

QUESTIONNAIRE FOR NGOS

Legal and Regulatory Environment for NGOs in Bangladesh

At the Bangladesh Development Forum meeting in May 2004, the Government of Bangladesh agreed to a proposal of the donors to conduct a study and evaluation of the laws and regulations affecting NGOs in Bangladesh. This questionnaire is a result of that agreement. It has been prepared by Prof. Leon Irish and Prof. Karla Simon, independent international consultants, and Fawzia Firoze, a local consultant, who have been retained by the Local Consultative Group (LCG) of donors.

The purpose of this questionnaire is to gather information and opinions from NGOs about current laws and regulations affecting NGOs and changes that might be made to them. This questionnaire is being sent to members of the Association of Development Agencies in Bangladesh (ADAB), the Federation of NGOs in Bangladesh (FNB), and the Bangladesh National Women Lawyers Association (BNWLA).

This questionnaire has been sent to you by ADAB, FNB, or BNWLA. To assure that your answers will be confidential and anonymous, a unique code number has been assigned to your questionnaire and is included in the transmittal you have received. PLEASE ENTER YOUR UNIQUE CODE NUMBER AT THE TOP OF EACH PAGE, AND DO NOT INCLUDE YOUR NAME, THE NAME OF YOUR INSTITUTION, OR OTHER IDENTIFYING INFORMATION.

Please respond electronically if possible. If you are responding in hard copy and if more space is required in order to answer any question, please use the back of the page or attach additional sheets. If you have any questions, please contact the organization that sent the questionnaire to you.

The consultants will receive your coded answers, but they will not know the code, your identity, or the identity of your organization. Information and opinions from the questionnaire that are provided to the public or the government will be presented only in aggregate statistics or in anonymous references or quotations.

Please complete as many parts of the questionnaire as you can and return the completed questionnaire NO LATER THAN 10 JANUARY 2005 to the organization from which you received it.

Thank you very much for your participation. Two open workshops to discuss the issues raised in this questionnaire are planned for January 12 and

16 in Dhaka, to be followed by a conference on January 31. Please contact the organization that sent you the questionnaire for further details if you are interested in participating in those events.

1. **Establishment.** Which, if any, of the following laws is your organization registered under (check as many as apply)?

- a. *The Societies Registration Act 1861* _____
- b. *The Trust Act, 1882* _____
- c. *The Cooperative Societies Act, 1925* _____
- d. *The Companies Act, 1913 (amended 1994)* _____
- e. *Other* _____

f. Describe any changes or additions that were required with respect to the documents you filed in order to be registered, and explain why those changes were required:

g. Describe any unnecessary or unwarranted delay or difficulty you experienced in establishing your organization:

h. If you were required to pay anything other than the regular registration fee, please state what it was (including amount or value) and why it was required:

2. **Registration.** Which of the following laws is your organization registered under (check both if each applies)?

- a. *The Voluntary Social Welfare Agencies (Regulation and Control) Ordinance, 1961 ("VSW Ordinance")*
(administered by the Department of Social Welfare) _____
- b. *The Foreign Contributions (Regulations) Ordinance, 1982* (formerly the Foreign Donations (Voluntary

Activities) Regulation Ordinance, 1978 ("FCR Ordinance")(administered by the NGO Affairs Bureau) _____

c. If your organization registered under the VSW Ordinance --

i. Did your organization encounter unreasonable or unnecessary delays or difficulties in being registered? (YES)(NO)[circle one] If yes, please describe.

ii. Has the Department of Social Welfare at any time sought to suspend the governing body of your organization or to dissolve it? (YES)(NO)[circle one] If yes, please explain the circumstances and the outcome.

d. If your organization sought registration under the FCR Ordinance -

i Was registration denied? (YES)(NO)[circle one] If yes, please explain why.

ii. If registration under the FCR Ordinance was permitted only after changes were made, please describe the changes that were required and why.

e. If your organization was registered under the FCR Ordinance, did it find any of the following requirements unnecessary, inappropriate, or unduly costly and burdensome? Please say why.

i. Approval of the Home Ministry.

ii. Submission of a five-year plan.

iii. Submission of individual project proposal(s).

iv. A pledge of external financing from a foreign donor.

f. (i) Has your organization ever been denied renewed registration under the FCR Ordinance at the end of any five-year period? (YES)(NO)[circle one] If yes, please explain the circumstances and why renewal was denied.

ii. If your organization was required to make changes in order to obtain renewed registration, please explain what changes were required and why.

g. Foreign Grants.

i. If the NGO Affairs Bureau ever refused to approve a foreign grant for your organization, please describe the circumstances and say why.

- ii.** If the NGOAB required you to change the nature or terms of the foreign grant in order to obtain approval, please say what the changes were and why they were required.

- iii.** If the NGO Affairs Bureau ever refused to approve certain foreign consultants to work on one of your organization's projects, or denied permission to one of your staff to travel abroad, please explain the circumstances and say why.

