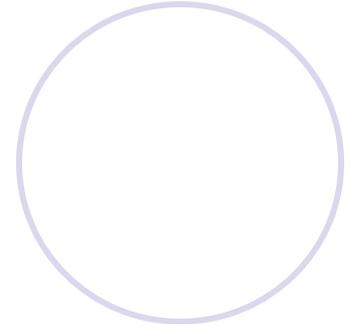
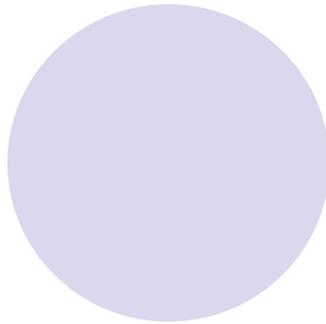
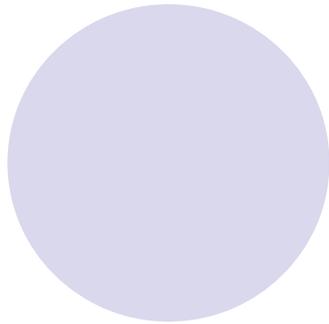
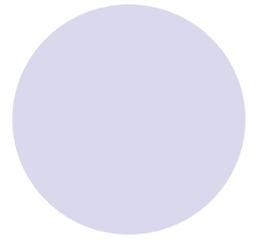
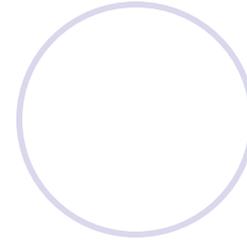
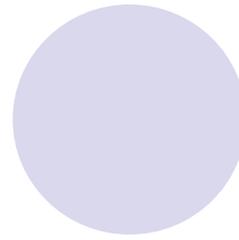
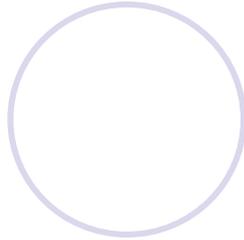
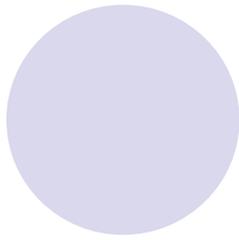


Legal Framework for Operating NGOs in Pakistan



Laws affecting NGOs in Pakistan

- The Societies Registration Act, 1860
- The Religious Endowments Act, 1863
- The Trusts Act (II OF 1882)
- The Charitable Endowments Act (VI Of 1890)
- The Mussalman Wakf Validating Act, 1913
- The Charitable and Religious Trusts Act, 1920
- The Mussalman Wakf Act, 1923
- The Cooperative Societies Act, 1925
- The Mussalman Validation Act, 1930
- The Voluntary Social Welfare Agencies (Registration And Control Ordinance 1961)
- The Companies Ordinance 1984
- The Local Government Ordinance, 2001
- Income Tax Ordinance 2001

