LACK OF IMPLICATION AMONG NGO REGULATIONS IN PAKISTAN: A COMPLICATED LEGISLATION SYSTEM AND ITS IMPACT ON ASIA AND EUROPE

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Abstract

Pakistan is a fragile state with regard to lack of institutionalization, which can be seen ubiquitously. Pakistani national and provincial parliaments are engaged in formulating legislations. However, the violation and breaching of law is a common trend. NGOs mostly work for welfare, development, and advocacy. Evidence about regulation systems for citizen welfare show that several laws and legislations have been passed in parliament in relation to this welfare. However, implication is seriously lacking. Moreover, corruption and poor management in regulatory departments is a major challenge. Studies show that corruption exists both in NGOs and government departments. Currently, the work and importance of NGOs is increasing in Asia. Various regional, international and European organizations are supporting Pakistani NGOs. If effective measures are not taken by the Pakistani Government regarding effective NGO legislation and implementation, these supporting organizations may impose restrictions on their relief services to Pakistan. In his study, for the methodology, a literature review and In-Depth Interviews (IDIs) were employed.. NGO professionals, legal experts and regulatory body officials (Key Informants) were selected. The study found that NGO regulations are quite complicated in Pakistan. NGOs at times suffer from confused and complicated departmental conditions. Proper guiding protocols are not found in important departments. NGOs can be registered with six regulatory bodies in Pakistan. Furthermore, the government has also established a PCP to facilitate and monitor NGO activities. This paper analyzes the regulatory system, and discusses the pros and cons of the control mechanisms.

Keywords

Legislation, NGOs, Pakistan, Act, Regulation and PCP

Introduction

Organizational life is based on construction of personnel and groups; it is a seamless web of relationships among human actors, technological artifacts, and material (Grint, 2005). Non-Governmental Organizations (NGOs) are groups of citizens who are engaged in collective actions on a self-help basis or working on advocacy to any particular issue inside and outside the aegis of state (David and Wayne, 2003). Hilhorst (2003) defines NGOs as civil society organizations, and as "an intermediate associational realm between state and family populated by organizations which are separate from the state, enjoy autonomy in relation to the state and are formed voluntarily by members of society to protect or extend their interests or values". (p. 36)

A regulation system for civil society organizations is the most important aspect to facilitate, control, and monitor NGOs in any country. The traditional regulation model desires to control and dictate NGO rules (Burger, 2012). Various regulatory bodies exist in Pakistan;,the country appears as solely a state of regulations. These regulations lack clarity and become confusing, creating complications. Various NGOs in Pakistan provide charitable services to communities. Most of these, however, are unregistered. Despite the existence of many laws, studies show that only 38% of NGOs are registered with different laws in the country (ADB, 1999).

This paper discusses the state of social problems of Pakistan, the role of NGOs, and regulation systems of NGOs. It is significant to well conceptualize mechanisms regarding NGO regulations prior to executing certain operations in the country. There is dire need to see the implication of these regulations and its effectiveness. Furthermore this paper contributes to knowledge for for initiating and executing development projects in Pakistan. The paper also provides valuable information on NGO legislation. Finally, the paper suggests recommendations for improvements to existing mechanisms.

State of Social Problems in Pakistan

Pakistan is located in south Asia, and falls in the category of developing countries with a total population of 180,121,027 (Pakistan, 2012). Currently, rapid population growth is the major challenge, an issue not handled appropriately (Jafarey, Kamal et al. 2008). Consequently, a number of interrelated social problems have emerged

(Jafarey, Kamal et al. 2008). Pakistan is ranked as the sixth most populous country in the world (UNDP, 2012). Demographers have commented that rapid population growth is the key problem, which NGOs and governments should approach (Livingston and O'Hanlon, 2011). Lack of basic needs, low literacy, poor infrastructure, disasters, conflicts, violation of human rights, corruption, and lack of leadership everywhere render Pakistan most vulnerable. Hence, the role of NGOs becomes more significant when the government alone cannot manage such problems. Furthermore, current circumstances have indicated that the government itself is unable to manage the problems of the country; the government and NGOs should play a mandatory part to cope with issues of the country (David and Wayne, 2003).

