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TRAINING MODULE

# NGO

## GOVERNANCE AND POLICIES





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## **NGO Governance and Policies**

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## OBJECTIVES

- ▶ Key policies for NGO Governance
- ▶ Advantage of policies
- ▶ Learn to formulate Key NGO Policies

## AIDS REQUIRED

- ▶ Computer/Laptop
- ▶ Projector and screen
- ▶ Chart paper
- ▶ Pens/markers

## 1. INTRODUCTION

### *“Three ways to setup NGOs in India”*

The facilitator introduces herself/himself and the objective of the session. The facilitator can begin the session by asking the participants whether they know what are the ways in which NGOs can be set up in India. S/he should explain the three ways and essential requirements for setting up NGOs under the Trusts Act, Societies Registration Act and the Indian Companies Act and basic differences among these organizations, their basic requirements and statutory obligations.

<b>Three ways to set up NGOs in India</b>			
BASIS	TRUST	SOCIETY	SECTION & COMPANY
Registration Document	Trust Deed	By-Laws (MOA & AOA)	MOA & AOA
Formation	Very Easy	Easy	Little Tough
Governing Legislation	Relevant State Trust Act	Societies Registration Act/1860	Companies Act/2013
Authority for Registration	Sub-Registrar	Registrar of Society	Registrar of Companies
Cost	Low	Medium	High
Management Board	Trustees	Governing Body	Board of Directors
Meetings	Board of Trustees	Governing Body & General Body meeting as per bye laws	Board of Directors
No. of Members Required	2	7	2
Compliance	Low	Medium	High
Annual Filing	No such requirement	Filing of Audited Financials & Bit of Governing Body	Audited Financials, Annual Return & Relevant ROC Compliance
Online Filing	N/A	Online filing facility not available, hard copy to be submitted with Registrar of Societies	Online filing facility is available
Transparency	Low	Low	High, As anyone can access the public documents of the company
Voting Rights	All Trustees Equal	Equal Rights to All Members	As per Shareholding

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Cost	Low	Medium	High
Management Board	Trustees	Governing Body	Board of Directors
Meetings	Board of Trustees	Governing Body & General Body meeting as per bye-laws	Board of Directors
No. of Members Required	2	7	2
Compliance	Low	Medium	High
Annual Filing	No such requirement	Filing of Audited Financials & list of Governing Body	Audited Financials, Annual Return & Relevant ROC Compliance
Online Filing	N.A.	Online filing facility not available, hard copy to be submitted with Registrar of Societies	Online filing facility is available
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## How are NGOs governed?



- NGOs are governed by a policies which set up their relation with the government and provides guidelines for their internal functioning
- In India, NGOs can be set up in three ways, under the Societies Registration Act, 1860, Indian Trusts Act, and S.25/8 of the Indian Companies Act,
- Level of regulatory compliances range from loose (trusts), to standard (societies) to stringent (non profit companies)
- India has huge number of NGOs (reportedly 3.2 million) and has more NGOs per capita than hospital beds.
- NGOs have to follow regulations under Income Tax Act, Finance Act/s, FCRA and FEMA (if receiving foreign money) besides the regulations of the Act in which they are registered

The facilitator should explain that NGOs are governed based on the essential policy instruments they create like constitution, bye laws and other policies. however, for each of them statutory requirements under the IT Act and the FCRA remains almost the same.

## Why need for good governance?



- NGOs generally question the government and other institutions, their governance and functions, therefore, must also follow same level of transparency and accountability it expects from the government
- NGOs are public trust, therefore should have best governance standards
- NGOs also run on public money (support from the government, corporate or individual, all is public money)
- NGO having good governance is stable, effective, sustainable and creates impact
- Good governance helps sustain NGOs even in adverse conditions

## What is good governance?



The facilitator should explain that this is not a conclusive list of values of the organization and ask the participants to add if some other important values have not found mention here.

## Good governance characteristics

- **Accountable;** the NGO should be accountable to its community and public at large, donors and the government
- **Transparent;** decisions should be made in manner which is accessible to everybody if required
- **Responsive;** NGOs should respond to the needs of the community
- **Effective and efficient;** effective in its ways of working and provide best value for the resources
- **Participatory;** members participate regularly and respond to the needs of the organization
- **Consensus oriented;** aim to have consensus as consensus is the spirit of democracy
- **Equitable and inclusive;** similar treatment to all and ensures that all are taken in consideration
- Good governance starts with the Board, runs through the executive/management and reflects in the field worker who is the real face of the organization
- Good governance characteristics and values are reflected in organization's policies

The facilitator will add the values/ characteristics, if any from the discussion on the last slide. S/he should also spend some time on the need for the consensus, and ask participants if their constitutions insist on consensus?

## NGO governance & Board



- Board is the foundation of NGO governance, board is legally, financially and morally responsible for organizations work
- An effective board is the first requirement of good governance
- Board must reflect diversity and inclusiveness, however, too large boards find it difficult to function effectively
- Board structure typically includes Chair/president, treasurer, secretary, chief executive (may or may not be a member of the board depending on the constitution) and members
- Board functions typically include create vision, mission and goals, byelaws, appoint and work with the chief executive, approve programme and budget, and approve financial audits
- Chief executive officer/functionary is the link between the board and the team, and policy and performance.
- Many organisations have Board Manual to orient board members of their duties and responsibilities

The facilitator should explain that an effective and functioning board is the first requirement for an effective and successful organization. S/he should engage the participants in the discussion on functions of the board, frequency of board meetings, ideal size for the board, diversity of members, and how chief functionaries ensure participation of the board etc.

## Board Manual



- Board comprise of variety of members from different background; the board manual orients them on the history and purpose of the organization and their duties and functions
- Board members should be provided the manual on beginning of their terms
- Board manual typically includes the following, Background of the organization (Vision, Mission and goals, history, organisational structure, overview of the programmes and projects), Board governance and functions (constitution and bylaws, board structure and job description of board members and office bearers, term limits of board members, board and committee meetings schedule etc.), Programme planning and monitoring mechanism, Human Resources and monitoring mechanism, Financial control and accountability mechanism, Fund raising mechanism and overview, Communications mechanism, Board member performance assessment mechanism, if any
- A template for board manual can be found at [https://www.google.co.in/url?sa=t&url=https://www.charities.gov.uk/Documents/Sample\\_Board\\_Policy\\_Manual\\_for\\_NPOs.pdf&asq=ADWawWooT1Hdrl1ZmlGdUPEG0R](https://www.google.co.in/url?sa=t&url=https://www.charities.gov.uk/Documents/Sample_Board_Policy_Manual_for_NPOs.pdf&asq=ADWawWooT1Hdrl1ZmlGdUPEG0R)
- Sample Board Manual can be found at [http://findindia.org.in/publication\\_upload/gov-series/gov2/5.pdf](http://findindia.org.in/publication_upload/gov-series/gov2/5.pdf)

The facilitator can ask the participants to work on a Board manual for their organization as after dinner task.

