unlawful or when the fulfilment of its purpose becomes impossible to implement on account of destruction of the trust property or a revocable trust is expressly revoked.

The management of a trust is undertaken by a Board of Trustees. It is the main duty of a Board of Trustee to protect the trust property and enhance it to its maximum benefit. The trust deed defines the composition and functions of the board. A trustee who has accepted the trust cannot afterwards renounce it except with the permission of the court or with the consent of the beneficiary, or by virtue of a specific provision in the trust deed. Whenever any trustee disclaims a trust or remains absent from Bangladesh for a continuous period of six months; leaves the country for good or is declared insolvent; or is otherwise incapable, unfit or dies or the trust is extinguished or trust duties prescribed by the trust deed are completed but not giving any benefit to the trust, the office of the trustee will be deemed to be vacated and new trustees may be appointed.

A trustee is bound to obey the lawful direction of the author of the trust faithfully. However he or she will not be obliged to obey any direction that would be impracticable, illegal or manifestly injurious to the beneficiaries where there is more than one beneficiary, the trustee must be impartial and cannot cause any discrepancy. A trustee is bound to maintain clear accounts of the trust property. On request by the beneficiary the trustee shall furnish him with detailed information on the amount and state of the trust property.

Any trustee without instituting a suit may seek the opinion and the direction of the civil court in respect of the management of the trust property wherein the trustee shall act upon the advice or direction of the civil court. Where the trustee commits a breach of trust he is liable to make good any loss he incurs to the trust property or the beneficiary. From the above discussions, it is seen that a trust may be wound up if the purpose of the trust becomes illegal and a competent court may give order to a trustee to fulfil a duty or remove a trustee on the basis of the application of the beneficiary. The Act has also stated that each non-profit organization must maintain clear accounts but charitable status rules are unclear here, hence, the status of the charitable trust and their tax system should be made distinctively clear.

The Companies Act 1994

Companies are primarily concerned with the business and the Companies Act regulates their activities. But the companies Act 1994 contains provisions that permit registration of non-profit companies provided that they conform to the rules and regulations of a company with limited liability. An association will be incorporated as a non-profit company when it obtains a licence from the government under Section 28 of the Companies Act. The government will grant licence when it appears that the association will promote commerce, art, science, religion, charity or any other useful objectives and it will apply its profits or income to promote its objectives without paying any dividend to its members. These types of welfare oriented companies may be incorporated as companies limited by guarantee.

To form a non-profit company a Memorandum of Association and Articles of Association should be prepared. The Memorandum of Association contains conditions limiting the activities of the company which are not generally alterable without the approval of the High Court. The Articles of Association provide the rules for regulating the affairs of the company, which are easily alterable.

After completion of the documentation it is submitted to the Registrar of the Joint Stock Companies which is under the control of the Ministry of Commerce. If the Registrar is satisfied that the requirements of the Companies Act have been complied with he will grant registration and if he refuses registration, he shall communicate the grounds of refusal and the applicant may appeal to the government whose decision is final by virtue of the fact that the government may at any time cancel the licence granted to an organisation which then ceases to enjoy the exemptions and privileges granted under Section 28 of the Companies Act. However, before a licence is cancelled, the government shall notify the association expressing the grounds for such decision and shall give an opportunity to the organization to defend itself.

Besides cancellation of the licence, non-profit companies may be wound up either by the court or voluntarily without the intervention of the court or voluntarily subject to the supervision of the court. If a company is wound up, its assets are converted into money and shall be used to settle its debts. After satisfying the creditors, the balance is returned to the shareholders. If the company fails or becomes unable to pay its debts or fails to file the statutory report, or adopts a special resolution to the effect that the company would be wound up by the court which will then effectively wind up the company. Where there is an extraordinary resolution to wind up a company, a notice must be given in the official gazette as well as in the newspaper. A voluntary winding up of the company may be initiated either by its members or by its creditors.

