



VOICE OF THE VOLUNTARY SECTOR  
**VANI**

**Voluntary Action Network India**  
*an apex body of voluntary organisations*  
*Estd. 1988*

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## Editorial

### *Dear Members, Associates and Friends of VANI,*

The international outreach of civil society organizations in India has seen very sporadic instances of participation with a select few resourced institutions taking to the global arena. While Indian grass root organizations have helmed social innovations that have built capacities of communities there seems to be an apparent gap of pushing those innovations at the global level and highlighting the contribution of civil society. Grass root organizations by virtue of their mandate are constructed to be agents of change and hence their knowledge and research has benefited large populations and has been adroitly exploited by the government to create public policies which have very cunningly exempted from crediting their contribution. With such deficits in communication channels proving to be obstacles in informing what their primary documentation is about it has disabled grass root voluntary organizations from expanding their scope and reach and be limited to their niches of operations. As such VANI, being the apex body of voluntary organizations has endeavoured to create a system for channelling grass root data to the international fora and disseminate information revolving on rural social research. The necessity for projecting such research and data needs to be articulated so as to infuse an element of locality to national concerns. National concerns remain aloof and vague when they do not incorporate localised issues. When India's contribution to international working groups singularly articulates the knowledge of bureaucrats, it becomes problematic for providing holistic working documents for thematic chapters. Such ambiguity results in drawing up of international law that is bereft of provisions that will result in delivering extraordinary change at the local level. This is a duplicate problem faced by all countries except for a few where data gathering and localised problems are accommodated in the portfolio of ambassadors and bureaucrats. While in India, this has been always the privilege of our bureaucratic cadres to formulate policies and inputs on their readings and understandings which evidently provides negligible output. Bearing this, VANI's



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instrumentality in creating such avenues for articulation have resulted in creating civil society interventions where it was felt civil society voice was absent. Our project of 'Global Footprints' was to provide amplification to the voices of grass root voluntary organizations and see the connectives that would allow for partnership and participation with civil society. In our various endeavours we strived to localize international problems, study their application in simulated environments and document these concerns in researches. Productively this created a model that provided data gathering from grass roots, explore and research and accordingly project them at the

international arena. Our similar experiences such as the India-Africa Civil Society Summit and SSC Cooperation Meetings have been based on this premise along with thematic meetings of our global footprints. It is indeed important that such votaries of grass root civil society innovations are developed that will provide more backing to our claims of being a change makers.

**Harsh Jaitli**  
**Chief Executive Officer**

## Compliance schedule for VOs

Sl.No.	The Law	Report To	When To	Comments
<b>Registrations</b>				
1	Society Registration Act, 1860 (Subjected to state wise acts)	Registrar of societies (charity commissioner in Maharashtra and Gujarat).	Annual list of managing body is to be filed every year on or before the fourteenth day after annual general meeting or January.	To be filed in Registrar Office.  (Section 4)
2	Companies Act, 2013	Registrar of companies	Within 60 days from the date of AGM or 31st October whichever is later.	(Section 8) To be filed in Registrar Office. It can be filed online as well.
3	Indian Trusts Act of 1882	Deputy Registrar/Charity commissioner (Only in Gujarat and Maharashtra)	Not regulated by any authority, therefore no annual return to be filed with registering authority.	NA



## Compliance schedule for VO's

Sl.No.	The Law	Report To	When To	Comments
<b>Financial Compliance</b>				
4	Income tax act, 1961	Income tax officer or assessing officer.	<b>30th September</b> of the assessment year.	If any organisation fails to furnish its return can submit before expiry of one year or before completion of the assessment, whichever is earlier.
4a	TDS in Income tax act, 1961	Income tax officer or assessing officer.	Monthly receipts before <b>07th</b> of every preceding month.  Quarterly returns before <b>31st July, October, January and May</b>	Online or offline by challan.
5	Foreign Contribution (Regulation) Act, 1976	Ministry of Home Affairs, Foreigners Division (FCRA Wing)	Within a period of nine months from the closure of the financial year i.e. by <b>31st December</b> each year.	Online.
5a	Receipt of foreign funds under FCRA	Ministry of Home Affairs, Foreigners Division (FCRA Wing)	Quarterly, within 15 days of the quarter-end.	Online.
6	Employees' Provident Funds & Miscellaneous Provisions Act, 1952	Assessing officer.	Monthly receipts before <b>15th</b> of every preceding month.	Online or offline by challan.