## 2. INTRODUCING KEY POLICIES

The facilitator introduces key policies that an organization should have, he should explain why NGOs need to have these policies.

### Policies



Key policies of the NGOs include

- Memorandum of Association and Articles of Association (for societies and non profit companies), known as Constitution and Bye-laws/rules
- Human Resources Policy
- Human Rights Policy (may include gender policy, child protection policy, policy on disability)
- Fundraising Policy
- Media and Communication Policy
- Right to Information Policy
- Environment or Sustainability Policy
- Finance Policy and statutory requirements

The session includes many key policies. To make the session more engaging the facilitator will begin each policy only with the topic and ask the participants about key elements of the policy and then show the slide and fill the gaps if the participants have not covered some essential elements of the policy.

### Why to Have These Policies



- Reflects upon the values of the organization transparency and accountability, participation, rule of law, respect to diversity, rights of people, cooperation, collaboration, trust, commitment to service etc.
- Lays down standards of conduct and guidelines for the workers and partners
- Attract donors and fulfil donors requirements
- Assurance of fair treatment to employees
- Attracts fresh talent

### 3. CONSTITUTION AND BYE-LAWS

The facilitator will explain the requirements of the constitution and bye-laws of the organisation.

#### Constitution

Constitution of the NGO presents basic information about the NGO, lays down important things related to governance of the organization including;

- Name of the organization
- Purpose of the organization (generally very broad)
- Registered address of the office
- Name and address of the incorporators
- Provisions for conducting internal affairs of the organization
- Provision for dissolution and distribution of the assets

The facilitator should emphasise that constitution, bye laws and VMG are the basic document that all organisations must have and its mandatory and NOT optional. They will require these documents for all project bidding and all sorts of registration.

#### Bye-laws



Bye laws are set of rule which enables organization to conduct its affairs. It typically addresses following areas;

- Number, terms and responsibility of Board members, manner of election, cessation
- Frequency, notice and quorum for board meetings
- Membership rules, responsibility of members, termination of the membership, Annual General Meeting, rules for conducting and responsibilities, voting qualifications
- Provisions related to amendment in the constitution and bye-laws
- Title and scope of authority of the chief functionary/ED
- Record keeping and financial reporting
- Bye-laws can be either together with the Constitution or separate
- Template for Constitution and bye-laws here <http://indiamicrofinance.com/wp-content/uploads/2014/03/memorandum-of-association-society-2014.pdf>

## 4. GROUP EXERCISE ON UNDERSTANDING AND CREATING MISSION STATEMENT

The facilitator can begin by asking some of the participants to present their mission statements. S/he should write some of them on the chart paper. Then he should explain the importance of mission statement, its essential features, show some sample mission statements. The exercise will involve participants into forming 2-3 groups, where they are asked to write/re-write mission statements of their organization. The group will help one person in each group to formulate his/her mission statement through story telling method. The person will mention some of his works impact, the participants will capture, what, who, for whom, how, where, what results etc. and use this information for formulating mission statement. Then the facilitator will test the mission statement.

### Mission and vision



- Mission and Vision statements are important part of an identity of an NGO
- Vision statement largely captures overall goal of the organization/what do you want to achieve in future; Mission statement explains the present plan to realise that future, it explains organization's fundamental unique purpose
- Mission statement clarify purpose and determine direction, motivate people, board and staff, send a powerful statement to the world.

### Good mission statement

A good mission statement is

- Clear (simple to understand)
- Concise (brief and easy to remember)
- Informative (for staff and others on what/how you do)
- Inviting participation (from other, volunteers)
- Reviewed frequently

## Sample Mission statements



To serve individuals and families in the poorest communities in the world  
**CARE**

To create lasting solutions to poverty, hunger, and social injustice  
**Oxfam**

The American Red Cross prevents and alleviates human suffering in the face of emergencies by mobilizing the power of volunteers and the generosity of donors  
**American Red Cross**

## Group exercise



- Create a mission statement
- Storytelling method
- Talk about some of the impacts of your work
- Capture who, where, what, how, outcomes etc.

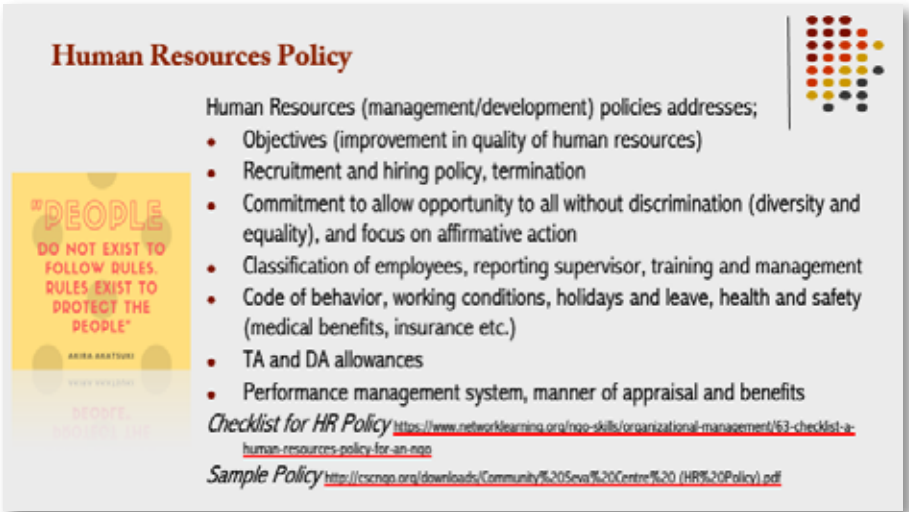
## A Quick Test (For Your Mission Statement)



- **Say it out loud:** Is it easy to say? Does it roll off the tongue? Is it interesting?
- **Test how memorable it is:** Does it capture attention? Are you bored before you even finish saying it? Test this by having an employee or a friend read or hear the statement and then ask them to repeat it a couple of hours later.
- **Get feedback:** Get feedback from multiple people, especially the ones who are not familiar with the work your organization does. Ask them if they understand it and if they have suggestions for changes?
- **Check how many other nonprofits do the same:** Refine your mission statement. If it seems like too many other nonprofits are doing the same, change it. Your organization does something different than others (or at least it should).
- **Conclusion:** Every nonprofit is on a mission. And nonprofit mission statements are how we tell our people and the outside world what we stand for and believe in.