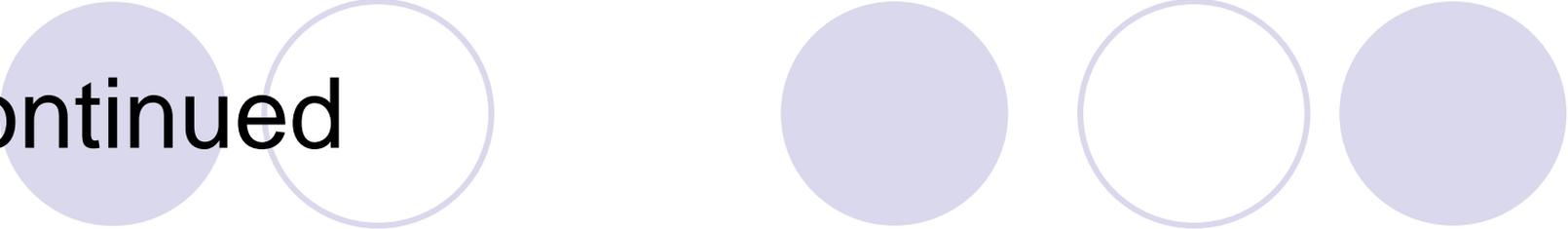


- [The Societies Registration Act, 1860](#). This Act applies to charitable societies with a wide range of public benefit purposes.
- [The Trust Act, 1882](#). This act applies to private trust with a wide range of purposes.
- [The Companies Ordinance, 1984 \(section 42\)](#). This section of the Ordinance applies to not-for-profit companies formed to promote 'useful objects'
- [The Cooperative Society Act, 1925](#)
- [Voluntary Social Welfare Agencies Registration and Control Ordinance 1961](#). This Ordinance defines permissible purposes within the social welfare field. Registration under this legislation is mandatory if organisations wish to receive government funding.

The Societies Registration Act, 1860

- Societies or NPO's which are registered under The Societies Registration Act, 1860 are for the promotion of literature, science or the fine arts or for the diffusion of useful knowledge, the diffusion of political education or for charitable purposes. Any seven or more persons associated for any literary, scientific, charitable purpose, the diffusion of useful knowledge, the foundation or maintenance of libraries or reading rooms for general use, public museums, galleries of paintings or works of art, collections of natural history, mechanical and philosophical inventions, instruments or designs, management, overseeing, monitoring and providing supervisory cover to local institutions such as primary schools, middle schools, high schools, dispensaries, basic health units and rural centres and other health institution, population welfare facilities, water supply and sanitation faculties may form themselves into a society under the Act subscribing their names to a memorandum of association filing the same with the Registrar of Societies.

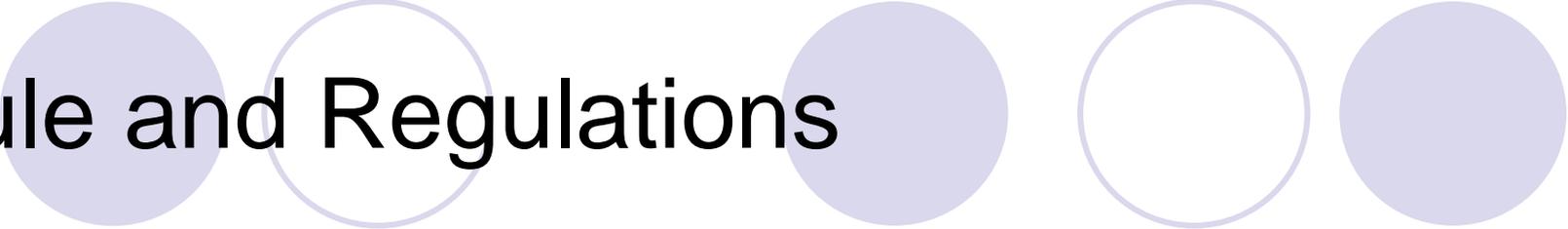
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1. Draft of Bye laws, objects and singed Memorandum
2. List of members with NIC copy (7 members at least under societies act and 25 for social welfare act)
3. List of office bearers
4. Office building contract in case of rented building or certificate of ownership
5. Affidavits from president of NGO as NGO and members are not involved in any negative activity.
6. A fee of Rupees 50/-
7. An application submitted to the Registrar of Joint Stock Companies in the province in which the NGO is located.

The Memorandum of Association

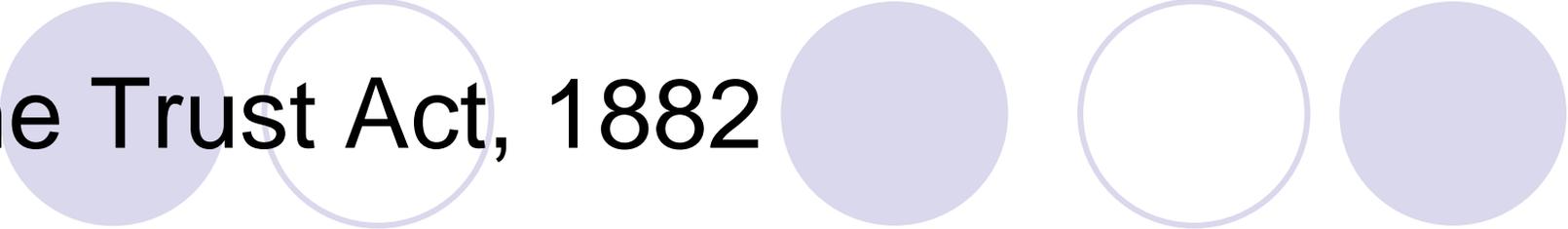
- The Memorandum of Association must include:
 1. the name of the NGO;
 2. the province in which it is located;
 3. the objects for which it is established;
 4. names, addresses, and descriptions of the members of the governing body; and
 5. the signatures of those members.