# The Argument Against Lokpal on NGOs

— By Arjun Kumar Phillips, Communications Executive, VANI

A democracy can never be actualized as long as the government is accountable and transparent in its actions. The mandate of any elected democratic government is embedded in serving the public and providing all services and functions that constitutionally deliver it to them. The layers of a government are not only limited to cabinet functionaries or parliamentarians but a host of bureaucrats and officers that are involved in the execution of functions dictated through the baton of the state. Hence accountability and transparency is not extraordinarily created but has its genesis in the constitution. Such constitutional measures are supposedly caveats of deterrence against establishment functionaries that advertently conduct illicit activities, shattering all ethics and morality established by modern law. In this context the Lokpal and Lokayukta Act is an act of parliament that seeks to control bureaucratic mischief and provides for an independent authority to adjudicate on

matters of corruption. The Act is essentially an instrument to prosecute corruption through an independent conduct of determining the culpability of a public functionary. As such the culpability determined according to the act is only resting on civil servants and those considered 'public servants' according to the law. Although when this Act was drafted a deliberate action was administered in bringing within its ambit-civil society organizations.

As provided in the act the intention is to cover those involved in 'public duty'. However according to its vague proviso of Section 14 organizations registered under the Registration Act have to provide individual asset and liabilities details of their functionaries and board members. The specificities of this proviso are concerned with organizations who are receiving a government grant of 1 crore or foreign funding more than 10 lakhs. What baffles the mind is how can non-profit organizations be clubbed





with government functionaries and be prosecuted for corruption offences. From the start it is crucial to extract and analyse the term 'public duty' and whether its application on non-profit is justified. The nomenclature is befitting to anyone involved in public activity more close to those who executing decisions that occupy 'public service'. Any perceptive individual will realize that 'public service' is performed by duly designated government officials or those on the payrolls of the Consolidated Fund of India. However might we call it an act of deliberate intention or a purposeful reasoning to include civil society within the Lokpal and prosecute dissent? In all probability this does paint a picture where civil society is creepily being scuttled through imposition of rules and regulations that are enacted to ensure intolerance of corruption. Yet to push them on the shoulders of civil society through manipulation of laws is worrisome of how the establishment seeks to control civil society and shirk of the onus of transparency and accountability.

### Examining the unjustness of the proviso

The Lokpal and Lokayuktas 2013 seeks to bring the gamut of civil society organizations within its umbrella. Not only is this section unjust but presents a constitutional violation of seminal articles within the fundamental rights. The violation of Article 14: equal treatment before law is noteworthy as this exempts the other forms of organizations and entities when applying Lokpal. There is substantial ground for unreasonableness when non-profits are pitted against profit companies who have subverted laws and produced mounds of NPAs- a debilitating condition affecting the asset quality in the country. In more precise terms a multi-millionaire businessman was able to fly away with herculean heaps of loans without an ounce of remorse or ownerships, scathingly denigrating the GDP and costing the banking industry innumerable losses. Such acts of chicanery go unnoticed by the government which is quick in twisting definitions of description for corruption and anti-nationalism. Such rule tweaking was discernible when an army of select government spokesperson's descended on civil society to present its yearly data prescribed within the Lokpal. While the Lokpal's application on institutions receiving government grants can be understood, what underscores a political will to control foreign funding is the applicability on FCRA organizations whose grant is more than 10 lakhs. Foreign funding in all respects is characteristically different from government grants, as they are private resources that are provided for utilization by private organizations not public. While it is