## 5. HR POLICY

The facilitator should explain that the main purpose to have human resources policy is to improve human resources quality of the organization by assessing human resources needs and their capacity building needs, assure them of the fair treatment and chances of growth, build effective human resource management systems. HR Policies also include intent of the organization to provide equal opportunity to all meaning commitment of affirmative action or preference to candidates from the communities less represented in employment. Many organizations also append job description/s to the HR policy.



### Human Resources Policy

Human Resources (management/development) policies addresses;

- Objectives (improvement in quality of human resources)
- Recruitment and hiring policy, termination
- Commitment to allow opportunity to all without discrimination (diversity and equality), and focus on affirmative action
- Classification of employees, reporting supervisor, training and management
- Code of behavior, working conditions, holidays and leave, health and safety (medical benefits, insurance etc.)
- TA and DA allowances
- Performance management system, manner of appraisal and benefits

*Checklist for HR Policy* <https://www.networklearning.org/ngo-skills/organizational-management/63-checklist-a-human-resources-policy-for-an-ngo>

*Sample Policy* [http://cscnpn.org/downloads/Community%20Seva%20Centre%20\(HR%20Policy\).pdf](http://cscnpn.org/downloads/Community%20Seva%20Centre%20(HR%20Policy).pdf)

**"PEOPLE DO NOT EXIST TO FOLLOW RULES. RULES EXIST TO PROTECT THE PEOPLE"**  
ANITA BANTURI

The facilitator should ask participants whether they have the HR policy in their organisations (and help them to formulate one, time permitting), when it was last updated, why, when do they aim to update it again etc.



## Anti corruption and anti bribery policy



- All organizations also need to have anti corruption, anti bribery, anti fraud policies as a part of their good governance practices.
- The purpose of the policy is to ensure best interest of the organization without unduly benefitting any person/institution or even their own organizations.
- The policy is a statement of the intent neither to offer nor to accept bribe or engage in any kind of corrupt financial practices including availing undue hospitality by any employee in the organization or any person/institution connected with the organization.
- The policy generally lays down definitions of bribery and corruption, how it will be reported, handled, investigated and reported.
- A sample anti bribery anti corruption policy can be found at <https://www.eklavya.in/about-us-eklavya/eklavya-policies/anti-bribery-and-anti-corruption-policy>

Not many organisations are likely to have anti corruption, anti fraud and anti bribery policies. The facilitator should encourage participants to have these provisions included in the HR policy/finance policy or to have a separate policy/statement.

## Whistleblowing policy



- A whistleblowing policy encourages the employees to report and provide evidence to any case of corruption, illegal practice, violation of organisational policies, or crime by any person in the organization
- Whistleblowing is different from a complaint as whistleblowing is generally in the context of the others being affected due to the cause, while complaint relates to the person being put in harm due to the cause.
- Whistleblowing policy also affords protection to the whistleblower against any backlash or retaliation
- It also includes information on how information can be reported and lists person with whom the information can be shared, and how and what course will be followed to address the complaint
- A sample whistleblowing policy can be found at [https://www.af.org.pk/Whistleblower\\_policy/AF-WHISTLEBLOWER\\_POLICY.pdf](https://www.af.org.pk/Whistleblower_policy/AF-WHISTLEBLOWER_POLICY.pdf)

The facilitator can start by asking what participants understanding by “whistleblowing,” and what is the “difference between whistleblowing and a complaint.” Not many organisations are likely to have whistleblowing policies. The facilitator should encourage participants to have these provisions included in the HR policy/finance policy or to have a separate policy/statement.

## Code of conduct for the NGOs



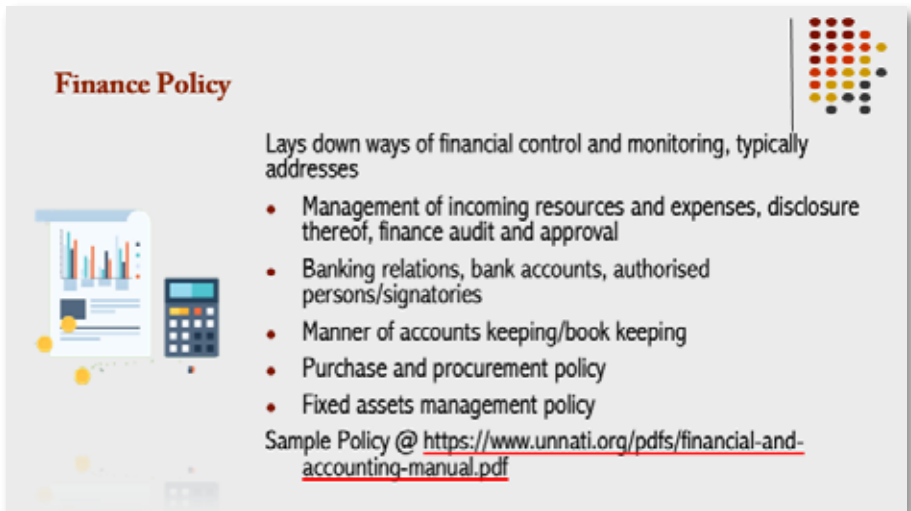
- Code of conduct reflects the ethics, honesty, integrity, transparency and public mindedness of the organisations.
- It is distributed to all the employees and the management on their joining and they are expected to follow while they are in the employment
- It may relate to several aspects of their professional life including anti corruption and anti bribery, accept of advantages or gifts, handling a situation of conflict of interests, misuse of official position, handling sensitive or classified information, handling official property, employment outside of the office, behaviour in public, compliance of the code etc.
- A template for code of conduct can be found at [https://www.esr.gov.hk/files/en/code\\_of\\_conduct\\_e.pdf](https://www.esr.gov.hk/files/en/code_of_conduct_e.pdf)

The facilitator should explain that all persons in the organization beginning from board member to the field animator is bound by the code of conduct and should be given this policy at the joining.

