

Accountability of NGOs in India with special reference to the UT of Jammu and Kashmir

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Abstract

The era of globalisation, liberalisation and privatisation brought in some unexpected changes in the working of government institutions, private sector and civil society organisations in India. The concept of accountability which has become the central tenet of good governance, became increasingly important for all sectors and non-government organisations being no exception. The role of NGOs in India has evolved over the years and their number has increased dramatically, they have taken an important role in decision making and global governance but at the same time these NGOs are being questioned for their lack of accountability and transparency to their stakeholders including beneficiaries, staff and state. In this paper NGO accountability in India has been examined and an attempt has been made to highlight the issues of blacklisting, de-licensing, banning and impact of FCRA on NGOs in India and the UT of Jammu and Kashmir.

Keywords: *Accountability, NGOs, FCRA, Blacklisting, Transparency, Good Governance.*

INTRODUCTION

Non-governmental Organizations are becoming increasingly important in resolving a country's socio-economic and political concerns. NGOs contribute to the well-being of millions of people through alleviating poverty, providing free education to the poor and disadvantaged, addressing issues of human rights violations across the world, influencing peace processes in war zones, and so on. Non-governmental organizations (NGOs) have emerged as the new hope for international development cooperation. NGOs are increasingly taking on responsibilities that were formerly the responsibility of government agencies. The number of NGOs has increased, and they have emerged as a major actor in world politics. Memberships have been steadily

increasing in line with the expansion in the number of NGOs. As a result, non-governmental organisations (NGOs) have taken a key role in global governance and decision-making. NGO activity became important in India only after independence. In independent India it became the goal of Gandhi and his followers to start voluntary work which could help to fill the void left by government in various areas of developmental activities (Kapuria,2013).Recruitment of various artisans started in villages by these voluntary groups, their crafts were sold directly in cities at higher prices. Similarly various cooperatives running in bigger cities started marketing of products like fish and diary. These volunteers not only helped in marketing and profit making but also in other areas of development such as imparting

education, providing different skills etc. The trend of providing literary education continued for about five decades.

One of the greatest strengths of NGOs is their independence and their work without any political bias. India being a developing nation, the participation of NGOs became indispensable as the government was found lacking in many areas such as health, education, sanitation, women empowerment, drug abuse, human rights violations, skill development etc (Rajasekhar,2000). Over the years, the role of NGOs in India evolved, their welfare and service programs were being supplemented by sustainable development activities. NGOs being organizations which are neither associated with government nor created to earn profits, they have become important in socio – economic development of India. To operate without any hurdle and achieve success in the developmental process of a country largely depends on the size of funds available with an NGO, in addition to funds it also depends on their style of functioning and their organizational and constitutional set up. In India it has been observed that NGOs face a number of problems such as lack of funds, lack of skilled manpower, lack of government support, lack of training etc (Gurupandi,2020) .NGOs have also established enough evidence of success stories in their favour. Due to the huge success of NGOs in various developmental areas even where government couldn't reach, there is a growing demand for NGOs to expand their area of activities, new as well as existing.

Objectives

Non-Governmental Organizations (NGOs) have been playing a significant role in socio-economic development, promoting human rights, protecting the environment, and other

social causes. However, the accountability of NGOs has been a matter of concern, particularly in India. This paper aims

- To investigate the accountability of NGOs in India with a special reference to the Union Territory of Jammu and Kashmir.
- To identify the challenges faced by NGOs in Kashmir in ensuring accountability,
- To analyse the impact of regulatory frameworks such as the Foreign Contribution Regulation Act (FCRA) on NGO accountability

Research Methodology

The research methodology used for this study is based on a review of relevant literature, including academic articles, government reports, and policy documents. Secondary data sources were used to gather information on the accountability of NGOs, the regulatory framework, and the challenges faced by NGOs in India and in Jammu and Kashmir. The data was analysed using a thematic analysis approach. Additionally, the author also through primary data collected from 100 NGO staff through questionnaire, analysed the key areas of accountability issues faced by NGOs in Kashmir

Accountability and Good Governance

The key requirement of good governance is accountability of all institutions, including government, private and non- governmental organisations, they all should be accountable to the public and all other stakeholders for their actions. In general all these organisations should be accountable to all those persons or institutions who are affected by their actions or decisions. To enforce accountability, transparency and rule of law must prevail in every organisation, only then the goals of good

governance can be achieved (Brinkerhoff,2017). Transparency implies that all decisions taken and their implementation is done according to the prescribed set of rules and regulations. It also suggests that whatever is done during the enforcement of such decisions information is freely available and accessible to all those who are either directly or indirectly affected by such decisions. The information made available should also be understandable to all.