tenable to accept that a majority of non-profit organizations are utilizing private resources to conduct acts of public service that does not enable them to fit within the definition of a 'public institution'. A public institution by nature has its motives and policies entrenched a priori in government actions. A non-profit organization, works to conduct its activity with an element private ownership involved in delivering public good. Delivery of public good cannot be defined as public duty-if it does then such criteria's are applicable on companies and profit organizations that raise public money through shares and loans as they are frontrunners for inclusion in the Lokpal. Targeting the private ownership involved in a non-profit is unconstitutional and derision of laws espousing equality. Private resources used for public good and service cannot be appropriated for public accountability. However notwithstanding rules and regulations, many layers of monitoring are already in place that govern the quantum of funds incoming and outgoing to non-profits in this country. A closer examination of allied rules and procedures such as Prevention of Corruption Act, 1988 also confer distinctions as to what is public duty by stating- "a duty in the discharge of which the State, the public or the community at large has an interest". While the definition of a 'public servant' is stated as "any person in the service or pay of the Government or remunerated by the Government by fees or commission for the performance of any public duty". Functionaries of Non-profit cannot be deemed to be executants of public duty as their role and function is limited to the objectives of their private organization and not in performing public duty. It seems there has been a concerted deviation from the philosophy of the Act by passing the buck to civil society organizations and reigning in a new form for defining 'public servants'. It is quite comical to observe civil society again at the crossroads of a new definition and as rightly put by experts the same pay scales and pension plans should be drawn for them as it is for 'public officials'. Not only does this proviso is violating the definitions of the Prevention of Corruption Act, 1988 but also stands in direct contravention to the United Nation Convention of Corruption that narrowly defines the characteristics of a 'public official' etc. It seems that the rules so formulated are premised to act out against any hint of discrepancy produced by non-profits giving official functionaries a leeway to escape scrutiny or prosecution under Lokpal. It remains to be seen as to how civil society will respond to these concerns when legal manipulation is sought as a refuge for corruption by the state.



## PRESS RELEASE

*Use the FCRA Law to regulate not to harass and intimidate CSOs is the demand of NGOs and Networks working with marginal populations across the country*

Delhi, 10 Jun, 2016: Leading representatives of over 700 Civil Society Organization and Networks from across the country, came together in the Capital to make known their collective stand on FCRA and its many provisions.

Mathew Cherian, representing the Voluntary Action Network of India, termed the recent developments, in particular the use of FCRA to target organizations working on rights of marginal populations, as a "worrisome trend." Elaborating on this, he stated that "while there is global recognition that the major strength and hope of India lie in its vibrant network of civil society organizations, we are today witnessing a concerted attempt being made by the state to use the FCRA law to erode the credibility of leading and highly reputed NGOs."

Reinforcing this view, Venkatesh Nayak, Commonwealth Human Rights Initiative, stated that "with the law getting increasingly geared towards restricting the capability of NGOs to receive foreign fund rather than facilitate them to work for the most marginalized, which is high on the agenda of the present government, it is clearly a case of no-win-win for all concerned."

Affirming the above, Paul Divakar, representing the National Campaign on Dalit Rights, expressed deep disappointment with the way in which the FCRA law is being used to target selectively organizations committed to the cause of social justice. He reminded everyone that "it is only over the last ten years that the Dalit community has been able to access foreign contribution resources for the empowerment as well as welfare and development. And now that these communities are exercising their rights, demanding accountability and fighting the impunity of those who are oppressing them, it is tragic that the government is using FCRA as a tool to harass the NGOs supporting these struggles." This, he added, will impact most adversely the smaller grassroots Dalit organisations which are unable to hire professional resources for accounting and completing the necessary documentation.

Speaking on behalf of marginal communities battling with HIV, Anjali Gopalan, the well-known AIDS activist from NAZ Foundation, pointed out that "by using the FCRA law to target the founder-members of Lawyers Collective which had been majorly responsible for bringing to the fore issues that had been closeted for years, the government is setting back the decades of work that the organization has been doing." And also in a sense belittling the hard fought victories and breakthroughs the marginal communities have made due to the untiring efforts of Lawyers Collective.

Taking this point further, Mona Mishra, an activist, emphasized that the attack on Lawyers Collective has in fact galvanised the HIV community to fight harder - for the rights of sex workers, the LGBT community, drug users and people living with HIV. "If this is an attempt to silence the voices of marginalised groups, we are committed to not let that happen. This is a struggle for our legitimate space in Indian democracy" she asserted.