Many organisations may not have a written code of conduct, the facilitator should encourage them to have one.

## 6. FINANCE POLICY

The objective of finance policy is transparent and use of financial resources for the best interest of the organization. The facilitator should explain that the policy creates internal control on finances and expenses, but it also has an important role in assuring the donors and the government about legitimate use of funds accruing to the organization. The policy delegates authority to certain persons in the organization to open and manage bank accounts and maintain books of accounts. Procurement policy which is generally a part of the finance policy, lays down conditions of making purchases and procurement of goods and services. The organizations also invest in assets including land, computers and peripherals, furniture, vehicles, camera etc. and the fixed assets policy lays down conditions of their maintenance, use and disposal. Laying down conditions for audits (quarterly, half yearly, annual, internal and external audits etc.) is an important part of the finance policy. The facilitator should also explain that laws of the land (Income Tax Act, FCRA, FEMA etc. have significant bearing on the finance policy of the organizations.



**Finance Policy**

Lays down ways of financial control and monitoring, typically addresses

- Management of incoming resources and expenses, disclosure thereof, finance audit and approval
- Banking relations, bank accounts, authorised persons/signatories
- Manner of accounts keeping/book keeping
- Purchase and procurement policy
- Fixed assets management policy

Sample Policy @ <https://www.unnati.org/pdfs/financial-and-accounting-manual.pdf>

The slide features a decorative grid of colored dots in the top right corner and an illustration of a laptop displaying a bar chart and a calculator on the left side.

The facilitator can start the session by underlining that finance or financial management policy is one of the key policies, and all organisations must have financial management policy to have clarity in the roles, functions, authority, processes etc. related to finance.

It is also mandatory to have as all board members are liable individually and collectively for any financial misappropriation.

While the financial management can have many aspects, financial control, book keeping and accounts, bank relation and management, petty cash management, purchase and procurement, fixed assets, and conflict of interest, it is advisable for the small to middle level organizations, to have a comprehensive financial management policy incorporating all aspects rather than have separate set of policies for each.

### Procurement Policy



- Procurement and purchase of goods and services is big part of the expenses of an NGO and therefore, good to have a procurement policy
- Procurement policy lays down the manner of purchase and procurement which ensures that there is no conflict of interest and the expenses are made in the best interest of the organization
- Procurement policy lays down authority for value thresholds of purchases (programme coordinator upto INR 25K, programme manager up to 50K etc..), sets up a committee for purchase, rules for purchases (three quotations for any purchase above INR 10K), other rules related to cash payments (no cash payment above INR 5K), authority and conditions for hiring consultants etc.
- The organization may also decide to give preference to disadvantaged community, any particular community (SHGs) or green procurement in its policy
- A sample procurement policy can be found at <https://nlctb.org/wp-content/uploads/Procurement-Policies-Templat.pdf>

### Petty cash management



- Petty cash management pertains to setting limits of, handling and control of cash in the organization with the purpose to discourage cash transaction and encourage use of other instruments for transparent financial management.
- It lays down authority to handle cash (accountant only) circumstances for cash request (authorization of manager, finance manager etc.), fixing maximum cash balance (not more than 20K), withdrawal of cash from bank (good to have insurance), cash payment (only with signed vouchers), and replenishment (threshold), verification (once every week) etc.
- Cash handling involves risk and lower the limit of petty cash lower the risk.
- Sample petty cash policy can be found at <https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=12&ved=2ahUKEwin39WhzfzoAhWHzjqGHRMIAo04ChAWMAF6BAQBEAE&url=http%3A%2F%2Fwww.communityacademies.trust.org%2Flibrary%2Fdownload%2Fwww%2Fpolicies%2FCAT%2520Petty%2520Cash%2520Policy.pdf&usq=AQvVaw142-H-7MbWvaOYX2JNgv>

## Conflict of interest



- Provision of conflict of interests should be part of all policies and especially financial policy
- If not possible, its worth to have a policy/statement on the conflict of interest, to underline that all employees shall refrain from putting personal interest, and shall always work in the best interest of the organization
- Conflict of interest policy typically prevents employees from using organisations property for personal/Unauthorized use, disclosing classified information without authorization, engaging in any employment or activity which competes with the organisation's interest, any part time employment without express permission, accepting or offering gifts, favor, hospitality or any gratitude for rendering any activity within the course of employment, putting themselves n a situation where they will unduly gain from any procurement, contract or services
- And declaring if they are in any conflict of interest situation to their superior or management.

Two groups are formed to work on a conflict of interest policy, rest of the participants will analyse when these two groups present. The facilitator will see how far the group can go in identifying areas of conflict of interest, mostly people generally refer to only financial policies and procurement, but conflict of interest may go beyond that (HR, Management, programme, Board etc.) it would be good for the participants to understand broad sweep and application of conflict of interest.

## 7. QUIZ ON FCRA

The facilitator can ask participants few question so as to enhance their level of awareness on FCRA.

Few question can be formulated like this, and participants can be asked to answer whether its true or false -

1. *The purpose of FCRA Amendment in 2010 was to enable political parties receive foreign donations. (T)*
2. *The organisations can receive foreign donations without FCRA. (T)*
3. *The FCRA allows foreign donations to political organizations. (F)*
4. *The last amendments in the FCRA Act was brought in 2019. (F)*
5. *An organization registered under the FCRA can receive donation and give donation to any foreign NGO. (F)*

## 8. HUMAN RIGHTS POLICY

Many participants might be aware (and likely to have gender policy/ statement or child protection policy. The facilitator should start by asking if any organization have these policies, and if yes, explain it briefly. Then s/he should explain the context and show the sample policies.



The slide features a title 'Human Rights Policy' in brown text at the top left. To the right is a decorative graphic of colored dots in a grid pattern. Below the title is a list of five bullet points. On the left side of the slide, there is an illustration of several hands in various colors (green, yellow, blue, purple, red) raised, with the word 'EQUITY' written vertically on each hand. The background is light gray.