The beginning of the practice of accountability in government institutions can be traced back to the political systems of ancient city of Athens (Newell and Bellour,2002). Gradually the notion of accountability spread to other institutions as well. There have been numerous debates and discussions on the practice of accountability, whether it should be internal or external. Friedrich while debating accountability argued that an official should be responsible to other officials in his area of work only while as Finer countered and said that an official should be responsible to all the elected representatives(Bourgon,2007). Emphasising this classical debate on internal and external accountability, Bourgon (2007), a contemporary public administration theorist explained that the final goal of accountability is to make sure that the governmental as well as the non-governmental institutions are responsible to their stakeholders.

In contemporary world the term “accountability” is gaining more and more relevance and it has become an indispensable dimension of good governance. World bank suggested some mechanisms of accountability for government institutions which are disclosure of financial data and freedom of information .To ensure that information is freely available and easily accessible to all is the cornerstone of the concept of accountability

and has been in practice in many countries, Sweden became the first country in 1776 to ensure that information is shared to its citizens while as in India there was no such mechanism till 2005.In India there existed a law on information known as official secrets act (1923), this secrecy on information led to corruption, nepotism and inefficiency in administration. Huge sums of public money was misused and misappropriated and was diverted form developmental projects to vested interests (Pruthi,2006).

Soon, after 1990s various civil society organisations started movements against rampant practices of corruption, there was a national campaign for people’s right to information in 1996. Various organisations such as “Consumer education and research council” (CERC) and “Press council of India” came together and drafted a model RTI Act in 1997.Eventually, Freedom of information act was enacted in 2000. Tamil Nadu, Goa and Rajasthan became the first states to get this act enacted(Ashraf,2008).The passing of this act encouraged the government organisations to ensure accountability and transparency. However private sector and NGOs were exempted from this act.

Accountability of NGOs

NGOs play a vital role in improving the living conditions of the most vulnerable and downtrodden sections of the society. The number of NGOs in recent years has grown exponentially and they are working in almost every area including research , imports and exports etc. NGOs complement the work of government in the upliftment of poor, under privileged and vulnerable sections. As world bank defines an NGO as “Private organisations that pursue activities to relieve sufferings, promote interests of poor, protect the

environment, provide basic social services, or undertake community development” (Werker and Ahmed, 2008), in India the role of NGOs has created an extraordinary impact on nation building.

Currently, the number of registered NGOs in India is around 3.2 million. The Central statistical Organisation states that “there are around 4 NGOs for every 1000 people in urban areas and 2.3 NGOs for every 1000 in urban areas”(Central statistical organisation report,2018).Due to their all-encompassing and comprehensive nature ,NGOs are often referred to as third sector. The reliability and credibility of this sector is often questioned on various grounds such as transparency, funding patterns, source of donations, foreign funding, lack of information, nexus between various agencies etc. The accountability of NGOs depends on a number of factors as NGOs perform a wide range of functions, thereby the practice of accountability varies from one NGO to another. The NGOs which are associated with charities and human rights are questioned more than those which are “for profit organisations”(Codery,2019).

NGOs are required to submit a number of reports to their stakeholders including financial reports which are required by their regulators to ensure minimum levels of financial accountability (Christensen and Ebrahim,2006). Ebrahim(2003) in his paper has also discussed five broad mechanisms or categories of accountability practices used by different NGOs, those being “reports and disclosure statements , performance assessment and evaluations, participation, self-regulation and social audits”

The credibility of NGO sector has come under a scanner as they are being questioned for their “crisis of accountability and

transparency”(McGann and Jhonstone,2006).There is a huge pressure on NGOs to become more and more transparent and share information but it has been observed that many of the NGOs show reluctance while sharing any information, consequently it affects the effective regulation of these organisations and hence their overall efficiency. In this regard Stiglitz (2006) noted, “To pretend that any institution is infallible or that there is perfect confidence in the actions being undertaken is to fly in the face of reality”. Stiglitz also argues that transparency is important for any organisation especially those which are dealing with charities so that all stakeholders can have checks and balances and minimize misuse, misappropriations, corruption and chances of other blunders as well. If there is no accountability it becomes difficult for these stakeholders to hold these organisations accountable. Sometimes there is a close nexus between NGOs, donors and beneficiaries which also goes unchecked due to lack of transparency.