Rebutting the charge made against the noted advocate, Ms. Indira Jaising that as an Additional Solicitor General of India (ASG) from 2009-2014, she had violated the code of conduct enjoined upon all government servants not to accept any remuneration from any other source, in particular foreign funds, Anand Grover made it clear that Ms. Jaising was not a government servant and therefore, the bar under Section 3 of FCRA, 2010 does not apply. He went on to state that Ms. Jaising had permission from the appropriate authority for continuing to serve as a Trustee as well as to receive remuneration from the Lawyers Collective.



He emphasized that “there was no conflict of interest between her role as an ASG and her working for gender justice. In fact, Ms Jaising was granted this permission, since the organization was being supported by UN Women and other reputed international organizations working on issues of domestic violence, sexual harassment at the workplace and sexual abuse” he added.

Commenting on the double standards practiced by the government, Venkatesh Nayak pointed that even while the Government is hounding NGO after NGO on technical grounds by taking away their eligibility for receiving foreign funding, political parties have approved an amendment permitting them to receive funding from foreign companies through their Indian subsidiaries with retrospective effect. This, he stated, “is against the very objectives and spirit of the FCRA law which is to insulate political parties and the electoral process from foreign business interests and what is worse also seeks to nullify the Delhi High Court's 2014 judgment which held them guilty of violating the FCRA.”

### ***NPOs applaud important changes in Financial Action Task Force (FATF) policy – NPOs no longer considered “particularly” vulnerable***

Brussels, 29 June 2016 – The Global NPO Coalition on FATF, representing a wide coalition of non-profit organisations (NPOs), applauds the Financial Action Task Force's (FATF) recent update to its counter-terrorism recommendation on NPOs. NPOs hail the removal of the long-standing characterisation of non-profits as “particularly vulnerable” to terrorist abuse from Recommendation 8 (R8). The previous language led to overregulation and inappropriate restrictions on NPOs, hampering their legitimate and essential work around the world. The policy changes were approved at FATF's Plenary in South Korea on 22-24 June, see <http://www.fatfgafi.org/publications/fatfgeneral/documents/plenary-outcomes-june-2016.html#npo> The new wording of Recommendation 8 clearly acknowledges that not all NPOs are at risk and directs countries to undertake a risk-based approach when considering counterterrorism financing measures. In addition, revisions to the accompanying Interpretative Note (R8IN), along with the June 2015 Best Practices Paper, will assist countries in taking a more proportional approach towards the sector. We expect to see the revised standards implemented soon at national level. The impact of the revision of Recommendation 8 on the NPO sector cannot be underestimated. As an inter-governmental body that sets standards and promotes effective implementation of legal, regulatory and operational measures for combating money laundering and terrorist financing, FATF has far-reaching influence on national governments' regulation of the charitable sector. More than 180 jurisdictions worldwide are committed to the implementation of its Recommendations. FATF has committed to strengthening its engagement with the NPO sector. While dialogue with the NPO sector has been formalised over the past year, the sector calls for further improvements in the consultation process, proposing the development of written guidance for engagement with NPOs to enable the same meaningful participatory practices adopted by other multi-lateral entities.

### ***Notes to Editors FATF***

Recommendation 8 and Interpretive Note Both the revised R8 and R8IN can be downloaded on the FATF website: [http://www.fatfgafi.org/media/fatf/documents/recommendations/pdfs/FATF\\_Recommendations.pdf](http://www.fatfgafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf) About the Global NPO Coalition on FATF Since 2013, the Global NPO Coalition on FATF has directed its advocacy to influence positive changes to FATF policies and guidance for NPOs, including its Recommendation 8 (R8) of the Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) standard. Over 200 non-profit organisations (NPOs) worldwide have endorsed the work of the Coalition. A core group of diverse stakeholders, including the Charity & Security Network (C&SN), the European Center for Not-for-Profit Law (ECNL), the European Foundation Centre (EFC), the Human Security Collective (HSC) and the International Center for Not-for-Profit Law (ICNL), facilitates and coordinates the work of the Coalition. More information on this work can be found at [www.fatfplatform.org](http://www.fatfplatform.org) and @fatfplatform.