NGOs as champions of community development

Strier (2009) outlines NGOs or civil society organizations as two types: one based on service delivery and the other as advocacy focused. Several projects are implemented by NGOs for community development, mostly with core services, while the NGOs also lead advocacy-related initiatives so to influence public decision-making in the country (Hilhorst, 2003; Grint, 2005). Few NGOs pursue both types of activities concurrently, as doing so becomes difficult (Samaun 2006; Roseland, 2000).

Most of the NGOs work in the fields of humanitarian relief, and engage in cooperation, peace building, development, human rights, and environment issues (Arno, 2010). The debate of that either NGOs are agenda setters or followers for the donor organizations continues (Keith 2002).

Role of NGOs in Pakistan

NGOs have gained attention and have developed worth in Pakistan, due to their contribution in community development programs. NGOs are also known as NPOs (Not for profit organizations) in the country. An accurate definition of NGOs is not given in government regulations. Moreover, NGOs are referred to as voluntary associations, societies, village level organizations, religious bodies, youth associations, think tanks, rights-based organizations, and professional organizations, and those working for the betterment of societies (Regulation, 2012). Voluntary and Welfare organizations work at small levels as community groups or community based organizations, so to resolve community issues at local levels (P. Van Domelen Dongier J. Ostrom, Wakeman et al. 2003). NGOs are registered under The Society Act, and established to run projects on health, poverty, education, relief, rehabilitation, food distribution, provide ambulance services, and related

community development initiatives, with the support of donor organizations, philanthropists and government (PCP, 2012). In addition, between the 1980s and 1990s, rights based organizations became more prominent (PCP, 2012).

Contributions of NGOs in community development sectors and to improving the lives of people had remained vigorous in Pakistan (ADB, 1999). Many community-based organizations, as well as formal and informal networks of NGOs, have conducted extensive relief work in the country (Regulation, 2012). More recently, the number of registered Non-governmental organizations has entered the thousands; contributing and fulfilling community development needs particularly in rural areas (Tariq and van de Giesen, 2011). NGOs have played vital roles during disasters; the earthquake in 2002, and the super floods in Sindh, Baluchistan and Punjab in 2010. Furthermore, close coordination mechanisms among the government, local, national, and international relief organizations was found during these emergencies (Ahmed, 2013).

Table 1: NGOs registered in Pakistan

S/#	Province Name	# of NGOs	
01	Punjab	33,168	
02	Sindh	16,891	
03	Khayber Pakhtoon Khwah	3,033	
04	Baluchistan	3,127	
	Total	56,219	

Source: Ministry of Economics government of Pakistan Report 2010 p. 79

Table 2: Sector-wise registered NGOs in Pakistan

S/#	Sector	Percentage	
01.	Education	46.0%	
02.	Advocacy	17.5%	
03.	Health	6.1%	
04.	Others	30.4%	

Source: Report on NGOs of Pakistan by PCP 2012 p. 27

Legislations in the NGO sector

The regulation mechanism is brought into practice for legalizing, supervising, monitoring, and supporting activities of NGOs. Through the regulation system, NGOs are registered, supervised, facilitated, monitored, trained and audited accordingly (Regulation, 2012). Hence, the regulatory system provides a road map to ensure transparency in NGOs. Limitations play an import part to streamline the work of national and international organizations in any state.

Proper assessment and transparency of foreign funding for NGOs can be maintained through the regulatory system (Nahan, 2003). While highlighting the registration process of NGOs, when any NGO files documentation for regularization, it is mandatory for every applicant that a charter to be submitted, including brief introduction of organization, outline aims, objectives, scope of activities, mission statement, organization account number and working sectors in any regulatory authority/law (Regulation, 2012). Each registered organization is legally bound to follow content stipulated by the organization in the charter, and the government is responsible to ensure the check and balance of registered organizations (Verma, 2002). The regulation system also provides a framework to both the government and NGOs.

NGO Legislation in Pakistan

With respect to NGO regulations, the federal and provincial level authority systems exists in Pakistan. The state provides the process, framework, and policy mechanisms for the NGO sector. The legal framework for regulating the NGO sector remains complex, and several laws exist in which NGOs or NPOs can be registered. Despite that the right for free association is guaranteed by the constitution of Pakistan, in actuality it is viewed as limited (Shahid, 2009).