### Human Rights Policy

- Human rights policies reaffirm organisations commitments towards human rights, mainstream rights concerns in its works at all levels, and be guided by values of human rights internally
- Human rights policies need to acknowledge and be in line with the Protection of Human Rights Act, 1993
- Most prominent among human rights policies are gender policy, policy against sexual harassment at workplace and child protection policy.
- All human rights policies typically puts in place a commitment (to particular human right), an internal mechanism for reporting, and mechanism for investigation, action, documentation and external reporting in cases of violation.
- Sample gender policy, Actionaid UK @ [https://www.actionaid.org.uk/sites/default/files/doc\\_lib/119\\_1\\_gender\\_policy.pdf](https://www.actionaid.org.uk/sites/default/files/doc_lib/119_1_gender_policy.pdf)

The facilitator should begin the discussion by asking how many participants have the word “human right” in their constitution and bylaws? The answer is likely to be in affirmative by all. Then s/he should ask how many organisations have a human rights policy, and whether the field worker in their organization knows what is human right?

The facilitator should underline that having a human rights policy will enhance organisations and employees understanding on human rights as well to strengthen their commitment towards human rights protection and promotion as committed in their constitution.

The facilitator can explain that human rights policy may encompass number of policies as listed. The organisations can have one comprehensive human rights policy or can have separate policies on each important concern.



## Protection against sexual harassment

- Sexual Harassment of Women at Workplace (Protection, Prohibition and Redressal) Act, 2013 protects all women from sexual harassment at all workplaces.
- The legislation is based and improves upon the Vishakha Guidelines of the Supreme Court on Prevention of Sexual Harassment at Workplace (1997)
- The Act is broad enough to protect women in any kind of workplace setting and is applicable to NGOs too.
- Under the Act any entity employing more than 10 persons have to have an internal Committee Against Sexual Harassment (CASH) (preferably having majority of women) and also including an external member.
- Internal committee will finish the investigation in 90 days and report to the employer or to the district officer, who are mandated to take action within 60 days.
- Confidentiality breach attracts a penalty of INR 5000 upon the person who has breached the confidentiality, non compliance of the provisions of the Act attracts a penalty of INR 50,000, repeated offences may get the license of the workplace cancelled. The person committing sexual harassment may be sentenced to imprisonment up to three year or fine with both.
- Sample Policy against sexual harassment can be found at <https://donate.oxfamindia.org/sites/default/files/Policy-Against-Sexual-Harassment-at-Workplace-Oxfam-India.pdf>

The facilitator shall be informed of the Vishakha Vs. state of Rajasthan and the legislation against the Sexual harassment. s/he may elaborate on the definitions of “women,” “workplace” and “sexual harassment” etc.

The facilitator should explain that even if the organisations do not have the policy against sexual harassment they must have a CASH Committee, as its mandatory under the legislation, but s/h should encourage the organisations to have an independent policy against sexual harassment.



## Child protection policy

- All organisations working with or working for children should have a child protection policy.
- The purpose is to protect children from all kinds of harmful influences including physical, emotional, sexual abuse, negligent treatment and exploitation.
- The policy lays down protocol for reporting, investigation, action, external reporting and documentation etc. in case of violation of the policy
- Sample child protection policy can be found at <https://atma.org.in/wp-content/uploads/2018/07/ATMA-Child-Safeguarding-Policy.pdf>

Many participants are likely to be engaged in work on “child rights,” and therefore, the facilitator should encourage them to have child protection policy.

## 9. FUNDRAISING POLICY

Many participant organizations are unlikely to have fundraising policies, therefore, the facilitator should spend sometime on the importance of fundraising policy. Also that among many rights based organizations there is a conflict of opinion on whether they should receive CSR money and if at all which corporates? In these circumstances, the facilitator should explain that the fundraising policy becomes more important of lay down a clearly deliberated policy.



The graphic features a hand dropping a coin into a slot, with a reflection below. To the right is a grid of colored dots in red, orange, and grey. The text is in a clean, sans-serif font.

### Fundraising Policy

- Many organisations prefer to have a fundraising policy
- Fundraising policy deals with objectives, ethics, transparency and process of handling and management of donations and grants.
- The organization may lay down thresholds of whether or what kind of corporates and individuals they may approach for funding.

Sample fundraising policy @  
[https://www.cambridgelive.org.uk/sites/default/files/public/wy-siwyg/Fundraising%20Policy%20Nov17\\_0.pdf](https://www.cambridgelive.org.uk/sites/default/files/public/wy-siwyg/Fundraising%20Policy%20Nov17_0.pdf)



## 10. MEDIA AND COMMUNICATION POLICY

The facilitator can begin the session by asking which organizations use social media. Almost all of them are likely to respond in the affirmative. However, many of them would not have a separate media/social media/communications policy. The facilitator should further probe, how successful they consider their media work, or whether they encounter any problem in developing, sharing and promoting their communication. These problems can be the background to bring in the media and communications policy. This can be followed by showing a highly successful media campaign “Bell Bajao Campaign” breakthrough.



The facilitator can start the discussion with the game “where did the communication go wrong?”

In the game around 10-12 participants who have volunteered are asked to stand in a single file facing back of the person ahead in the line. The facilitator would give some “action/act” or “message on the paper” (viz. I rode a bicycle and fell) to the last person in the line while all other look to the other side and no one snoops to see what happens between the facilitator and the last person. Then the last person is asked to communicate the “act” or the message by enacting it (without speaking) to the person ahead of him/her. The process continues till the message has reached the first person on the line. The loss of communication/change in the action being conveyed is fun to watch for all. That will set the stage for discussing why to have a communication policy.

## Media and communications Policy



- Media and communications policy lay down the protocol to handle internal and external communication.
- The purpose is to ensure accuracy, appropriateness and authenticity of the information, as well as handling sensitive communication viz. communication with the media, govt. and donors, and provides details of communication products of the organization.
- At times communications team also doubles up as advertising/outreach/advocacy team.
- Sample Communications Policy @ <http://www.southerntrust.hscni.net/pdf/PolicyCommunications.pdf>

The facilitator can start the discussion by asking how many participants use media, what kind of media, with what objectives and what are common problems that they face. That should set a background to emphasise the importance of having a media and communications policy

