
The Promise and Limits of Collective Action for Nonprofit Self-Regulation: Evidence From Asia

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Abstract

Self-regulation is an increasing mandate in American nonprofit life, but the new focus on self-regulation is not limited to the United States. Nonprofit self-regulation is expanding rapidly in Asia as an expression of collective action to defend against encroaching and increasing state pressures; to strengthen the quality of sectoral governance, services, financial management, and fundraising; to improve public, corporate, media, and other perceptions of nonprofits and charities; to organize an unruly sphere and marginalize lower quality actors or other outliers; to access governmental or donor funding; to act as a market mechanism to exclude competitive or unproductive actors for the benefit of remaining players or to marginalize organizations causing reputational damage to the sector; as a learning opportunity for nonprofits and their networks; and as a means to clarify and strengthen shared identity. This article analyzes the rapid development and forms of nonprofit self-regulation in Cambodia, India, Pakistan, and the Philippines and the motivations behind this rapid growth.

Keywords

self-regulation, Asia, Philippines, India, Pakistan, Cambodia, China, codes of conduct, certification

Self-regulation is an increasing mandate in American nonprofit life, both for the nonprofit sector itself and for its government overseers. In the United States, this new self-regulation imperative is the product of increased oversight by Congress, the media, donors, and other constituencies, the rise of strengthened self-governance among

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highly networked and occasionally threatened nonprofit sector industries, the rapid strengthening of voluntary and educational efforts at the state level, and other factors (Sidel, 2007). The National Principles on Self-Regulation drafted by an advisory committee of the Panel of the Nonprofit Sector is among the most visible new products of the drive toward self-regulation (Panel on the Nonprofit Sector, 2007).

But the new nonprofit self-regulation is not limited to the United States. As this mini-symposium indicates, various forms of self-regulation are now firmly on the agenda of both nonprofit sectors and governments in Asia, Africa, and Europe. As the Introduction points out, self-regulation is the product of collective action by the nonprofit sector that can have many and often overlapping motivations. The Introduction identifies those multiple motivations for self-regulation and several overlapping theoretical bases and understandings for it. In key countries of Asia in which there has been extensive focus on nonprofit self-regulation, self-regulation efforts are an expression of collective action to defend against encroaching and increasing state pressures expressed through law, policy, and politics; to strengthen the quality of governance, services, financial management, and fundraising in the sector; to improve public, corporate, media, and other perceptions of nonprofits and charities; and to organize an unruly sphere and marginalize lower quality actors or other outliers.

But other motivations spur self-regulation as well, in Asia and beyond. Nonprofit self-regulation can be a means or condition to access governmental or donor funding. It serves as a market mechanism to exclude competitive or unproductive actors, to keep the field manageable through exclusion to benefit remaining players, or to marginalize those causing reputational damage to the sector. And it can be a learning opportunity for nonprofits and their networks at state and national levels, a means to clarify and strengthen shared identity in particular parts of the nonprofit community.¹

Until quite recently, however, there was virtually no self-regulation by the nonprofit sector in Asia. In the 1970s, 1980s, and throughout most of the 1990s, the voluntary sector in most Asian countries focused primarily on trying to fend off strong states and strong governmental regulation through political appeals and social mobilization—a reflection of the social movement origins of many indigenous Asian nongovernmental organizations in an era before managerial and “professional” dynamics became a major force in the sector. Efforts by nonprofit communities to defend themselves and their work, to unify the sector, and to enhance the quality of their efforts focused on responding to regulation and policy and seeking to carve out a somewhat wider and more stable—though often still tenuous—space for nonprofit formation and operation.

Thus the scholarly literature of the late 1980s and much of the 1990s on the voluntary sector in Asia rarely refers to self-regulatory initiatives, for there was little to discuss (Baron, 1991, 2002; Jung, 1994; Yamamoto, 1995). The initial comprehensive study of the legal regulation of philanthropy and the nonprofit sector in East and Southeast Asia was bereft of references to self-regulation, and so were the country-level surveys undertaken by the Center for Civil Society Studies at Johns

Hopkins or more specialized studies on NGOs or philanthropy in the region (Silk, 1999).