The key achievement of the government in order to regulate the NGO sector was development and application of NGO code of conduct in 2007 by The Pakistan Center of Philanthropy (PCP) for civil society organizations in Pakistan. In addition, The PCP introduced an organizational management audit, and delivered comprehensive training programs to NGOs for adopting these management standards (Regulation, 2012). Several international programs are also engaged in building the capacity of NGOs in Pakistan with respect to CSO regulatory systems.

NGOs can be registered in six regulation laws/acts. However, the founders of NGOs can choose any primary activity through which to register their organizations. Voluntary social welfare associations may be registered through and controlled by the 'Voluntary Social Welfare Agencies Registration and Control Ordinance 1961' (Regulation, 2012). Mid-level and urban-based NGOs or NPOs are regulated under 'The Societies Registration Act, 1860' (Regulation, 2012). When community members voluntarily join together to work for fulfillment of community needs in specific or limited areas for residents, they form a local group and can be registered under 'The Cooperative Society Act, 1925' (Regulation, 2012).

Those NGOs who work at a national level to promote useful objects are regulated and monitored by 'The Companies Ordinance, 1984' (Section 42), and Charitable

trusts are registered under 'The Trust Act, 1882' (Regulation, 2012). Furthermore, an amendment was made in local government ordinance for provision of right to access the 'association of peoples', where the inhabitants can form associations at grassroot or village level with the name of Citizen Community Boards (CCBs), which works with local-governments under the regulation of The 'Local Government Act 2000 Citizen Community Board (CCB)' (NRB 2012).

The Report (2012) on registered NGOs in Pakistan shows that a majority of NGOs (65.4%) are registered under the Society Registration Act, and the rest are registered under other regulatory acts. Accordance with Income Tax Ordinance 2004, only PCP certified NGOs receive tax exemptions but they need to meet the eligibility criteria defined by the concern department (PCP, 2012).

International NGOs are required to submit necessary documentation, and a plan of action, to the Economic Affairs Division and Central Board of Revenue respectively, after which the concern department proceeds with invitation comments from The Ministry of Law, The Ministry of Finance, and any other relevant ministries (such as The Ministry of Education or Health) so to allow them formally to intervene within the country (PCP, 2012). International NGOs are required to register, and must have an agreement or MoU (Memorandum of Understanding) with the Economic Affairs Division before initiating their programs in the country (Regulation, 2012).

NGOs are required to maintain the documentation and follow the rules and regulations defined by concern departments. Each NGO registered under any regulatory law has to prepare and submit an annual report, containing the progress of the previous year and must plan for the next year with an annual audit report conducted by any certified auditor to the respective department (PCP, 2012).

The Role of The Pakistan Center of Philanthropy (PCP) for NGOs

The Pakistan Center of Philanthropy (PCP) is the supervisory and certified body with the key purpose of providing management standards. It assesses NGO work in Pakistan. Other key roles include to certify NGOs, maintain data base systems of affiliated NGOs, and to facilitate these organizations in their work (PCP, 2012). Various organizations have been assisted through PCP support funds. Few conferences are also organized with the support of corporate sectors so to discuss NGO matters with professionals, academics, and experts in the development sector.

The PCP is making efforts to streamline NGO work in Pakistan, having been formed to bridge all three sectors of society, that is business, civil society and government.

The PCP also aims to work in a strengthened partnership for social development in Pakistan. The mission of the center is to increase the volume and effectiveness of philanthropy for social development in the country (PCP, 2012). Moreover, The PCP also guides NGOs. Hence, the respective government departments directly monitor NGO activities in Pakistan. In addition, funding/donor agencies provide guidelines regarding operations and scope of activities for NGOs in their supported projects, and also perform quality control audits (Salim, Sadruddin et al. 2011).

Method

For the study, a simple questionnaire was developed for participants, including key informants. A list of NGO professionals, legal experts and regulatory authority officials was prepared. A purposive data collection technique was used in the study. Experts were selected on the basis of specified criteria (Table. 3). Hence, we targeted selected respondents that were likely to be experienced and information rich. It was important that the respondents knew about the regulation and role of NGOs, the problems and gaps in legislation of respective NGOs.

Legislation, regulation, and community development are vast fields of study. Key informants were contacted through Email/phone and briefed on the purpose of the study. A total of 20 experts of the field were contacted. Six refused to participate, two confirmed but afterward did not participate, and four experts expressed interest but ultimately had no timefor the interview. Therefore, eight key informants were interviewed.