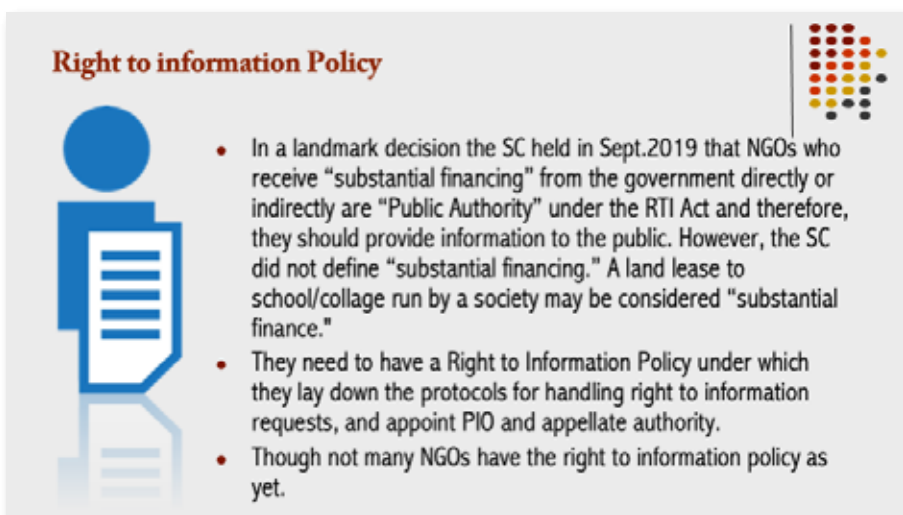
## Bell Bajao Campaign



<https://www.youtube.com/watch?v=zmNz0cTcxFU&feature=youtu.be>

## 11. RIGHT TO INFORMATION POLICY.

As majority of the NGOs would not have a right to information policy, the facilitator should try to encourage them to have a right to information policy. S/he should explain that it is important as NGOs spearheaded the campaign on bringing right to information Act, 2005, and also because NGOs should not shy away from the questions they tend to ask the government. Also that having a transparent right to information policy will enhance their credibility.



### Right to information Policy

- In a landmark decision the SC held in Sept.2019 that NGOs who receive "substantial financing" from the government directly or indirectly are "Public Authority" under the RTI Act and therefore, they should provide information to the public. However, the SC did not define "substantial financing." A land lease to school/collage run by a society may be considered "substantial finance."
- They need to have a Right to Information Policy under which they lay down the protocols for handling right to information requests, and appoint PIO and appellate authority.
- Though not many NGOs have the right to information policy as yet.

## 12. ENVIRONMENTAL/SUSTAINABILITY POLICY

In India very few organizations have an environment policy, and many of them are limited to having restrictions on air travel. The facilitator should encourage organizations working on climate change, SDGs, Biodiversity, Pollution etc. to have an environment policy.



### Environment Policy

- Environmental policy commits environmental and sustainable concerns across spectrum of functions and actions of the organization and also aims at reducing the material consumption and environmental footprint.
- There are a number of platforms including Global Reporting Initiative (GRI) where NGOs (mainly INGOs) also give their Sustainability Reports
- Desirable for large environmental NGOs

Sample environmental policy of BRAC Bangladesh @ <http://www.brac.net/program/wp-content/uploads/2019/08/Environment-Policy.pdf>

### 13. STATUTORY REQUIREMENTS

The facilitator should start the session with the rider that these statutory compliances are based on a generalists impression and research from the authentic but random source. The information here may not be conclusive and good enough for compliance and therefore, the participants are suggested to consult their CAs rather than rely just on these information. The compliance issue are complicated as far as compliance of FCRA is concerned, esp. definitions of what constitutes “political activities,” “administrative expenses” etc.

#### Permanent Account Number (PAN)



- All NGOs must have PAN as directed under the S.139A of the Income Tax Act, 1961
- NGOs are required to quote their PAN in all financial transactions, and for getting government projects.
- Not quoting/having a PAN attracts punishment/penalty under S.272B of the IT Act
- NGO may authorise a member/person to get PAN
- PAN can be applied online at <https://www.incometaxindia.gov.in/Pages/tax-services/apply-for-pan.aspx> with submission of the constitution and designated fee of INR 93 (without GST) for indian addresses

The facilitator can start the discussion by explaining that IT Act requires a number of statutory compliances, while some of them are voluntary; many of them are mandatory. S/he can ask the participants which ones are voluntary and which ones mandatory.

#### Tax Deduction Account Number (TAN)



- Under IT Act every person making payment or crediting income of specified types to another person is required to deduct a specific proportion of amount payable at the time of making payment or giving credit, and deposit the sum so deducted. Every such person shall have to apply to the Assessing Officer for allotment of a tax deduction account number (TAN) under section 203A
- All organizations have to deduct tax at source and therefore, to apply for TAN under S.203 A by submitting form 49. Failure to do so may attract penalty and punishment
- TAN can be applied online at <https://tin.tin.nsdl.com/tan/form49B.html>
- TDS for salaries and other payments have to be submitted by 7th of the succeeding month, quarterly returns to be filed by 15th July, 15th October, 15th January and 15th June.
- More details can be found at <http://ngo.ozg.in/2011/03/tax-deduction-account-number-tan-ngo.html>

## 12A & 80G



- Registration under 12A of the IT Act entitles an organization for tax exemption on its receipts, with registration under 80G (5) organization's donors (individual) can avail tax exemptions (50% of the donated amount)
- 12A and 80G certificates are proof of not for profit purpose for an organization, and is required to avail government grants and also foreign grants, all organizations can attract more donors by registering under 80G
- All organizations working for charitable purposes, not having any non exempt income (business income) are entitled for 12A and 80G certificates.
- Organizations can apply for 2A and 80G by submitting application to the Commissioner Income Tax in the states/Director Income Tax (Exemptions) in Metropolitan cities they are registered without any fee.
- Documents required are, registration certificate and bye laws, audited accounts and details of activities of the last three years or all years if existence, copy of PAN Card and details of the members
- With the Finance Bill 2020 all NGOs have to reapply for 12A and 80G certificates every 5 years

The facilitator can emphasise that while the income tax exemption in 80G is 50% (or 10% of the gross annual income, whichever is less) however, there are few funds where 100% tax deduction is allowed viz. PM Relief Fund, National Children's Fund, or under the 35AC.

## 35AC registration & certificate



- Registration under 35AC is not universal
- NGOs can apply for registration for certain "notified" projects or for implementing a project of similar nature (for ex. RK Mission coming up with a project of making 200 bed hospital, can seek 35AC certificate)
- Application has to be made to the secretary, National Committee for Promotion of Social and Economic Welfare (constituted by central government), Department of Revenue, Govt of India, North Block, Delhi-110001 with sets of comprehensive documentation.
- If approved certificate is valid for 3 years, can be extended in deserving cases.
- Donors including corporate, individuals, HUF, having income from head of business and giving donations for such projects/institutions are entitled to get 100% tax deduction under 35AC.
- Please visit for more details, <https://carajput.com/services-35a-registration.php>

Non Government Organizations are established for the welfare of the society they need some financial assistant to run their welfare related works. These organizations arrange their funds through donations made to them by the governments or other individuals or corporate bodies. So to attract the finance for these welfare organizations the government has

provided some tax reliefs and benefits to those making donations.