Many arguments were put forward to improve the accountability of NGOs:

- Increase in transparency and accountability of NGOs may eventually lead to the increase in trust and confidence of stakeholders in these organisations and hence increase their efficiency , effectiveness and legitimacy.
- The performance of NGOs and learning improves with the help of practices such as accountability and transparency (Brown et al,2003).
- Accountability also minimizes the negative impact on the minds of its stakeholders and also reduces chances of criticism and allegations against them such as they are “secretive, undemocratic in their

decision making and have less rigorous standards of governance”(Adair,2000).

Accountability of NGOs in India and FCRA regulations

NGOs in India should be accountable to multiple stakeholders especially donors and beneficiaries. In 2017 Supreme Court of India stressed on the accountability of these organisations as there was no proper regulatory mechanism in place to monitor their utilization of funds .It suggested for a strong mechanism to be put in place and make these NGOs answerable in case of misappropriation of funds, the SC bench also mentioned that necessary civil and criminal proceedings must be initiated in case there is non- compliance by these organisations (Indian express-2017).Prior to these statements made by SC of India, CAPART-“Council of advancement of peoples action and rural technology” was already in place which was set up to interfere in the matters between government and NGOs. It blacklisted about 899 NGOs since 1984.On the other hand the “central social welfare board” stopped providing any sort of assistance to these NGOs and blacklisted thousands of organisations (Pal,2004). Blacklisting these NGOs had a negative impact on public and consequently they began to lose trust of people. Several NGO activists came forward and worked towards improving the image of these organisations, and among them Bunker Roy was the most important activist as he was the first to make such effort. He recommended to start a regulatory mechanism and demanded a “National Council for Voluntary Sector” which could also help the government to recommend legitimate organisations (Pal,2004).

World Vision, an international NGO emphasised on strengthening the practice of accountability, their notion of accountability

followed a framework that “an NGO is accountable to its core constituency(i.e. the community it serves),its partners in development work(from all sectors of society),its donors, its staff and volunteers, states and public authority and other actors in public sphere. In addition, NGOs are accountable to themselves-to their goals value and mission”(Wisheart and Cavender,2011).

The ground reality of NGO accountability in India has been summed up in three studies, Parthasarathy (2012) in his study found that most of the NGOs in India are accountable to their donors only, that is, there is donor centric or upward accountability .Mir and Bala (2014) highlighted that accountability is easy for those NGOs which are self-financed and rely on their own resources while as those NGOs which are foreign funded spend a huge amount of time and resources in furnishing details and remaining accountable to their donors. On the other hand Niumai (2013) in his study found that NGOs remain more accountable to government institutions and their foreign funding agencies rather than to the communities they serve or beneficiaries.

To ensure transparency, the government of India enacted an act called FCRA (Foreign Contributions Regulating Act), 1976 and it was subsequently amended a number of times. The main aim of this act was to keep a check on the financial transactions of NGOs. According to government of India, this act is in national interest and it will ensure that these NGOs are not doing anything which will become a threat to national security, thereby putting curbs on the working of NGOs, making registrations necessary for those NGOs which are receiving foreign funds (Jain,2020). However, in the past few years there has been some serious criticism of this act stating that this act only puts a bar on such NGOs which are working in some specific

“sensitive areas” such as “pollution and climate change issues, human rights, child labour and human slavery, health and religious NGOs particularly Christian and Islamic charities”. Since 2014, it has been found that some of the well-known international NGOs working in India have lost their foreign funding licences which include “Amnesty international, Greenpeace India, People’s watch, European Climate Foundation, Compassion International and the Gates foundation -backed by Public health foundation of India”(The hindu,2021).