Sample size

The sample of the study included three professionals, three Legal experts, and two higher officers from the regulatory authorities.

Interview Protocol

Initially, interviewees were briefed about the study. Then, a consent form was filled and signed by each participant. Interviewees were presented with asked open ended questions.

Findings

Table 4 illustrates the advantages and disadvantages in the regulation system of NGOs. These points emerged through the interviews with the Key Informants.

Table 1. Pros and Cons of NCO Regulation

Advantages	Disadvantages
Several options available for NGO founders to	One organization can be registered with more
register their NGOs with any suitable law/act.	than one law/act, suggesting an unjustified and inappropriate trend.
NGOs have different forums from which to achieve facilitation.	Fulfillment of documentation and dealing with concerns is difficult for one NGO.
NGOs can be monitored through more than	Due to lack of professional and unqualified staff,
one department, and checkscan be made.	it is very difficult for NGOs to respond and satisfy more than one department at the same time.
Small scale NGOs can be registered through	There exists a lack of legal limitation and
a voluntary welfare act or citizen community	prescribed protocol to guide NGOs about their
board (CCB) so to work legally. Further, they	capacity status and to suggest a suitable law for
can be registered in society or a company act.	their legal matters.
NGOs can fulfill donor requirements	If any organization becomes blacklisted in
pertaining to their registration criteria with any	one law it is already registered with another
certain department.	law, resulting in that the maintenance of
	accountability and transparency would be problematic
The number of NGOs has increased due to availability of regulatory choices.	The quality of work of NGOs can be
	compromised.
The data base of one NGO is managed by	The duplication of work is predictable and
more than one department.	central management of NGO information system is difficult.
Almost the same conditions for all regulatory	When the departments are different then
departments in NGOs	conditions should also be varied.

Participants discussed their concerns concerning laws pertaining to registration and regulations of NGOs, from small groups of volunteers to national level professional organizations. Respondents mentioned that the majority of NGOs in Pakistan are registered but a proper monitoring system is lacking in departments. One of the NGO professionals commented that there is no punishment or defined action if any unregistered NGO is found to work for any cause. According to a study that was conducted on 'NGOs in Pakistan in 2000', the registered NGOs comprised 38% in Pakistan (Regulation 2012).

One of the NGO professional states about the regulation;

We face several problems while registration of our NGO including; high fee, delay tactics, complicated procedures and heavy amount to pay the officials of concern departments as a kickback money, so it is very difficult for workers like us to deal with these issues. However, at the moment of time we preferred to serve people without registration of our NGO (Muhammad Yaseen Bandija 'President Al-Mehran Awareness Development Organization (unregistered NGO) 30th November 2012

Shahid (2009, p.13) explains reasons to unregistered NGOs vary, but may include high registration fees and the discretionary and inconsistent implementation of the registration laws by the governing authority. According a study conducted in 2005, organization registration status emerged as 65.4% registration through a society act, 15% of NGOs are registered through a Voluntary Social Welfare Act, 6% of NGOs are working as a trust, and 13.6% of NGOs are registered with other laws, including the companies act, the cooperative act, and citizens' community boards (PCP, 2012). Referring to these figures, the NGO mostly prefers to register as a society, a trend most common in urban areas. Officers of the regulatory authority commented that the village level organizations or community based organizations (CBOs) prefer to register with the voluntary social welfare act or citizens' community boards (CCBs). However, several examples offer valuable lessons for CBOs; Village Shadabad Dadu, Johi Organization for Rural Development and Natural Disasters, Goth Sudhar Sangat Aghamani Mehar Sindh, Fishermen Association for Community Empowerment (FACE) Bin Qasim Town Karachi, Wadhela Baloch Social Welfare Organization and Khaskheli Social Welfare Association Karachi. Initially, these organizations were unregistered, but subsequently registered through the Voluntary social welfare act, and then upgraded their progress/performance status, thus becoming considered as Community Based Non-governmental Organizations (CBNGOs). Legal experts discussed that such phenomena are growing in the NGO sector. However, this trend can be used adversely, as such CBNGOs may receive funding allocated for both categories, and also enjoy more than one rank. A clear legal definition of the size and domain of an NGO should be fixed.