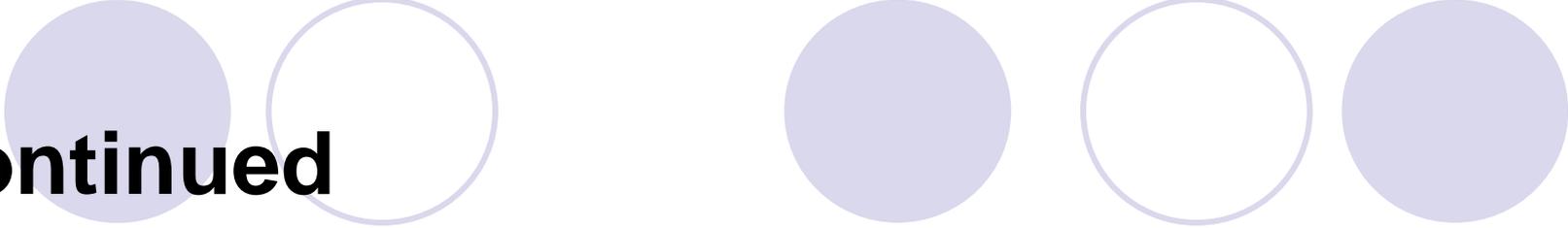
Rule and Regulations

- The rules and regulations must contain:
 1. membership requirements,
 2. the makeup of the governing body,
 3. meeting and quorum requirements,
 4. meeting notice requirements,
 5. procedures for the election and removal of officers, and
 6. accounting and audit procedures.

The Trust Act, 1882



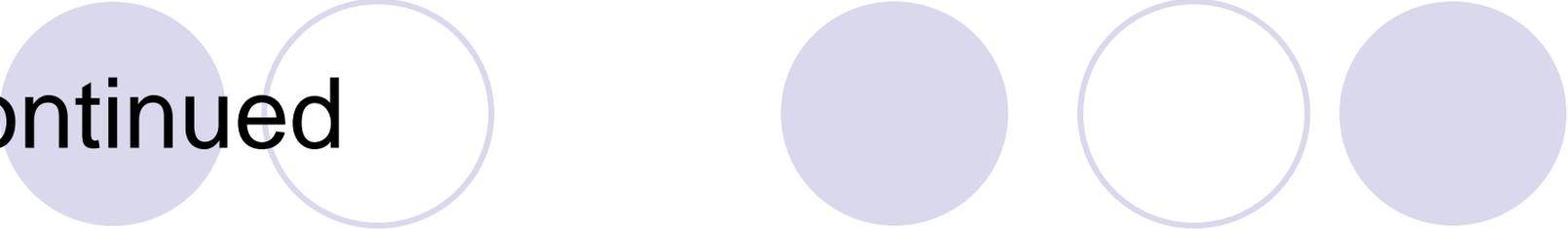
- A “trust” is an obligation annexed to the ownership of property, and rising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner:
- the person who reposes or declares the confidence is called the “author of the trust”: the person who accepts the confidence is called the “trustee”: the person whose benefit the confidence is accepted is called the “beneficiary”: the subject-matter of the trust is called “trust-property” or “trust-money”: the “beneficial interest” or “interest” of the beneficiary is his right against the trustee as owner of the trust-property: and the instrument, if any, by which the trust is declared is called the “instrument of the trust”