Accountability of NGOs in Kashmir

Kashmir has been through terrible circumstances since 1990, and as a result NGOs proliferated, the region appears to have become a haven for non-governmental organisations. There is no central registry, no rules and no explicit accountability for NGOs that operate here. According to various estimates there are about 16,000 NGOs present in Kashmir. NGOs are registered in district courts for diverse non-profit activities as trusts and voluntary organisations. Furthermore, there are numerous NGOs in Kashmir which are not registered, while as a number of NGOs working in Kashmir are run by government officials, politicians, persons belonging to well-off families and those who have worked in counter insurgency think tanks(Bukhari,2010).

During 1990s, it was found that there was a sudden surge in the number of NGOs operating in valley (suri,2004). The majority of the NGOs were either directly funded by government or other government agencies functioning in J&K. According to the survey conducted by IPCS, “these NGOs known as GONGOs or government NGOs, sprung up in enormous numbers in a short period of time and continue to exist now, at least on paper”. Kashmir being a conflict ridden zone, the NGOs working here

receive huge amounts of donation from foreign donors especially from Muslim majority nations. In 2020, 62 NGOs in the UT of Jammu and Kashmir which were substantially funded by “Union Ministry of Women and Child Development” under their social welfare schemes showed reluctance to share any information about their work and expenditure on various activities. This reluctance to remain transparent and accountable was viewed seriously by Chief Information Commissioner Y K Sinha, he issued some important instructions to “Social Welfare Department of Jammu and Kashmir” and observed that “in spite of the mounting pressure for more openness and transparency it appears that a number of NGOs remain reluctant to share information and recognise the need for accountability”(Daily Exelsior,2020).

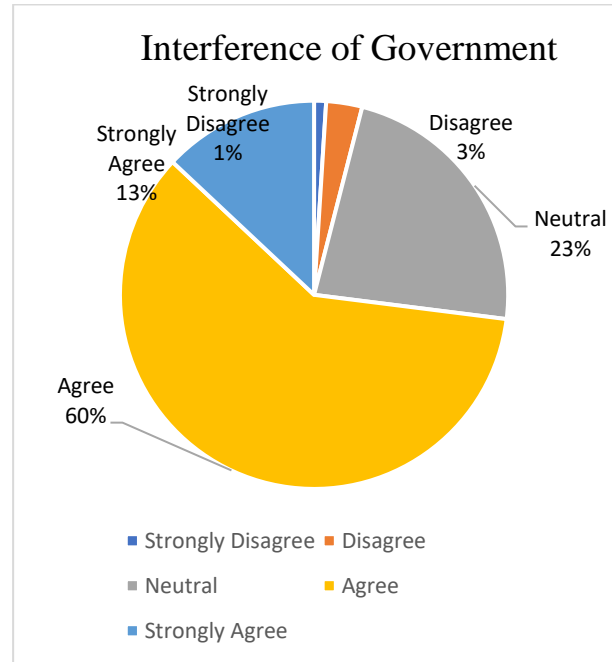
The issue of legitimacy of NGOs in the unity of JNK is also a cause of concern, the armed insurgency which broke out in 1989 had a huge impact on almost every sector and every individual in this area. Subsequently questions were raised on the legitimacy of NGOs, they were viewed as funding agencies or intermediaries of militants, these issues or challenges associated with legitimacy of NGOs were not faced by NGOs in any other states. This caused mistrust and suspicion among donors and raising funds became a difficult task for NGOs in Jammu and Kashmir (Mahajan & Narayanamurthy,2021). In 2020, there was a major crackdown on NGOs by investigating agencies such as NIA, raids were conducted on a prominent NGO in Kashmir known as Athrout and other organisations as well. It was stated that, “these NGOs were not registered that means they did not have the FCRA licence, yet they were getting funds from Pakistan and Europe and even from countries like Fiji and East Timor”(India today,2020). The mushrooming of NGOs in Kashmir and

moreover the lack of transparency and mechanisms of accountability or a matter of grave concern, recently two persons operating an NGO in south Kashmir’s Pulwama district where arrested as an FIR was registered against them for “illegal adoption and sale of children of COVID-19 victims in Kashmir”(Greater Kashmir,2021). The author also through primary data collected from NGO staff through questionnaire, analysed the key areas of accountability issues faced by NGOs in Kashmir which include interference of Government in the working of NGOs in Kashmir, inadequacy of funds and impact of regulatory acts such as FEMA and FCRA. The response showed that Government as an institution has a strong influence over the operation of NGOs as successful businesses with sufficient independence to make decisions without interference. NGOs view regulation as overtly meddling as a result of the government's interference in terms of overbearing accountability.