NGO professionals and regulatory officers expressed that various organizations are registered with more than one act, including the following; HANDS (the Social Welfare Act and The Society Act), The Foundation for Strengthening Local Partnership (The Society Act and The Companies Act), The Al-Mehran Rural Development Organization (The Social Wwelfare Act and The Society Act), as well as many others. This trend can be harmful for both the government and NGOs. However, with reference to the government, there is a difficulty to manage the data base of NGOs and to monitor these effectively. From the NGO perspective, fulfillment of this with more than one department becomes challenging i.e. and more precisely simultaneously the execution of submission of reports, interaction with department officials, dealing with financial matters, and audits.

Legal experts and NGO professionals revealed that few NGO professionals are involved in establishing and running their NGOs as a personal business. Corrupt and fraudulent activity in respective NGOs has become highly lucrative. According to one NGO activist;

[The c]urrent situation of NGO regulatory authorities is pathetic. The corruption and bribery are common in the government departments. If any organization is found while making corruption the severe final action by any regulatory

authority is to cancel its registration or declare it as a blacklisted organization by the donor agency. In this kind of situation mostly such NGO heads change the name of their organizations or get register another organization easily. There is no any proper monitoring system that exists and under practice by the regulatory authorities. When the NGO regulation system is managed poorly and bribery is found everywhere then why we don't enjoy the power and make money. Weak implication of the regulatory system is a great opportunity for people like us 13th December 2012 Karachi Pakistan.

Research limitations

The sample of the study was small. Only eight respondents were selected. The subjects reacted to the interview protocol based on their own working experience, personal expertise, and educational background. However, these views by respondents have added value to this study.

Regional implications involving Asia and Europe

The importance of NGOs is increasing in Asia. However, the role of NGOs varies from country to country, and region to region. Mayhew (2005) describes the current debate on the 'New Policy Agenda' of good governance, and the increasing prominence of Non-Government Organizations (NGOs) in public service delivery. Mayhew includes that this is an issue of current discussion at the international level. and other important issues, such as how to assess the role of NGOs to determine their accountability and their relationships with donors, within the state, and with their beneficiaries.

The President of Pakistan commented in 2005 that 'Pakistan has become a money-making country' where negative practices operate extraneously (Hussain, 2006). NGOs in Pakistan receive much funding from regional and international donor organizations. Various regional and international organizations are supporting Pakistani NGOs monetarily (Smillie, 1997). These include Amnesty International, The United Nations Development Program, The World Health Organization, The Asian Development Bank, The World Bank, UNICEF, The Packard Foundation, The Bill & Melinda Gates Foundation, DFID, and USAID. There are also several European organizations working with Pakistani NGOs, including the following; The European Commission, Medico International, World Vision, The Norwegian Refugee Council, The Hanns Seidel Foundation, Diakonie Katastrophenhilfe, and Deutsche Gesellschaft fur Internationale Zusammenarbeit (GIZ). If effective measures will not be taken by the Pakistani Government regarding effective NGO legislation, these regional organizations may impose restrictions in their relief services to Pakistan.

For more than a decade it is realized that the field of anti-corruption should stand out not only for measurement of corruption, but also must take necessary measures to achieve progress towards greater integrity, transparency and accountability in governance (Galtung, 2006 p. 6). Pellegrini (2007) cites corruption in Pakistan as impairing the sustainable development and effective management of resources in the country. He states that 'the 'crime and punishment' approach cannot be feasibly implemented if the overall institutional environment is weak.

If the NGO legislation system is weak, if respective NGOs are corrupt, and if the service delivery mechanism does not operate effectively, aid will be stopped by the donors (Pellegrini 2007). Effective NGO legislation is a key to controling weak and inefficient Non-governmental organizations. Legislation should be reviewed and strengthened. Otherwise, the social development of the country will be adversely affected, as will the lives of the poor.

Discussion

Several corruption cases in the NGO sector emerged during disasters in Pakistan (Reporter, 2011). Daily Dawn, a prestigious and credible English Newspaper in Pakistan, reported several cases in this regard. During the flood of 2011 in Sindh, one of the corruption cases was unveiled in the district Thatta. The National Accountability Bureau (NAB) has taken action against the concerns due to misuse of funds and misappropriation of food items distributed among flood affected communities (Reporter, 2011).