A non-profit organisation if registered as a company becomes a corporate body and is governed by the Companies Act. But its distinguishing feature is that it is a philanthropic body committed to non-profit work of charity and accordingly enjoys certain privileges. It may hold property, enter into contracts, and can sue and be sued in the name of the organisation.

The management of a non-profit company rests on the Board of Directors. The distribution of power between the Board of Directors and the members are usually specified in the Articles of Association which can be easily amended from time to time in a Board of Directors'

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meeting. The Board of Directors cannot give any undue facility or advantage to any director. A director cannot hold any office of profit except with the consent of the company in a general meeting. Without consent of the Board of Directors, a director cannot enter into any contract for sale, purchase or disposal of the company's goods.

Directors of a company will retire by rotation in the sequence of one-third per year. Retiring directors may be re-elected. If any director fails to obtain qualifying shares within sixty days from the date of his appointment, his office will stand vacated. The office of a director is also liable to be vacated if he accepts any profit from the company without approval in the general meeting or remains absent from meetings or accepts loan or stands surety in contravention of the company law. A shareholder director, who creates a conflicting or detrimental circumstantial situation in the company, may also be removed at any time by the company by an extraordinary resolution.

The Waqf Ordinance 1962

Like the English concept of trust, an institution of *waqf* is noticed in the Muslim Law which is enforced in Bangladesh. An owner of a property, both movable and immovable, can settle his property for the use of beneficiaries in perpetuity. The owner by a declaration in an instrument can create a *waqf*. The property so settled is known as the *waqf* property and the person who creates the *waqf* is known as a *waqif*. The *waqf* is administered by a trustee who is known as a *mutawalli* in accordance with the conditions of the *waqf* instrument. The *Waqfs* Ordinance 1962 requires all *waqfs* to be registered at the office of the Administrator of *Waqf* through an application filed by the Mutawallis of the *waqf* property. On receipt of the application, the Administrator shall proceed to register the *waqf* property after which, the Administrator maintains its detailed information in his register, including the deeds, the name of the *mutawalli*, and the rules of succession to the office of *mutawalli*.

The 1962 Ordinance does not have any provision for dissolution of the *waqf* since it involves a permanent dedication of a property. But the ordinance empowers the *Waqf* Administrator to take over and assume the administration, control and management of any *waqf* property when it is noticed that the objectives of the *waqf* are not being carried out properly in the spirit of its intended purposes and in the occurrence of this event, the Administrator or the *waqif* can access the court and seek its directives in this regard.

Every *mutawalli* is required to prepare and furnish to the Administrator a full statement of accounts of income and expenditure occasioned by the *waqf*. The statement submitted shall be audited by an auditor appointed by the Administrator. If the *mutawalli* fails to comply with the directives of the Administrator, the Administrator may seek assistance from the higher authority which will evict the *mutawalli* and turn over the possession of the *waqf* property to Administrator, who upon taking possession of the *waqf* property, will be responsible for maintaining all of its documents and accounts of expenditure. An Administrator may be removed by the government at any time if he is found guilty of misconduct or he manifestly makes himself unsuitable for the office. Members of the committee may also be removed by the government for the same causes without any discrimination. Any removal of the Administrator or the members of the committee shall be notified in the official Gazette.

A *mutawalli* will be punished by fine or imprisonment if he adopts any dishonest means in performing his duties. If he commits a breach of trust or causes loss by negligence he may be

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required to repay the damage incurred by the *waqf* and may also be subsequently removed by the Administrator.

The NGO Affairs Bureau (NGOAB)

The NGO Affairs Bureau (NGOAB) was set up in 1990 in Bangladesh. The main objectives of the NGOAB are to give one stop service to the NGOs.¹⁷ Besides, it helps the activities of the NGOs in the country and ensures their transparency and accountability to the state. The NGOAB is a regulatory body of the NGOs and it monitors the activities and functions of both the national and the international NGOs.¹⁸ The functions of the NGOAB include the following:

- (i) Giving one stop service to NGOs including registration and project proposal processing.
- (ii) Approval of project proposals and releasing funds.
- (iii) Appointment of foreign expatriate consultants and fixation of their tenure
- (iv) Examination of reports.
- (v) Monitoring and regulating the activities of NGOs.
- (vi) Collection of fees and service charges.
- (vii) Receiving information on foreign travel by NGO personnel
- (viii) Auditing of accounts of the NGOs.
- (ix) Approval of proposals for one time grants.
- (x) All other matters relating to NGO affairs.