NGO can avail income tax exemption by getting itself registered and complying with certain other formalities, but such registration doesn't provide any benefit to the persons making donations. The Income Tax Act has certain provisions which offer tax benefits to the "donors". All NGOs should avail the advantage of these provisions to attract potential donors. Section 35AC is one of such sections. But this section provides benefit to only those assesseees who have income from the head 'business' or 'profession' Under section 35AC, Organisations having income from business or profession can get 100 per cent deduction. Charitable Organisations can get registered themselves u/s. 35AC by applying to the National Committee under rule 11F to 11-O, if they are carrying on any business. The approval under section 35AC is for three years only and not permanent in nature

#### **REGISTRATION UNDER SECTION 35AC**

- Under section 35AC, organisations having income from business or profession can get 100 per cent deduction. Charitable Organisations can get registered themselves u/s. 35AC by applying to the National Committee under rule 11F to 11-O, if they are carrying on any business.
- The Central Government has specified various types of projects of national needs for which Charitable Organisations can make donations.
- Business houses making donations for the purpose of section 35AC should be careful that the done organisation continues to enjoy approval u/s. 35AC. As the approval under section 35(AC) is not permanent in nature.
- To get approval u/s. 35AC two sets of application have to be made along with specified enclosures to secretary of National Committee, New Delhi.
- The National Committee may recommend or reject the project but when the approval is recommended then it is for a period of maximum 3 years and it could be further extended if the National Committee is satisfied with the performance during the period.
- A certificate has to be issued to the donor in Form 58A. This certificate will enable the donor to claim exemptions.
- The National Committee may withdraw the approval if the project is not carried out in accordance with the approved conditions. To withdraw a project National Committee should provide an opportunity of being heard to the aggrieved organisation.
- Section 35AC provides deduction from income from business and profession. Similar deduction is also available u/s. 80GGA, for assesseees having income from other heads.

### ***NATIONAL COMMITTEE***

The Central Government has constituted a National Committee to identify projects and schemes to be notified under section 35AC, such committee normally consists of eminent persons. All NGOs are entitled to apply to the National Committee to get its projects or schemes approved.

### ***WHERE THE APPLICATION IS TO BE MADE***

The application for approval by the National Committee should be made to the Secretary, National Committee for Promotion of Social & Economic Welfare, Dept. of Revenue, Govt. of India, North Block, New Delhi - 110001.

### ***THE APPLICATION AND IT'S ENCLOSURE***

- The application is to be made in 2 Sets, written either in Hindi or English.
- Details such as name, address and status of applicant, the district/ward circle where assessed/PAN number.
- Audited Balance Sheet, Profit and Loss Account or Income and Expenditure Account for the latest year and two preceding years.
- How is it constituted i.e. whether as a trust, society, etc supported by relevant documents like trust deed, rules and regulation, memorandum of association etc. and registration certificate, if any.
- Name and Addresses of the persons managing the affairs of the association or institution, including those who left the organisation but were managing the affairs of the association or institution during the 3 years preceding the date of application.
- If the association or institution is notified under section 10(23)(C) or is approved for the purposes of section 80G, the particulars of such approval granted.
- Brief particulars of the activities of the association or institution during 3 years preceding the date of application or since inception if the association or institution is less than 3 years old.
- Such other information as the association or institution may like to place before the National Committee.

### ***ADDITIONAL INFORMATION REGARDING THE PROJECT/SCHEME TO BE MADE***

- Title of project or scheme
- Date of commencement
- Duration and the likely date of completion
- Estimated cost of the project



- Category or class of persons who are likely to be benefited from the project or scheme
- Affirmation that no benefit from the project or scheme other than remuneration or honorarium, will accrue to persons managing the affairs of the NGO
- Such other particulars as the applicant may place before the National Committee
- Certificate to be issued to the donor
- All approved NGOs are required to issue a certificate to the donor for all contributions & receipts under section 35AC. The certificate is to be issued in Form 58A.

This certificate will enable the donor to claim exemption from its taxable income. Further, the NGOs should also send an Annual Report to the National Committee indicating the progress of the work relating to the project/scheme and the following informations in respect of each contributor :

- Name of the contributors and their addresses
- PAN
- Amount of contributions
- The project/scheme for which the contribution is made
- Total amount of contribution received during the year
- Total cost of the project approved by the National Committee
- Such Annual Report should reach the National Committee by 30th June, following the financial year in which the amount is received.

#### ***ELIGIBLE PROJECT OR SCHEME***

An approved amount could be raised and utilised within a given period. In selective cases extension of period could be permitted for completion of the project. Generally, such notified 'Eligible Project or Scheme get the nod of the National Committee as mentioned below:

- Construction and maintenance of drinking water projects in rural areas and in urban slums including installation of pump sets, digging of wells, tubewells and laying of pipes for supply of drinking water
- Construction of dwelling units for the economically weaker sections
- Construction of school buildings primarily for children belonging to the economically weaker sections of the society
- Establishment and running of non-conventional and renewable source of energy systems
- Construction and maintenance of bridges, public highways and other roads

- Any other programme for uplift of the rural poor or the urban slum dwellers.

**COMMITTEE MAY CONSIDER FIT FOR SUPPORT, IN CASE:**

- Promotion of sports
- Pollution control
- Establishment and running of educational institutions in rural areas, exclusively for women and children up to 12 years of age
- Establishment and running of hospitals and medical facilities in rural areas exclusively for women and children up to 12 years of age
- Deduction of contribution under section 80GGA.

Section 35AC is available to assessees who have income from the head 'business' or 'profession'. Therefore, for the assessees who do not have income from business or profession, section 80GGA provides for deduction on donations made to eligible projects under section 35AC. Section 80GGA, is a broader section and deductions are also available for contributions made for scientific research under section 35CCA and 35CCB, which have been withdrawn. 100 per cent deduction is available under section 80GGA, subject to the available gross total income under section 80A. Therefore, unlike section 35AC, deduction under section 80GGA cannot be carried forward in the form of losses to next year.