Table 1: Perception of respondents regarding interference of government officials

S. No.	Interference of Government	Frequency	Percentage
1	Strongly Disagree	1	1%
2	Disagree	3	3%
3	Neutral	23	23%
4	Agree	60	60%
5	Strongly Agree	13	13%
Total		100	100%

Figure 1: Perception of respondents regarding interference of government officials

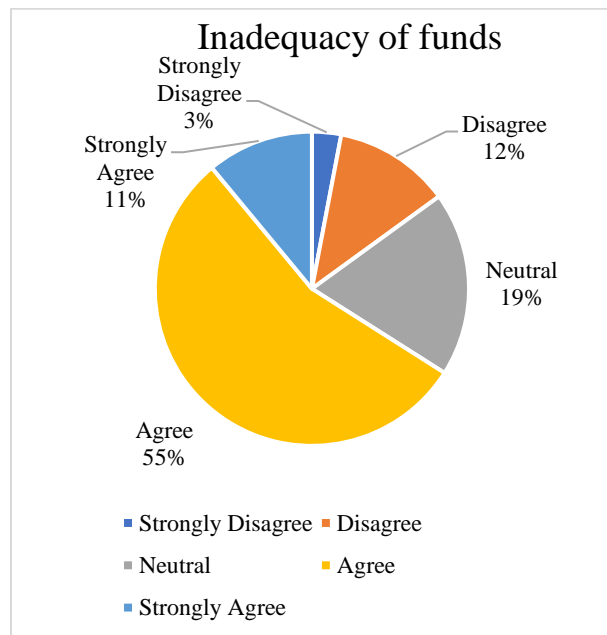


In the above table and figure, respondents' responses to the same question reveal that 60% and 13% of them agreed and strongly agreed with the statement, while 23% stayed neutral and only 3% and 1% objected and strongly disagreed with it. Consequently, it can be said that a healthy system of balance between accountability and autonomy is necessary for NGOs to have a working environment that is productive and proactive.

Table 2: Perception of respondents regarding inadequacy of funds

S. No.	Inadequacy of funds	Frequency	Percentage
1	Strongly Disagree	3	3%
2	Disagree	12	12%
3	Neutral	19	19%
4	Agree	55	55%
5	Strongly Agree	11	11%
Total		100	100%

Figure 2: Perception of respondents regarding inadequacy of funds



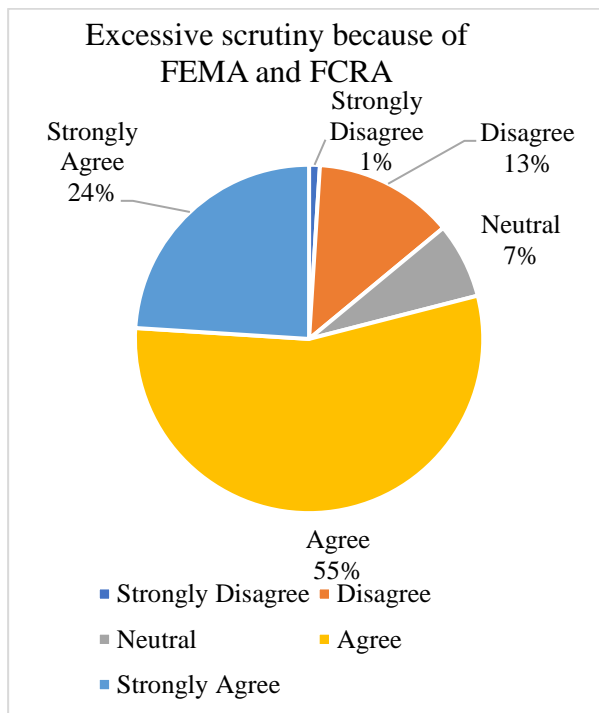
The scrutiny to NGO fundings has led to inadequacy of funding and the target groups increasing each day due to factors such as unemployment, recession and increasing poverty. In this backdrop, majority with 55% and 11% respondents agree and strongly agree to the statement that NGOs become complacent due to inadequacy of funds. Approximating a third of the respondents to strongly disagreeing, disagreeing, or remaining neutral forming about 3%, 12%, and 19% of the respondents respectively.

