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NGO SECTOR IN INDIA

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DEFINITION:-

- As defined by the World Bank NGOs refers to not-for-profit organizations that pursue activities to relieve suffering, promote the interests of the poor, protect the environment, provide basic social services, or undertake community development.
- These organisations are not a part of the government, have a legal status and they are registered the specific Act under which they have to be registered.
- The term NGO in India denotes wide spectrum of organisations which may be non-governmental, quasi or semi-governmental, voluntary or non-voluntary etc.

In India, based on the law under which they operate and the kind of activities they take up, civil society groups can be classified into following broad categories:

- **Registered Societies formed for specific purposes**
- **Charitable Organizations and Trusts**
- **Local Stakeholders Groups, Microcredit and Thrift Enterprises, Self Help Groups**
- **Professional Self-Regulatory Bodies**
- **Cooperatives**
- **Bodies without having any formal organizational structure**
- **Government promoted Third Sector Organizations**

Need for NGOs

- Since independence, India has achieved phenomenal economic growth in education, healthcare, poverty alleviation and overall standard of living.
- Issues of exclusion of women, children and marginalized communities in the development process however remains.

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- Other adverse consequences of inequitable growth include the spread of Naxalism, recurrent violence for reservations and ever increasing cases of farmer suicides.
- **India ranks 130th in the 2018 Human Development Index rankings. The Global Hunger Index for 2018 indicates that 38.4% of children under five in India are stunted.**
- In such an environment civil society plays a key role in raising the concerns of people and ensuring that minorities are not neglected.
- The state requires the constructive and collaborative engagement of the civil society in its various developmental activities and programs.
- Non-governmental organisations (NGOs) acts as the operational arm of the civil society and thus have an important role in the development processes.

Legislations regulating the finances of NGOs

Foreign Contribution (Regulation) Act (FCRA), 2010

- Foreign funding of voluntary organizations in India is regulated under FCRA act and is implemented by Ministry of Home Affairs.
- The acts ensure that the recipients of foreign contributions adhere to the stated purpose for which such contribution has been obtained.
- Under the act organisations require to register themselves every five years.

Scope and objective of FCRA:

The intent of the Act is to prevent use of foreign contribution or foreign hospitality for any activity detrimental to the national interest. It has a very wide scope and is applicable to a natural person, body corporate, all other types of Indian entities (whether incorporated or not) as well as NRIs and overseas branches/subsidiaries of Indian companies and other entities formed or registered in India. It is implemented by the Ministry of Home Affairs, Government of India.

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In order to achieve the above objective, the Act:

1. Prohibits acceptance and use of foreign contribution or foreign hospitality by a certain specified category of persons such as a candidate for election, judge, journalist, columnist, newspaper publication, cartoonist and others.
2. Regulates the inflow to and usage of foreign contribution by NGOs by prescribing a mechanism to accept, use and report usage of the same.

Definition:

It defines the term 'foreign contribution' to include currency, article other than gift for personal use and securities received from foreign source. While foreign hospitality refers to any offer from a foreign source to provide foreign travel, boarding, lodging, transportation or medical treatment cost.

Acceptance of foreign funds:

The Act permits only NGOs having a definite cultural, economic, educational, religious or social programme to accept foreign contribution, that too after such NGOs either obtain a certificate of registration or prior permission under the Act.

Registration and prior approval under FCRA:

1. In order to be registered under the FCRA, an NGO must be in existence for at least three years and must have undertaken reasonable activity in its field for which the foreign contribution is proposed to be utilised. Further, it must have spent at least INR 1,000,000 over three years preceding the date of its application on its activities.
2. The registration certificate is valid for a period of five years and must be thereafter renewed in the prescribed manner.
3. NGOs not eligible for registration can seek prior approval from FCRA for receiving foreign funding. This permission is granted only for a specific amount of foreign funding

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from a specified foreign source for a specific purpose. It remains valid till receipt and full utilisation of such amount.

The Act imposes various conditions on the use of foreign funds and some of them are as follows:

1. All funds received by a NGO must be used only for the purpose for which they were received.
2. Such funds must not be used in speculative activities identified under the Act.
3. Except with the prior approval of the Authority, such funds must not be given or transferred to any entity not registered under the Act or having prior approval under the Act.
4. Every asset purchased with such fund must be in the name of the NGO and not its office bearers or members.