Continued

- A public charitable trust is a trust which is created for the benefit of society generally or for certain sections of society. The said Act extends to the whole of Pakistan but nothing contained in the Act affects the rules of Muslim law as to waqf. A waqf under Muslim law is generally made with a pious, charitable or religious purpose. As a Trust property vests in Trustees, but waqf property vests in Almighty Allah. A trust may be created for any lawful purpose like advancement of religion, advancement of knowledge, advancement of health and safety of public, advancement of any other beneficial to making etc. The purpose of a trust is lawful unless it is forbidden by law, or is of such a nature that, if permitted, it would defeat the provisions of any law, or is fraudulent, or involves or implies injury to the person or property of another, or the Court regards it as immoral or opposed to public policy. According to the Trust Act, 1882, no trust in relation to immovable property is valid unless declared by a non-testamentary instrument in writing signed by the author of the trust or the trustee and registered, or by the will of the author of the trust or of the trustee and Trust in relation to movable property is valid unless declared as aforesaid, or unless the ownership of the property is transferred to the trustee. A Trust may be established by a deed of settlement and rules there-under under the Trusts Act, 1882.

Continued



- A trust is the easiest to get started with as the minimum strength required to form a trust is just two—the author and the trustee. And the author could also be the trustee. So, if you want to start small or if you do not have many people who share your vision or objectives, then a trust is your best bet.
- Between a trust and a society, a trust offers :
 1. a high level of control over the administration and management of the NGO - there is a succession in place and there are no members;
 2. little to no interference from the outside;
 3. a simple registration procedure;
 4. irrevocability; and
 5. eligibility for income tax exemption.

Company Not for Profit Under Companies Ordinance 1984

- Associations not for profit are formed under section 42 of the Companies Ordinance, 1984 the said ordinance envisages two types of associations established for non-profit basis. An Association not for profit is an organization formed for the purpose of serving public or for mutual benefit other than pursuit of benefits. According to Section 42 of the Companies Ordinance, 1984 the main objects of the Association are for promoting commerce, art, science, religion, sports, social services, charity or any other useful object, and applies or intends to apply its profits, if any, or other income in promoting its objects. The Association shall on registration enjoy all the privileges of a limited company and be subject to all its obligations, except those of using the words Limited, Private Limited or Guarantee Limited. To get registered an Association for non-profit purposes first is to obtain license under Section 42 of the Ordinance from Securities & Exchange Commission of Pakistan and thereafter to register the Association as a company. The association is generally a guarantee limited company having no share capital.

Trade Organizations Ordinance, 2007

- **The said ordinance extends to whole of Pakistan for the registration and regulation of trade organisations. No trade organisation shall be registered under the Ordinance or such other law unless it holds a license granted by the Federal Government authorizing it to be so registered. A trade organistaion holding a license shall be registered under the ordinance as a company with limited liability.**

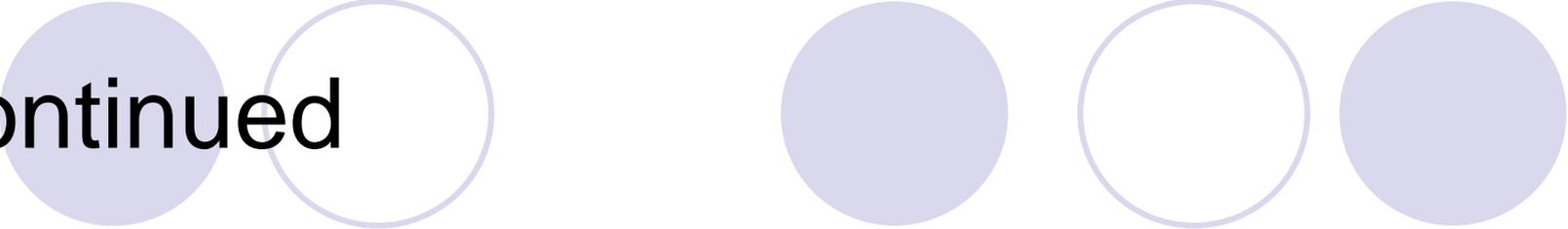
The Co-operative Societies Act, 1925

- This Society is a form of organisation where persons join together voluntarily on a basis of equality of a common economic need.
- A cooperative society is registered when the intended beneficiaries are the members themselves.