Nonprofit self-regulation began to emerge in the Asian voluntary sector in the late 1990s, initially in the Philippines and India and then in a number of other countries. A genealogy of discussion of nonprofit self-regulation in Asia shows intensive attention given to the experience of one institution in one national context, the Philippine Council for Nonprofit Certification (PCNC), which is also discussed further below. In the late 1990s and the early part of this decade, the PCNC experience in the Philippines was virtually the only known example of nonprofit self-regulation generally considered successful and available for discussion around the region.

The first broad-based meeting in Asia to discuss comparative models of nonprofit self-regulation was held in New Delhi in August 2000, focusing on experience in India and the Philippines. An initial survey of nonprofit self-regulation in Asia was conducted in 2003 for the Asia Pacific Philanthropy Consortium. It concluded that

nonprofit self-regulation is on the agenda as never before . . . [N]o one pattern fits or describes the variety of nonprofit self-regulation mechanisms in the Asia Pacific region. The nonprofit sector in each country is discussing, considering, debating, experimenting or adopting self-regulation structures on its own pace and based on its own conditions and needs.

And it continued as follows:

[T]here are an wide, exciting array of dialogues, debates, experiments, and initiatives underway on nonprofit self-regulation around the Asia Pacific region—ranging from systems in place in the Philippines, Australia and elsewhere, to a wide range of experiments and pilot projects in India, Indonesia and other countries, to active dialogues underway where they might be expected (such as in Hong Kong and China) and where they might be a bit surprising to find (such as Vietnam and Laos).” (Sidel, 2003; internal italics omitted)

By 2004, when the first comprehensive report on the regulation of philanthropy and the nonprofit sector in South Asia was produced, self-regulation was a significant theme, and the authors could report on specific self-regulatory initiatives and experiments in Bangladesh, India, Nepal, Pakistan, and Sri Lanka (Sidel & Zaman, 2004). Today, nonprofit self-regulatory initiatives have expanded in a number of countries around the region. Self-regulatory mechanisms remain experimental, diverse, and in many cases quite fragile. This article focuses on four countries—India, Cambodia, the Philippines, and Pakistan—where self-regulation has been high on the agenda of nonprofit action and accountability; there have been significant new developments in recent years, and it is possible to advance theory by illuminating the motivations for collective action through self-regulation and the limits of collective action that is focused on self-regulation.

India: Self-Regulation as Collective Action for Sectoral Defense

India's large, diverse, and vibrant nonprofit sector is often in conflict with the national government and with state governments, over prerogatives for the sector, receipt of foreign funding, and other controversial issues. The Indian voluntary sector began discussion of self-regulation in the mid-1980s, when NGO activist Bunker Roy and others pressed for development of a voluntary sector code of conduct for the voluntary sector as a means to strengthen quality within the sector and eliminate fraudulent operators.²

Little came of that initial effort, but in the 1990s a wide array of experiments were conducted in nonprofit self-regulation beginning with the development of "voluntary guiding principles" for the nonprofit sector by Voluntary Action Network India (VANI). That second wave of interest in nonprofit self-regulation also included a major joint project on nonprofit information disclosure and validation conducted by the Charities Aid Foundation/India and the Government of India's Planning Commission and a series of transparency and governance initiatives in the voluntary sector undertaken by Murray Culshaw Advisory Services in Bangalore that encouraged annual reports and means to provide information on nonprofit activities.³ These were all experiments in nonprofit collective action, overlapping and competing for domestic support and international funding but rarely hostile to each other.