Reporting requirement:

Every NGO registered or having prior approval under the Act must file an annual report with the Authority in the prescribed form. This report must be accompanied by an income and expenditure statement, receipt and payment account, and balance sheet for the relevant financial year. For financial years where no foreign contribution is received, a 'NIL' report must be furnished with the Authority.

Foreign Exchange Management Act, 1999

- Foreign Exchange Management Act (1999) aims to consolidate and amend the law relating to foreign exchange with objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India.

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- A transaction under FEMA is called a fee or a salary while the same under FCRA is called a grant or a contribution.
 - In 2016, the powers of Ministry of Finance to monitor NGOs were placed under the FEMA. The idea was to bring all NGOs, which receive foreign contributions, under one umbrella for better monitoring and regulations. The step was taken to that ensure only one custodian monitors flow of foreign funds to these organisations.

Constitutional Provisions for NGOs in India

- **Article 19(1)(c)** on the right to form associations;
- **Article 43** which highlights the State's having an endeavor to promote cooperatives in rural areas;
- **Concurrent List in Entry 28 mentions about** – Charities and charitable institutions, charitable and religious endowments and religious institutions”.

Role of Non-Governmental Organisations

The Advocacy/Social Safety-Valve Role

- Non-profit organisations play vital role in mobilizing public attention to societal problems and needs.
- They are the principal vehicle through which communities can give voice to their concerns.

Improving government performance

- NGOs can broaden government's accountability by ensuring government is responsive to citizens at large rather than to narrow sectarian interests.

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- They also induce innovation and flexibility in policymaking by bringing their own independent expertise and research teams.
- They enhance the efficiency of delivery of many services at the local level through involvement of residents.
- They also improve policy monitoring and evaluation as Comptroller and auditor general (CAG) takes cognizance of reports and **social audits** by NGOs while preparing its reports.

The Service Role

- The non-profit sector acts as a flexible mechanism through which people concerned about a social or economic problem can begin to respond.
- It also caters to groups of the population who desire a range of public goods that exceeds what the government or society is willing to support.
- NGOs help in constructive conflict resolution. In the international arena Track II diplomacy (involving non-governmental bodies) plays a crucial role in creating an environment of trust and confidence.

Building Community Participation

- The non-profit organisations offer alternative perspectives; and most importantly, the capacity to conduct a meaningful dialogue with communities, particularly those that are disadvantaged.
- They foster pluralism, diversity and freedom. Many NGOs work to preserve and promote India's diverse culture. For example SPIC MACAY is a society for promoting Indian classical music and culture amongst youth.

Activities undertaken by NGOs

- **Advocacy, Analysis and Awareness Raising** – acting as a voice for people both on a representative and self-appointed basis; researching, analyzing and informing the public

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about issues; mobilizing citizen action through media campaigns and other forms of activism; and lobbying business leaders and policymakers.

- **Brokerage** – acting as an intermediary between different sectors and groups.
- **Conflict resolution** – acting as a mediator and facilitator.
- **Capacity Building** – providing education, training and information.
- **Delivery of services** – operational delivery of essential humanitarian, development and/or social services.
- **Evaluation and Monitoring** – serving as a ‘watchdog’ or third party / independent ‘auditor’, invited and uninvited, of government and corporate performance, accountability and transparency.

Issues with NGOs

- Accreditation remains a big challenge as it is very difficult to distinguish whether an organization wants to work for the cause or has been set up only for the purpose of receiving government grants.
- Over dependence on funds from the government dilutes the willingness of NGOs to speak out against the government.
- NGOs have acted as a cover for organized crime in past and are often seen as fronts for fundamentalist causes. Foreign funded NGOs have been responsible for organising agitations and scuttling development projects in India.
- NGOs are often seen as encroaching on centuries-old tradition and culture of the people, and lead to mass protest at times. Ban of Jallikattu, after the PIL by PETA is one such example.

Way Forward

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- A **National Accreditation Council** consisting of academicians, activist, retired bureaucrats should be made to ensure compliance by NGOs.
- There should be better coordination between Ministries of Home Affairs and Finance in terms of monitoring and regulating illicit and unaccounted funds.
- A regulatory mechanism to keep a watch on the financial activities of NGOs and voluntary organizations is the need of the hour.
- Citizens today are keen to play an active role in processes that shape their lives and it is important that their participation in democracy go beyond the ritual of voting and should include promotion of social justice, gender equity, inclusion etc.