## GSTN



- Generally NGOs registered under 12A and carrying charitable activities (defined under the CGST Act) are exempt from registration under the GST
- however, if they carry some commercial business, selling good or services (selling of books, renting their premises for commercial purposes, providing paid consultancies etc.) reaching a threshold of INR 20 lakhs, they should register under the GST, and get GST Number
- Core matter of consideration is definition of "supply," "consideration," and "business"
- Look for guidance at <http://blog.srr-foundation.org/wp-content/uploads/2017/09/APPLICABILITY-OF-GST-TO-NGOS.pdf>
- Complicated, good to consult your CA.

The facilitator should underline that the participants, especially if the organisations have some commercial activities, should consult their CA for more clarity.

## Employees Provident Fund



- Employees provident fund is one of the major social security provision for the employees
- All NGOs employing more than 20 persons and carrying systematic activities should register under the Employees' Provident Funds & Miscellaneous Provisions Act 1952 (though there are some exemptions)
- Registration can be done online on the EPFO website for free
- The Act requires that the employee and the employer both contribute approx. 12% of the basic salary towards provident fund and pension, the government also contributes 1.67%
- Monthly return electronic challan cum return can be filed online at EPFO website by **7th of every month**

## Professional tax for NGOs



- Professional taxes are imposed by state government (on professionals like doctors, lawyers, CA etc.), varies from state to state but maximum amount is 2500 per annum
- An employer is required to obtain the professional tax certificate, violations attract penalty. The law is applicable to the NGOs too.
- The process of application is online.
- More details can be found at <https://enterslice.com/learning/required-to-pay-professional-tax-or-not/>

The facilitator should underline that the participants should consult their CA for more clarity.

## Foreign Contribution and Regulation Act (FCRA)



- Foreign Contribution and Regulation Act, 1976 was passed to regulate foreign donations/grants to NGOs, political parties and the media
- FCRA was legislated after emergency which widely received flak from society and intellectuals, journalists, cartoonists, authors etc. were debarred from receiving foreign donations.
- It prohibited electoral candidates, political parties, judges, MPs from receiving foreign donations.
- All NGOs willing to receive foreign donations must register under FCRA
- The Act was majorly modified in 2010 and FCRA 1976 was repealed
- FCRA 2010, granted permission to organizations who had registered or got prior permission under the FCRA 1976, to continue to receive foreign funding subject to renewal in next every five years.
- All FCRA registered organizations had to apply for renewal by 2016, many applications are still pending

## FCRA 2010; other provisions



- Any political organization or association producing Audi-visual news or current affairs programme have been barred from receiving FCRA
- No organization can transfer money from the FCRA account to any person or organization not having registration under the FCRA
- All organisations receiving foreign funding has to open an FCRA account in a notified bank, all operations be held from that account only, and amount can be used only for the purpose of that project for which the donation was received.
- Administrative expenses can only amount up to 50% of the contribution received in a particular year
- Any violation is punishable with an imprisonment which may extend to five years or fine or both
- Central government has the power to dissolve the organization and disposal of the assets in case of non compliance of the Act
- Salient features of the Act and the Rules can be seen at <https://pib.gov.in/newsite/PrintRelease.aspx?relid=71995>

The facilitator should underline that the participants, especially if the organisations have some commercial activities, should consult their CA for more clarity. The facilitator may add explanation from the following sources if required.

A good commentary on the FCRA can be found at <https://www.thehindu.com/opinion/lead/Time-to-repeal-the-FCRA/article16946222.ece>  
Latest amendment in the FCRA Rules done in 2018 through a finance Bill changed the definition of the foreign source. Earlier any company with

more than 50% FDI was considered a foreign company. however, after the amendment they are considered indian companies and therefore donate to political parties. In a judgement in 2014, delhi high court had hawled both BJP and Congress for FCRA violations for receiving donations from companies.

A brief visit to fcraonline services is also recommended at <https://fcraonline.nic.in/home/index.aspx>

### Filing of returns under the FCRA



- Quarterly return, all organisations with FCRA or prior permission have to file quarterly return to inform (i) detail of the donor, (ii) amount received, and (iii) date of receipt, with 15 days following last day of the quarter in which they were received
- Annual return, all organisations have to upload scanned copies of (i) receipt and payment account, (ii) income and expenditure account, and (iii) balance sheet in the form FC-4 within 9 months of the closure of financial year ie. before 31st December.
- All organisations have to upload their financial information on their website (earlier it was required only for organisations receiving INR one cr or more). Organization not receiving or utilising any FCRA amount are also required to file nil FC-4.
- Penalty is leviable for delay in filing returns
- More details regarding filing of returns can be found at [http://www.fmsfindia.org.in/publication\\_upload/standard/s&n-ls-v8-i11.pdf](http://www.fmsfindia.org.in/publication_upload/standard/s&n-ls-v8-i11.pdf)

Online filing of returns under the FCRA is also helpful [http://www.fmsfindia.org.in/publication\\_upload/standard/s&n-ls-v8-i11.pdf](http://www.fmsfindia.org.in/publication_upload/standard/s&n-ls-v8-i11.pdf)

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## LIST OF ABBREVIATIONS

CASH	:	Committee Against Sexual Harassment
CSR	:	Corporate Social Responsibility
ED	:	Executive Director
EPFO	:	Employees Provident Fund Organization
FCRA	:	Foreign Contribution (Regulation) Act
FDI	:	Foreign Direct Investment
FEMA	:	Foreign Exchange Management Act
GRI	:	Global Reporting Initiative
GST	:	Goods and Services Tax
GSTN	:	Goods and Services Tax Account Number
HR Policy	:	Human Resources Policy
NGO	:	Non Government Organization
PAN	:	Permanent Account Number
ROC	:	Registrar of Companies
ROS	:	Registrar of Societies
TAN	:	Tax Deduction and Collection Account Number
TDS	:	Tax Deducted at Source





Public Advocacy Initiatives for Rights and Values in India (PAIRVI) is a capacity building and advocacy support organization working at the intersections of rights, development and sustainability. It works with small grassroots organizations and community based groups to enhance their understanding on development discourse and capacity to respond appropriately.

PAIRVI also works with a pan Indian coalition on climate and environmental justice, MAUSAM (Movement for Advancing Understanding on Sustainability and Mutuality), previously Beyond Copenhagen.

**Visit:** [www.pairvi.org](http://www.pairvi.org)

**Contact:** [pairvidelhi1@gmail.com](mailto:pairvidelhi1@gmail.com), [info@pairvi.org](mailto:info@pairvi.org)