A new, third wave of experiments began in about 2001. This diverse set of self-regulatory initiatives included a nonprofit rating scheme initiated by *Indianngos.com*,⁴ ratings of microcredit finance institutions in India and around Asia undertaken by Micro-Credit Ratings International Ltd. (M-CRIL),⁵ and the emergence of powerful domestic funding intermediaries that imposed or negotiated self-regulatory principles and rules on their downstream Indian funding recipients and partners.

I term this last model "intranet" regulation—private governance of a bounded range of NGOs brought together largely because of their relationship with a dominant funder, a form of collective action required, mandated, and led by powerful domestic funders. This process began with the India national NGO Child Relief and You (CRY), which established detailed procedures and expectations on program, fiscal, accounting, and other regulation for CRY's grantees and required them to follow those rules and report back on to CRY. This was a form of domestic, donor-enforced, private governance with a defined grantee group. CAF India, the Give Foundation (Mumbai), and other large funding and programming intermediary organizations later adopted other and expanded forms of such a domestic funder-based "intranet" model of self-regulation on either a required or strongly encouraged basis.⁶

By the middle of the decade, these diverse initiatives have now begun to coalesce into several key self-regulation initiatives underway in India:

- A code of conduct and validation exercise being undertaken by a voluntary sector consortium called the Credibility Alliance;
- The self-regulatory norm-setting and verification process being undertaken by GiveIndia;

- A transparency initiative undertaken by GuideStar India;
- The strengthening of “intranet” self-regulatory methodologies in which major domestic donors, such as CAF India and CRY set self-regulatory norms for their funding recipient partners.

Throughout this complex trail of initiatives and experiments, the Indian NGO attention to self-regulation consistently reflects three interrelated concerns to which the sector is seeking to respond: increasing government scrutiny and regulation, both at the national and state levels; the perceived distrust of the nonprofit sector among the public, government, and media; and a strong sense in the nonprofit sector that standards and quality must be improved.

For many years the Indian government ignored virtually all of the self-regulation initiatives as irrelevant to its own regulatory role, except for the validation exercise conducted by CAF India and the Planning Commission in the 1990s, which was a project of farsighted actors on both sides. Today the Indian government has begun to embrace nonprofit self-regulation as a solution to its own regulatory needs. The government’s National Policy on the Voluntary Sector, adopted in 2007, encourages self-regulation by voluntary organizations (VOs):

There has been much public debate on the voluntary sector, particularly its governance, accountability, and transparency. It is widely believed that the voluntary sector must address these issues through suitable self-regulation. The government will encourage the evolution of, and subsequently accord recognition to, an independent, national level, self-regulatory agency for the voluntary sector.

There is reason to believe that accreditation of VOs will lead to better funding decisions and make the funding process more transparent. Furthermore, accreditation may provide incentives for better governance, management, and performance of VOs. No reliable accreditation system is in place at present. The Government will encourage various agencies, including those in the voluntary sector, to develop alternative accreditation methodologies. It will allow time for such methodologies to be debated and gain acceptability in the voluntary sector before considering their application to Government funding of VOs.⁷

The Credibility Alliance Initiative for Minimum Norms:

The Promise and Limits of Collective Action

A key self-regulation initiative in India by nonprofits concerned with governance, accountability, and transparency is the Credibility Alliance, which seeks to “to define norms that organizations should meet” and to develop a set of “minimum norms for certification in the voluntary sector.”⁸ The Alliance has developed the Minimum Norms for Enhancing Credibility of the Voluntary Sector, which cover formation and registration, objectives and performance, governance, programs, management and human resources, accountability and transparency. The Alliance is moving toward an accreditation process or some mechanism for evaluating compliance with the

Alliance's minimum norms and now defines itself as "akin to a professional body that will set norms or standards of governance. These norms shall operate on the principle of self-regulation that respects the autonomy and seeks to preserve the spirit of innovation in the voluntary sector."⁹