- iv.** If the NGO Affairs Bureau ever refused to let your organization spend a foreign grant, please explain the circumstances and say why.

- h. Inspection.** Has the NGOAB, any ministry (e.g., Health), or any registrar ever visited your organization to assess its compliance with laws or regulations? (YES)(NO)[circle one] If yes, please describe the circumstances and the outcome.

- i. Right to Appeal.** Do you think an NGO should have a right to appeal any adverse decision by the NGOAB or other agency or ministry of government to an independent court? Please explain your views.

j. Government Sanctions and Remedies.

- i. Is a legitimate public interest served by requiring prior government approval before an organization can qualify for a foreign grant or before a foreign grant can be received or spent? Please explain.

- ii. Should the government's right to suspend or dissolve an NGO be limited to those rare cases in which there is an imminent and serious threat to the public interest, and should the government be required to use less drastic remedies (e.g., fines, removal of tax exemption) for most violations of laws and regulations affecting NGOs? Explain.

3. Governance Structure. Using the following options, please describe the governance structure of your organization:

- a. Members meet at least ___ times a year and elect a governing board¹ consisting of between ___ and ___ individuals who are elected by members and who serve terms of ___ years. (Fill in the blanks.)
- b. Decisions on the following matters are principally made by (check the option that most closely fits the way in which your organization actually operates):

	<u>Members</u>	<u>Gov. Board</u>	<u>Exec. Director²</u>
i. Policies			
ii. Programs			
iii. Budgets			
iv. Financial Stmts.			
v. Rules & Proced's			

¹ "Governing board" includes trustees, a board of trustees, a board of governors, or any other designation used to denominate the individual(s) or body that governs the organization in between meetings of members.
² "Executive Director" refers to the chief executive officer of your organization, whether he or she is denominated as "President," "CEO," "Managing Director," or any other term

- vi. Executive Dir.
- vii. Other Staff
- viii. Amend. of Gov. Docs.³
- ix. Day-to-day Mgmt.
- x. Oversight

c. How and to what extent do you include beneficiaries in decisions about adoption and implementation of programs? Please explain.

4. **Conflicts of Interest.** (a) Does your organization have rules prohibiting conflicts of interest and undue personal benefits (e.g., excessive salaries, non-working spouse on payroll)? (YES)(NO)[circle one] If yes, please describe and explain.

(b) Does your organization have procedures for dealing with these issues? (YES)(NO)[circle one] If yes, please describe and explain:

(c) With respect to any organization that your organization funds or that funds your organization, or any organization to which your organization provides services or from which your organization receives services, does any member of your organization's governing board or any member of his or her immediate family hold a responsible position (e.g., director or officer) in such organization? (YES)(NO)[circle one] If yes, please describe and explain.

³ "Governing documents" refers to the articles of association, the articles of incorporation, bylaws, and any other binding legal documents establishing the basic rights, duties, responsibilities, and powers of your organization.

(d) Is your Executive Director related by blood or marriage, or by any other unusually close relationship, with any member of your organization's governing board? (YES)(NO[]) If yes, please describe and explain.

5. **Compensation.** (a) What are the procedures and standards used by your organization to decide upon compensation scales and individual levels of compensation? Please describe.

b. What is the ratio of the compensation of the highest paid full time employee to the lowest paid? (E.g., if the highest paid receives ten times as much as the lowest paid, the ratio is 10:1)

6. **Reports.** Does your organization provide detailed financial and activity reports to the following:

Financial Reports Activity Reports

- a. **Members**
- b. **Governing board**
- c. **Donors**
- d. **Beneficiaries**
- e. **Registrar**
- f. **NGO Affairs Bureau**
- g. **Ministry of Social Welfare**
- h. **Relevant Line Ministry**
- i. **National Board of Revenue**
- j. **Public**

k. Circle the above answers that relate to reports that your organization is required by law to file, or list them here:

1. Put a square around the above answers that relate to reports that your organization is required to file by its governing documents or a standing resolution of the governing board, or list them here:

- m. (i). What financial accounting standards does your organization use to prepare and report its finances (e.g., Bangladeshi GAAP, IAS, MRRU).

- ii. Is it required to use these standards? (YES)(NO)[circle one]
By whom or what?

7. **Self-regulation.** (a) Does your organization follow standards of self-regulation? (YES)(NO)[circle one]

- b. Are these standards imposed by an apex body or simply standards your governing board has adopted?

- c. Are these standards enforced? How and how effectively?

- d. Please summarize these standards, attach a copy of them, or provide an accessible reference to them.

8. **Contributions.** Does your organization receive contributions from Bangladeshi citizens or businesses? (YES)(NO)[circle one]. If yes, please describe the average annual amount of such contributions

and from whom they come.