Different laws mean dissimilarities in regulations, but in Pakistan, several likenesses can be seen in legislation. For example, no registration law clearly defines the period of application to reject or accept application for registration. Each law requires the objects, aims, a list of founder members, the area of operation, a charter, a list of furniture and fixtures, etc. (Shahid, 2009). Furthermore, each registration act also requires that accounts be maintained in specific form and manner. However, only The Voluntary Social Welfare Act (VSWA) and the company ordinances require audits be performed on accounts. Furthermore, except under the VSWA Ordinance, registered NGOs cannot engage in any political activity. Each law also has particular advantages and disadvantages, regulatory schemes and its own discretionary power (Shahid, 2009). There is a prerequisite to review the outdated formats and reporting mechanisms. However, there exists a need to computerize the management information systems, and NGOs must submit their reports in soft form according the prescribed outlines. The data should be published online so the concerns can get proper information.

Conclusion

Various studies have been conducted on role of NGOs in Pakistan. However, the paper discusses the role of NGOs with regard to the legislation system. Perceptions and the findings by the respondents of the study exposed deficiencies in the regulation system. Generally, the regulation system provides the framework of ways in which to regulate NGOs so to serve more effectively serve communities. In Pakistan, the regulation system does not explain NGO category or type by legal definition, but several types of organizations are known and also vary, for example, charitable organizations, community based organizations, NGOs, and Not for profit Organizations (NPOs). If an adequate description emerges then NGOs can become registered with certain suitable departments, rather than through illegitimate pathways and agencies.

The paper discusses six NGO regulation acts in the country, including; 1) The Society Act, 2) The Voluntary Social Welfare Act, 3) The Cooperative Act, 4) The Trust Act, 5) The Companies Act and 6) The Citizen Community Board act. Findings suggest that most organizations are registered with The Society Act. The motives for this would include a high number registrations through society offer a facile process of registration; weak monitoring, fewer requirements, and NGOs receiving much funding from national and international organizations.

Several legislations on NGO regulation do not ensure transparency and effective management mechanisms. Lack of effective facilitation for NGOs has become a major problem in the regulation systems. The government should streamline the regulatory bodies, and enhance the coordination mechanism among concern departments. A computerized management information will greatly assist this.

The study recommends that one organization should be registered in one law. A legal definition of the NGOs must be prescribed. Government departments are suggested to take strict action against corrupt organizations. However, the blacklisting and cancelation of registration of any NGO seems to offer an improper solution. Thus, regulatory bodies should search beyond that. Cases should be registered against NGO officials and board members involved in exploitation. "Many mid-level NGOs in Pakistan are characterized by the retaliation of boards of directors composed of the same people, often family members, year after year. Such NGOs require education on the merits of an open system of transparency and accountability that allows new blood in management so that the NGO does not become moribund" (ADB, 1999). The department should act against members of boards of directors of several organizations, and should also suggest that one member can only become part of one organization. This can ensure that , NGOs' boards can offer greater representation of more people.

The government has established The Pakistan Center for Philanthropy (PCP), but which solely maintains a check and balance of those NGOs recognized by the center. Apart from this, thousands of organizations are unrecognized by The PCP. There is no system that ensures the transparency and accountability of those unrecognized NGOs, and that facilitates their work.

The dire need of capacity building of officials is felt by those working in the regulatory authority, so that they can support NGOs and can monitor in the field. A corruption free environment in regulatory bodies should be ensured. Those officials who work for regulatory bodies should also be monitored effectively, and strict action must be taken against corruption.

The paper suggests that the gap among the concerned departments should be bridged. A check and balance in financial matters should occur without any concession. Each regulatory body should have a full-fledged audit department that audits NGOs. Regulatory departments should also work honestly, efficiently, dedicatedly, and actively. The departments should realize that their role is significant, so to ensure effective utilization of funds, and to deliver services in the best interest of humanity. An online data base of NGOs should emerge so that individuals and organizations can know about the NGOs status.

The findings of the paper are useful for policy makers, scholars, and particularly regulatory authorities. Policy makers can utilize these findings while drafting policies on respective matters. Scholars can use these results to extend knowledge on the subject. There is always room for improvement, but drastic changes and improvements are required to regulate and monitor NGOs effectively. This paper will assist those international bodies or organizations that aspire to work in Pakistan and that do not have sufficient knowledge of the NGO regulatory system of the country.

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