Non-profit Public Benefit Organizations (Governance and Support) Act 2003

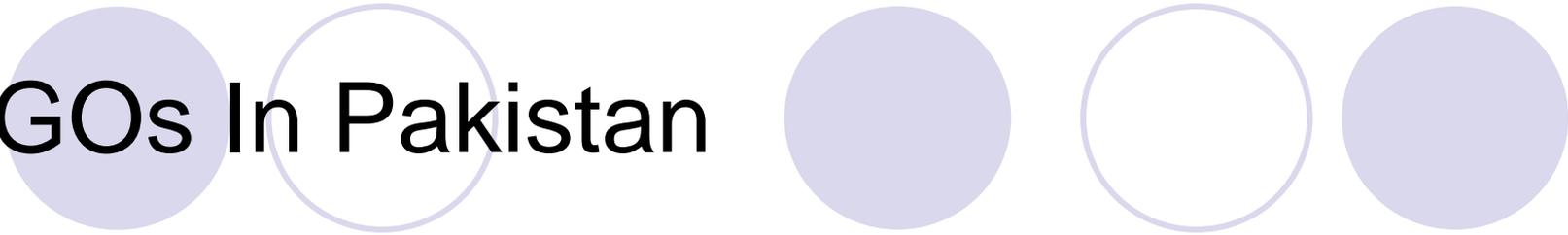
- public benefit organisation” includes a society, agency or any other association of persons, natural or juristic, not controlled by any government, by whatever name described that is nonprofit, voluntary and is set up for one or more public benefit purposes and includes local branches of foreign organisations but excludes such foreign organisations operating in Pakistan to whose charter Government of Pakistan is a signatory or where a protocol exists between the Government of Pakistan and an organisation”.

Continued



- The said Act extends to the whole of Pakistan to provide for governance and support of non-profit public benefit organisations. Whereas non-profit public benefit organisations engaged in diverse fields, including social welfare, development, research, rights awareness and advocacy, are making significant contributions to the social and physical capital of the country, it is desirable that an enabling legislative framework be provided that promotes transparency and strengthens the capacity of such organisations while respecting the right of free association in the furtherance of lawful. The Act defines “Public Benefit Organisation” includes a society, agency or any other association of persons, natural or juristic, not controlled by any government, by whatever name described that is nonprofit, voluntary and is set up for one or more public benefit purposes and includes local branches of foreign organisations but excludes such foreign organisations operating in Pakistan to whose charter Government of Pakistan is a signatory or where a protocol exists between the Government of Pakistan and an organization. According to section 28 of the said Act The Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961 (XLVI of 1961) is repealed.

iNGOs In Pakistan



- In most cases, registration is not compulsory. The exceptions are foreign NGOs and those in receipt of government funding which are required to register with the [Economic Affairs Division](#) and **Central Board of Revenue** respectively. As such the majority of NGOs can choose whether or not to register, and which regime to register under. The majority (65.4%) of NGOs are registered under the [Societies Registration Act](#) while around 20% of NGOs are not registered under any act.

Regulatory Framework

- [The Ministry of Social Welfare and Special Education](#) and the Provincial Social Welfare Departments are responsible for registering and monitoring organizations under the [Voluntary Social Welfare Agencies \(Registration and Control\) Ordinance 1961](#).
- The District Offices of the **Industry Department** are responsible for registering organisations under the [Societies Registration Act 1860](#).
- Not-for-profit companies are required to apply for a licence from the [Securities and Exchange Commission \(SEC\)](#). Certain conditions must be met before the SEC will grant a Licence. These include prohibitions on any payments to members and trading; a requirement for companies to have public company and limited liability status; and provisions that prevent changes to the memorandum and articles of association or members from resigning without SEC approval. Following this they must apply for a Certificate of Incorporation from one of eight Company Registration Offices.
- International NGOs are required to register and agree a Memorandum of Understanding (MoU) with the [Economic Affairs Division](#). While there is no legal basis for this expectation, it is understood by international NGOs and a failure to register can cause problems with other government agencies which can hinder their work. In addition the **Minister of Interior** is responsible for vetting foreign staff before registration is approved, and grants permission to operate in particular areas.