Table 3: Perception of respondents regarding excessive scrutiny due to acts such as FEMA and FCRA

S. No.	Excessive scrutiny because of FEMA and FCRA	Frequency	Percentage
1	Strongly Disagree	1	1%
2	Disagree	13	13%

3	Neutral	7	7%
4	Agree	55	55%
5	Strongly Agree	24	24%
Total		100	100%

Figure 3: Perception of respondents regarding excessive scrutiny due to acts such as FEMA and FCRA



The FEMA and FCRA came to fore to prevent fundings misappropriated towards and national causes such as hawala and terror funding. In its light the fundings to NGO's aimed at upliftment also stood hampered due to excessive scrutiny and documental requirements. The above table and figure indicate that 24% of the respondents strongly agreed to the statement that NGOs face excessive scrutiny due to acts such as FEMA and FCRA and 55% responded to agree. While as, a minority of 1%, 13% and 7%, strongly disagreed, disagreed, and remained neutral respectively. Thereby highlighting the

shortcomings to receiving funds by NGOs through foreign means.

As a result of the above factors, a number of NGOs in Kashmir are either banned or blacklisted on various grounds. Most of the cases of blacklisting are related to cases of terror financing, issues concerning national security etc., some critics even argued that it is merely an attack on the freedom of expression of an individual as most of the NGOs working against human rights violations in Kashmir were also banned.

Conclusion

NGOs, also called as third sector have become an indispensable part of our lives. We can give voice to our concerns through these organisations. They play a vital role in reaching the most vulnerable and remote areas, they act as a bridge between government and common citizen thereby reducing the huge gap of mistrust and ushering in trust and confidence between these two actors. NGOs control the essential services, thereby they should not only be accountable to their donors but also to their beneficiaries and staff as well. They must seek ways to build trust and confidence among its stakeholders by sharing information as much as they can, remaining transparent and accountable. There must be accountability benchmarks for NGOs so that they can build more and more trust with their stakeholders. Non-governmental organisations (NGOs) are crucial to society because they expose human rights abuses and restrain corporate and governmental power. They work in an environment where there are growing demands for transparency, accountability, and responsible advocacy, and they differ from other NGOs in terms of their agenda, funding model, and the stakeholders they serve. Indian society and politics are heavily influenced by

non-governmental organisations (NGOs). During the time of India's national independence in 1947, NGOs were established particularly for the aim of nation-building. The rising neoliberal agenda has, however, brought NGOs under intense scrutiny recently, and discussions on NGOs around the world frequently centre on issues of accountability. The subject of how NGOs are portrayed in the media, which in modern society represents the public sphere or arena of public opinion, has received little attention from communication experts despite the fact that NGOs have been researched in a variety of contexts. Because public legitimacy can have major repercussions for an NGO's capacity to raise funding, influence policy, and cultivate trust in beneficiary communities, it is crucial to pay attention to the media. According to Rebecca de Souza (2010), media also plays a crucial role in the way as to how it portrays NGO's in the headlines. Her analysis of two main national newspapers that is The Hindu and The Times of India shows that while as The Hindu believes in analysis, analytics and deeper understanding of the issue, The Times of India believes in sensationalism, gossip and superficial celebration of Neoliberalism. Thus from an all India level to various states, the State has been tightening the grip around NGOs because government believes that certain NGOs come with ulterior motives and are funded by "anti-national" agencies.

The paper highlights the need for a robust regulatory framework that ensures transparency and accountability in the operations of NGOs. There is a need for the government to work in partnership with NGOs to develop an effective system for monitoring and evaluation of NGO activities to ensure compliance with regulatory frameworks. The study recommends that NGOs need to embrace

transparency and accountability to enhance their credibility and legitimacy in society.

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