The Credibility Alliance now has about 450 institutional members, mostly medium-to large-sized NGOs from around India. It had established minimum norms, desirable norms, and good practices for its voluntary sector members. And it has initiated a pilot program of independent review of compliance with norms and exploring the formation of an accreditation system and certifying capacity-building institutions to help nonprofits comply with the minimum norms. However, both face significant issues of financial sustainability and sectoral acceptability, an example of the power of collective action to formulate norms, along with difficulties of collective action in enforcing them and expanding their acceptance in the sector. Meanwhile, Credibility Alliance is most well-known in India for its minimum self-regulatory norms. Several large Indian nonprofits are using the norms and their compliance by voluntary organizations in their work. In addition, the National Policy on the Voluntary Sector, adopted in May 2007, may bring government at central and state levels into endorsement with the norms.

Real take-up by national or state governments of self-regulatory norms would be a significant development in India. And government capture of self-regulatory norms developed by the sector itself for government's own regulatory purposes raises the question of whether these initiatives can still be considered "self"-regulation. Noting these developments, an Indian nonprofit sector specialist notes that "as long as the 'norms' and associated activities: verification/ training/promotion etc, remain largely under the control of the voluntary sector then I feel we can still say that it is being 'self regulated'."¹⁰ But implementation and enforcement, both within the bounded range of voluntary members and more broadly in the Indian voluntary sector, remain a substantial issue in this collective action approach to nonprofit self-regulation in India.

GiveIndia: Norm setting, Verification, and the Link to Donations

Another Indian self-regulatory initiative is based in the intermediary GiveIndia, which helps channel donor funds to more than 200 Indian NGOs that have met self-regulatory standards set by GiveIndia and the Credibility Alliance. The GiveIndia approach emphasizes the tangible benefits to NGOs from participation in transparency and accountability initiatives—in the case of its program, the flow of donations through GiveIndia being a key motivator. Constraints include lack of resources for new groups to join the online GiveIndia reporting system and a lack of knowledge among donors that these mechanisms exist and should be supported.

The GuideStar India Initiative: Broad Sectoral Collective Action for Transparency

From its successful base in the United States as a source of transparency on the nonprofit sector, Guidestar's international expansion began with the United Kingdom and

has now moved to India. The initial Guidestar India operation was established as a partnership to enhance transparency and is perceived as complementary to those other self-regulatory initiatives to “allow NGOs to report their work in a simple, ready to search manner so that all those interested in NGOs (donors, researchers, policy makers, government, and NGOs themselves) can access information instantly.” There are some high hopes for Guidestar in India. At present, Guidestar India is in the initial stages building a database of organizational documents and relations with government for launching later this year or in 2008. An advantage to the GuideStar India approach, at least for some organizations, is the low barrier to entry and the choices available to NGOs on the amount of disclosure to begin with. GuideStar India “allows NGOs to start reporting with just two documents (registration certificate and address proof). At the same time, the site . . . would reward NGOs that report more information and make frequent updates” (Singh, 2009).

“Intranet” Collective Action and Networked Self-Regulation Initiatives

Along with these initiatives, another key step forward in Indian nonprofit self-regulation has been the emergence of internal, self-regulatory norms for networks of Indian funding recipients and partners imposed by powerful domestic funding intermediaries—a form of collective action driven by large domestic funders within their particular networks. This “intranet” private governance of downstream grantees is intended to raise quality within the sector, marginalize outliers, facilitate fundraising from domestic, diaspora, and foreign donors, and strengthen service delivery.

Private governance of grantees through “intranet” self-regulation in India began with the national NGO and funder CRY, which established detailed procedures and expectations on program, fiscal, accounting, and other rules for CRY’s grantees to follow in the 1990s. CRY has expanded its “intranet” structure to provide budgetary support to NGOs that want to publish their accounts in accordance with CRY’s standards, and CRY is encouraging its partners to post accounts on the Internet. Others have taken up “intranet” self-regulation in their spheres of funding, on both a required and semivoluntary basis. Charities Aid Foundation India has also initiated a series of governance, financial, and programmatic policies for voluntary adoption by its grantees.