To get a registration with the NGOAB, an NGO needs a prior approval from the Home Ministry and at least one other Ministry in line and the NGO is required to submit a 5-year plan with the application. For every grant, an NGO is required to submit a complete proposal and a letter of intent from the donor. A NGO cannot receive any amount of donation from a donor directly. All overseas funds must be deposited in a specific bank account and the bank will give a report to the central bank. Annual audits done by auditors approved by the NGOAB are mandatory for every NGO.

However, the NGOAB also commits a considerable delay in discharging all of its activities owing to lack of capacity to work though there are strict deadlines being stated in the laws. There are some staffs in the NGOAB but they are not adequate to handle all the activities properly and timely. The NGOAB had drafted a new law titled the Foreign Donations (Voluntary Activities) Regulation Ordinance, 2011, but it has not been enacted yet.¹⁹ The proposed law focuses on monitoring NGO activities and ensuring transparency and accountability of the NGOs. According to the drafted law the Director General (DG) of the NGOAB can penalize foreign funded NGO if it is proven that the NGO is engaged in illegal activities. If any illegal activities done by an NGO are proven, the registration of the NGO may be cancelled or it may be suspended for a period or a fine may be imposed by the DG of the NGOAB. However, the NGO has the right to appeal against the decision of the DG of the NGOAB to the Secretary of the Prime Minister's Office. The DG can also take the necessary action against any NGOs for misuse of foreign funds. The government of Bangladesh has also adopted some administrative measures to regulate the NGOs.²⁰

¹⁷NGO Affairs Bureau, http://www.ngoab.gov.bd/index.php, retrieved on 20 December 2013. ¹⁸Ibid.

¹⁹Belal Hossain Biplob, New law drafted to regulate NGOs, the Daily Star, <<u>http://www.thedailystar.net/newDesign/news-details.php?nid=243086></u> retrieved on 12/3/2013.

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The most remarkable aspect of the NGOAB is that it reserves the right to reject applications for registration of an NGO if it is not satisfied with the organisation's papers or plans and the aggrieved NGO has no right of appeal against the refusal.²¹ Although the NGOAB is the principal regulatory body to facilitate the NGO operation, however, it often fails to regulate the activities of NGOs due to lack of competent personnel. The framework of the NGOAB is outdated and the officers of the NGOAB are not directly responsible for their failure to perform the duties assigned to them. Sometimes, corruption of the officers of the NGOAB is the main obstacle of accountability and transparency of the NGOs while at the same time the NGOAB often unnecessarily delays in discharging its obligation as well as time consuming in its performance. Therefore, the legal frame-work that regulates the non-profit sector should be modernized to harmonize and synchronize all the regulatory authorities of non-profit organizations to ensure accountability and transparency.

Concluding Reflection and Recommendations

It appears that the existing laws that regulate the NGOs are for the most part restrictive in their approach instead of facilitating their activities. The officials of the NGO Affairs Bureau usually engage in lengthy and unnecessary scrutiny of project proposal. They often reject those proposals which do not fall within the traditional NGO activities, such as, income generation and health service delivery. This conservative approach fails to acknowledge the innovative programmes that the NGOs are often engaged in. But it is curious to note that there is no provision of appeal in the court of law in the event that a NGO registration is refused by the NGOAB. A majority of non-profit organisations operate on foreign funds and therefore, they have to go through the NGOAB for approval, hence, the absence of appeal provisions is indeed a great obstacle as the time is now highly appropriate that the system should be rigorously changed for the better in tandem with the progress of civilization. The NGO Affairs Bureau should be adequately equipped to facilitate operation of relevant services instead of causing hindrance and procrastination.