9. **Financial Reserves or Endowment. (a)** What does your organization do with funds it does not have to use right away (e.g., deposit in bank account)?

- b. Does your organization have any investments other than bank accounts (e.g., shares of stock, bonds, real estate, etc.) (YES)(NO)[circle one] If yes, please describe the nature and value of these investments.

- c. Does your organization have an endowment, i.e., a fund that cannot be spent, but the income from which may be used for programs? (YES)(NO)[circle one] If yes, please describe

- d. Is your organization taxed on income it earns on these funds (e.g., interest, dividends, or capital gains)? Please explain.

10. **Income Generating Activities. (a)** Describe any income generating activities your organization engages in (e.g., sale of goods or services).

- b. Does it do so directly or through a subsidiary?

c. What does your organization do with any surplus from those activities?

d. Are those surpluses taxed?

11. Public Policy and Political Activities.

a. Indicate the extent, if any, to which your organization engages in the following activities:

Frequently Occasionally Never

- Public education⁴**
- Issue advocacy⁵**
- Voter registration⁶**
- Direct lobbying⁷**
- Grass-roots lobbying⁸**
- Supporting or opposing candidates for office**
- Financial support for political parties**

b. Which of these activities are NGOs prohibited by law from engaging in? Which should the law prohibit them from engaging in?

Is Prohibited Should be Prohibited

- Public education**
- Issue advocacy**
- Voter registration**
- Direct lobbying**
- Grass-roots lobbying**
- Supporting or opposing candidates for office**
- Financial support for**

⁴ "Public education" refers to efforts to educate the public on issues of public importance through a balanced and reasoned explanation of the facts and opposing points of view.
⁵ "Issue advocacy" refers to efforts to persuade the public to agree with your organization's position on an issue of public importance.
⁶ "Voter registration" refers to efforts to encourage citizens to register and to vote without encouraging them to vote for or against any particular person, party, or proposition.
⁷ "Direct lobbying" refers to dealing directly with elected or appointed officials of government to persuade them to change law or policy.
⁸ "Grass roots" lobbying refers to efforts to persuade citizens to contact their elected or appointed officials to get them to change public law or policy.

political parties

- c. If you believe some of these activities are currently illegal if conducted by NGOs, please state the basis for your opinion.

12. **Taxation. (a)** What taxes does your organization pay (e.g., income tax, VAT, real property tax)?

- b. What percentage of your annual revenues goes towards taxes?

- c. What changes do you think should be made in the tax laws insofar as they affect NGOs?

13. **Government. (a)** Do the government agencies and ministries that your organization deals with understand the nature, role, and importance of NGOs? (YES)(NO[]) Are they supportive of the interests of NGOs? (YES)(NO[]) Please explain your views.

- b. Are government agencies and ministries generally fair and reasonable in dealing with NGOs (e.g., in approving foreign grants, enforcing rules on business and political activities, etc.)? (YES)(NO[]) Please explain your views.

- c. What changes do you think would do the most to improve the government's understanding of NGOs or relations between the government and NGOs?

14.. Donors. (a) Are the donors your organization deals with fair and reasonable in handling grant applications from NGOs (e.g., in deciding who gets grants and what the terms and conditions will be)? (YES)(NO)[circle one] Please explain.

b. Do donors that your organization deals with understand the nature, role, and importance of NGOs? (YES)(NO)[circle one]
Are they supportive of the interests of NGOs, especially with respect to dealings with the government? (YES)(NO)[circle one]
Please explain.

c. Do donors have realistic expectations about the reports and disclosures that should be made to them, and do they enforce their rules fairly and effectively? (YES)(NO)[circle one] Please explain.

d. What changes do you think would do the most to improve relations between donors and NGOs?

15. Media. (a) Do the media understand the nature, role, and importance of NGOs? (YES)(NO)[circle one] Please explain.

b. Do the media do a good and fair job of reporting on NGOs and their activities? (YES)(NO)[circle one] Please explain.

c. What would be the best ways to get the media to understand NGOs better and to do a better job of reporting about them?

16. Possible Changes in Laws and Regulations. (a) In addition to any suggestions you may have made above, are there specific changes you would recommend in the laws and regulations that affect NGOs?

(b) In addition to any suggestions you may have made above, what changes would you recommend in how laws and regulations affecting NGOs are enforced?

17. Organizational Information.

a. What field(s) does your organization work in?

b. What regions or areas of the country does your organization work in?

c. How many branches or field offices does your organization have? _____

d. How many (a) fulltime employees -----, (b) part time employees, ----- and (c) volunteers ----- are usually working at your organization? [fill in the blanks]

- e. (i) When was your organization founded? _____
- ii. If the founder(s) is(are) still active in the organization, what office(s) does he (they) hold?
- _____
- _____
- f. What were the annual expenditures of your organization been for –
- i. 2001 _____
- ii. 2002 _____
- iii. 2003 _____