Benefits of Registration

- All NGOs, including international NGOs may be eligible for certain tax exemptions. Charities are potentially exempt from tax on most forms of income provided that the funds are applied solely in furtherance of that charity's objects, however such exemption has to be applied for directly to the **Ministry of Finance** and is not automatically granted. No exemption is granted for income from property, capital gains and business activities. To be eligible for these benefits a charity must register with the **Central Board of Revenue**. Approval is for a three year period, after which a new application must be made.
- the ability to enforce by-laws;
- statutory requirements that force an NGO to become organized;
- legal status "at the official level and among donors;"
- the ability to open a bank account;
- the ability to sign contracts;
- the ability to indemnify employees; and
- the ability to qualify for financial assistance and tax exemption.

Reporting requirements

- Organisations registered under the [Voluntary Social Welfare Agencies \(Registration and Control\) Ordinance 1961](#) are required to maintain accounts and submit an annual report and audit report to District Officers. The report must detail the management of the agency, its activities and plans for the next year. Accounts and reports are made publicly available.
- Registered Societies must submit a copy of the membership list annually. No other monitoring is undertaken.
- Not-for-profit companies must submit annual returns, audited accounts and other documents for examination. Accounts are open to public scrutiny.
- The **Economic Affairs Division (EAD)** asks International NGOs to explain their plans. It then invites comments from the **Ministry of Law, Ministry of Finance** and any other relevant ministries (such as the **Ministry of Education**). The EAD role is strategic, considering an NGO's proposals within the wider development framework to coordinate activities of government and NGOs, minimise duplication of effort and focus on unmet needs
- NGOs, which benefit from tax exemptions, are required to submit annual audited accounts, a list of donors and beneficiaries and other financial information to the **Central Board of Revenue**.

Steps to Start an NGO



- Starting an NGO can be a very time-consuming process. It requires a strong vision and dedication from an individual or group that share a common concern about a community. If initiated correctly in an organized and strategic way, the services implemented to benefit the community can be very helpful and resourceful.

1. Establish Purpose/Vision/Goals

- The first essential step in starting an NGO is to determine the purpose of the organization. Do so with a clear and concise written statement that describes the charitable mission of the organization. The statement must be broad enough to reflect the values of the NGO and why it exists. It is important to remember who the target community of the organization is and why it is important to reach out to this community. It is also necessary to envision what the organization will become and what the long term goals and objectives are. This should be done through short-term planning (an annual plan) as well as long-term planning (a strategic plan).

2. Establish an Initial Board of Directors

- When setting up an NGO, the founder(s) must recruit the initial board of directors. It is helpful to start with a small group of committed individuals because the first board is the foundation of the NGO. The members must have strong legal, financial, and technological skills and should know that they are expected to serve on the basis of the public's best interest. People who clearly understand the mission and goals of the organization and who have new and progressive ideas to contribute are essential. Most importantly, the initial board should be able to work as a team in order to help the organization get started and gain acceptance from the community. The size and structure of the board, as well as the people who make it up, may change based on the size and needs of the organization once the NGO becomes officially established .