NGOs are dissolved for improper use of funds, activities not within the scope of their stated objectives, and inability to settle debts as well as the violation of terms and conditions. However, upon dissolution of the NGO, its assets which are taken over by the government are utilized in rewards to anybody for disclosure of errant activities perpetrated by any organization. It is highly necessary for the performance of good governance that the concerned authority should remain accountable in such circumstances. It is suggested that the discretionary power of the government should be restricted both in terms of the termination and the distribution of the organization's assets following its dissolution.

Fiscal policies of the government influence the financial stability of NGOs. Rules and procedures regarding tax exemptions are not very clear and the language of law is ambiguous, hence, taxation and tax exemption for NGOs and other non profit organisations should be clearly spelt out.

The legal regime offers a wide range of laws for the formation of non-profit organisations. The Societies Registration Act 1860, the Trust Act, 1882 and the Companies Act 1994 are

²¹Ibid.

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most frequently used for philanthropical organisations although international donors prefer to channel funds through NGOs. Organisations registered under the Society Registration Act, 1860 and Trust Act, 1882 are relatively simple and easy for establishment and management. Although it is not mandatory for all non profit organisations to be registered, but in order to acquire a legal status, registration is necessary and becomes mandatory when an organisation receives a foreign donation or if it seeks tax-exemption. Although the procedure for registration and incorporation are fairly simple, but the intrinsic language of the law is not free from ambiguity. As a result, dishonest officials take advantage of it and often harass the people seeking registration in order to create a conducive situation of bribery.

There are two suggestions in this respect one of which is that all existing laws in Bangladesh regarding regulation and incorporation of non-profit organisations should be harmonised to produce a single uniform law, hence, repealing all obsolete laws. The other view contends that harmonisation would essentially place a constraint on the non-profit organization as it would entail greater governmental control on its activities in general.

It is suggested that by discussions and consultations with relevant stakeholders and taking these views into consideration, a sound policy would be evolved as it will have a more likelihood of success in terms of implementation and ease of monitoring. Above all, repealing all these piecemeal statutes of formation, functioning and regulatory measures of the charitable organisations, non-profit organisations and NGOs should be brought within the ambit of the one same law with a pragmatically clear and unambiguous language.

REFERENCES

- Gauri, V. and J. A. Galef. (2004). "NGOs in Bangladesh: Activities, Resources, and Governance." *World Development* 33 (12): 2045–65.
- Iftekharuzzaman. (2005). "NGO Governance in Bangladesh: Challenges and Outlook". Paper presented at the conference on "Human Rights and Governance: Local and Global Perspectives" Dhaka.
- Khan, M. M. (2003). "Accountability of NGOs in Bangladesh." *Public Management Review* 5 (2): 268–77.
- Leon E. Irish and Karla W. Simon. (2005). NGOs in Bangladesh: Legal and Regulatory Environment, International Consultants, International Centre for Civil Society law. Retrieved from http://www.iccsl.org/pubs/bangladeshfinalreportmay15.pdf> on 28/06/2014.
- Mohammed Iliyas. (2010). "Legal and Regulatory framework of NGOs in Bangladesh: Critical Overview and my cogitations, Good Governace For All". Retrieved from<http://mohammediliyasbd.blogspot.com/2010/08/legal-and-regulatoryframework-of-ngos.html> on 28/06/2014.
- NGO Law Monitor: Bangladesh. *International Center for Not-for-Profit Law*. Retrieved from <<u>http://www.icnl.org/research/monitor/bangladesh.html</u>> on 28/06/2014.
- The World Bank Office, Dhaka. (2006). Economics and Governance of Nongovernmental Organizations in Bangladesh, *Bangladesh Development Series*, Paper No: 11, pp.57-70.
- World Bank, (1996). "Pursuing Common Goals: Strengthening Relations between Government and Development NGOs", World Bank Resident Mission, Dhaka.
- Zohir, S. (2004). "NGO Sector in Bangladesh: An Overview." *Economic and Political Weekly*, September 4, 2004.