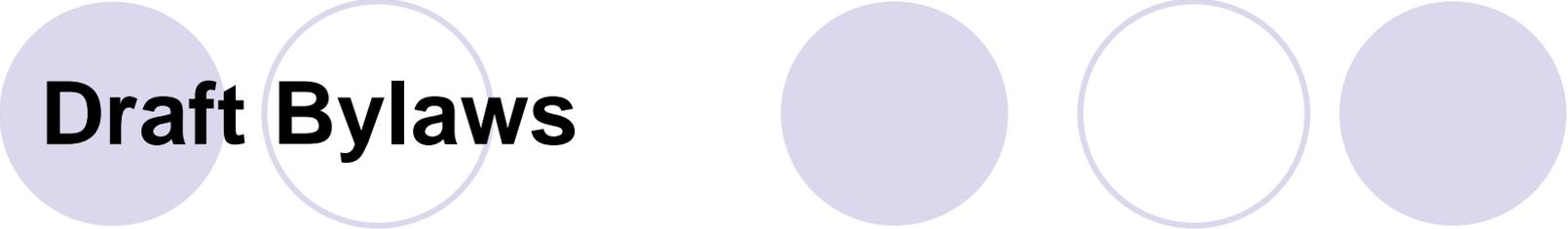
3. Seek Legal Expertise

- Because there are many legal matters that an NGO must deal with in first starting up, it is sometimes helpful to seek a lawyer. A lawyer can help with
- Registering the NGO
- Filing articles of incorporation n 7
- Filing reports
- Tax issues
- Securing licenses.
- Even though many of these matters may be simple, a lawyer who specializes in this area is timesaving and reassuring. If money is an issue, it may be possible to provide the NGO with inexpensive legal services through a legal assistance program. Checking with the board members to see if they have any connections or contacts may be useful. Having an attorney with such expertise on the board is another option.

4. Write Articles of Incorporation

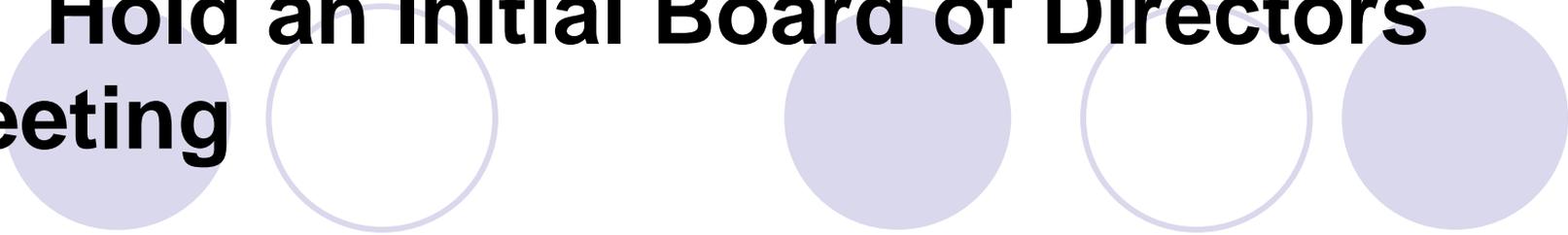
- The articles of incorporation should provide a legal description of the NGO assigning power to the board. Once drafted, they should be submitted to the board for final approval before registration. The information that should be included in the articles varies between local state governments and also from country to country. Depending on what country the NGO is being formed in, it is important to check with local and federal governments to see what kind of forms need to be filled out and what should be included. The following are general examples of what is often expected:
 - • Name of the NGO
 - • Purpose/Mission
 - • A statement declaring the NGO is nonprofit
 - • Location of the NGO
 - • Number and names of the board members
 - • Extent of personal liability
 - • Whether or not the NGO has capital stock (usually it will not)
 - • How long the NGO is expected to exist (this may be declared as everlasting).

5. Draft Bylaws



- While the articles of incorporation prove the accountability of the organization to the external world, the bylaws represent the responsibilities of the NGO to itself. The bylaws of an NGO specify how it will run. They act as a rule book determining structure, power, and organization. The bylaws are self-imposed by the NGO and therefore, should conform to the needs of the specific organization.
- The bylaws help to resolve and minimize disputes and should be available to all members of an NGO for reference .Though it varies depending on the individual needs of an NGO, some general information included in the bylaws may be:
 - • Purpose/Mission
 - • Registered Office of the NGO
 - • Members and qualifications and length of memberships
 - • Board size, responsibilities, structure
 - • Structure of board meetings
 - • Committee Structure
 - • Officer Duties.
- If the NGO decides to incorporate, some of what would usually be included in the bylaws is outlined in the articles and it is unnecessary to duplicate these rules in the bylaws. Therefore, it is essential to have both the articles of incorporation and the bylaws drafted before the NGO officially registers. The bylaws, like the articles, must also be sent to the board for final approval.

7. Hold an Initial Board of Directors Meeting

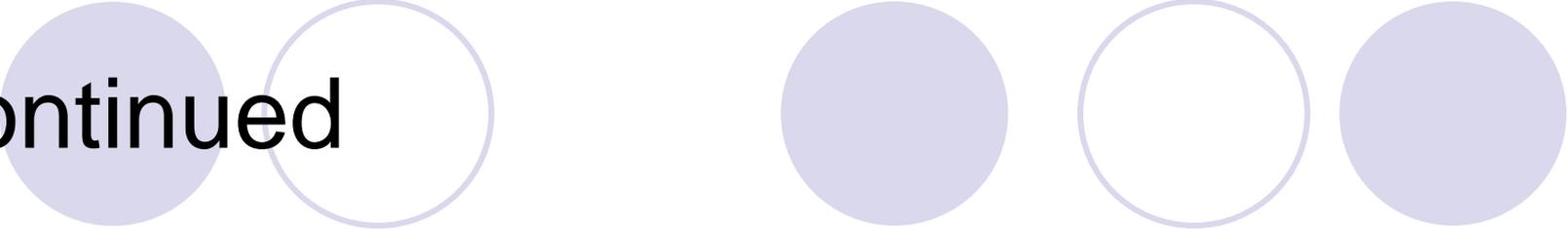


- Once the NGO is legally incorporated (through an issued charter in most cases) an initial board of directors meeting should be held. The board members should officially adopt the bylaws in the first meeting because they should explain how the board functions. (In some countries the bylaws will already be established at this point by the incorporators depending on the governmental requirements.) The first meeting is important in establishing officers, committees, and discussing preliminary projects.

8. Set Up An Accounting System

- All NGOs need a system for recording where money comes from and how it is used. Because NGOs finances tend to be closely scrutinized, it is important to put an effective accounting system into place to deal with the nuances of nonprofit bookkeeping and reporting.
- Seeking the help of an accountant who can help set up a bookkeeping system and explain how to use it is highly recommended. Board members or business schools may be helpful in finding a volunteer accountant or an inexpensive one specializing in helping nonprofits get started. Often times NGOs have an accountant on the board who is familiar with these systems, which is also a useful option. It is important to decide whether the bookkeeping system should be cash or accrual. Cash based accounting is a system where:
 - • Revenue is recorded when added to a bank account.
 - • Expenses are recorded when money is withdrawn from the bank.
- This system is very straightforward. However, it only tells the NGO how much money is in a bank account and nothing more. It does not reveal how much money might be owed to the organization or how much money the NGO owes .

Continued



- Accrual based accounting records:
 - • Revenue that is earned (may be before or after it is received)
 - • Expenses when incurred (may be before or after payment).
- In general, it seems that the information provided through accrual based accounting is more useful to an organization than cash based accounting because it paints a broader financial picture. It allows an NGO to see not just its immediate payments and deposits, but also what kind of money they owe or may be receiving in the future. This allows an organization to be more aware of its financial status.
- Lastly, once the NGO decides what the bookkeeping system should be, it is essential that all financial transactions are documented and recorded into financial journals by the bookkeeper. Transactions should be numbered and put in chronological order and thank you notes are essential for every donation received. Thank you notes should be copied and added to the journals, as well as check stubs and deposit receipts. The bookkeeper must be well organized in order to prevent the misuse of funds and ensure efficient spending for programs.

9. Come Up With a Fundraising Plan

- Money required for an NGO to operate primarily goes into their educational and social programs, the overall operation of the NGO (administration, utilities), and projects (surveys, giving programs). Both the board of directors and the executive director should be active participants in fundraising and it is important that writing grants, seeking contributions, and other fundraising skills are acquired skills early in the NGOs development. In order to come up with the best fundraising strategy, it is important to identify what the needs are of the NGO and what sources can best fulfill these needs.