These are not the only initiatives in India—others include a new “Joy of Giving Week” that favors and highlights NGOs engaging in public disclosure and the “CSO Partners’ Annual Report Awards” that reward superior annual reports issued by smaller, medium sized and larger NGOs and seek to encourage organizations to develop annual reports as a transparency and accountability tool. Other initiatives will likely emerge in the years ahead (Singh, 2009). Indian conclusions on the results of these years of experimentation with self-regulation are mixed. Private governance for sectoral self-defense has been a key motivator in India, perhaps the dominant strand in the collective action that has led to self-regulation in India. Yet relatively little has been effectively and sustainably enforced or institutionalized, a key limit on the reach of collective action to benefit the voluntary sector. One knowledgeable Indian specialist notes that the

outlook for self governance in India . . . is a bit uncertain. As long as the voluntary sector . . . can get its act together, and reasonably quickly, . . . the Government will keep out—but our current efforts are still very small against the need At the micro-level i.e., individual organisation level there is evidence that following the norms is leading to improved fundraising; not yet sure there is evidence that adherence is leading to improved governance and management.”¹¹

One key participant in the GiveIndia and the GuideStar India initiatives has called “to convert its various initiatives for transparency [and] accountability from small disjointed steps into a coordinated and concerted movement to transform the sector. While NGOs had been successful in pushing for electoral reforms to make politicians accountable and played a key role getting the Right to Information Act passed toward making the government machinery accountable, it has become . . . critical for the sector to pursue its own accountability with the same passion and zeal” (Singh, 2009).

Cambodia: Collective Action to Defend and Unify the Nonprofit Sector

In Cambodia, parts of a deeply split nonprofit sector under suspicion from a restrictive state have moved collectively if fitfully toward adopting a sector-wide self-regulation model primarily as a defensive and unifying mechanism.¹² Nonprofit self-regulation in Cambodia has a checkered history: A *Code of Ethics for NGOs and People's Organisations in Cambodia* was drafted and signed by 150 NGOs in the mid-1990s but fell into dormancy quickly thereafter, a form of failed collective action.¹³ Another attempt was made in 2003, and signed by 300 NGO representatives, but likewise showed no signs of life thereafter.¹⁴

In the absence of an effective sector-wide self-regulatory initiative or structure, the charters of several important umbrella organizations have at times served to help spread basic norms of conduct for members of those alliances. One such group, Medicam, comprises more than 100 organizations working in the health sector. Another such umbrella group, the Cooperation Committee for Cambodia (CCC) also has its own charter.¹⁵ The umbrella charters may represent a kind of very loose “intranet” form of self-regulation, or at least agreement on basic principles for collective action without regulation.

In recent years, however, a broad new push has been put on by the Cooperation Committee for Cambodia to draft and reach agreement in the sector on a new nonprofit code of ethics that would, for the first time in Cambodia, include an assessment and enforcement component. A Working Group of Cambodian NGOs convened by CCC developed the Code of Ethical Principles and Minimum Standards for NGOs in Cambodia over several years, on the basis of the earlier 1995 and 2003 efforts, culminating in a revised draft in 2006 that was discussed by NGOs throughout the country.¹⁶

The drafting of the Code of Ethical Principles and Minimum Standards for NGOs in Cambodia was an exercise in collective action that, as in India, had multiple motivations: to help unify a deeply split sector; to forestall enhanced government intervention; and either to prevent the emergence of or produce a better national Law on Nongovernmental Organizations, a highly controversial drafting process in Cambodia. The Code contains nine “ethical principles” adapted from the earlier drafting effort and is based on “core organisational values of cooperation, respect and equity in our relationships, quality, efficiency and openness” and 25 new Minimum Standards for NGOs that cover mission and values; governance; relationships/communication; financial affairs; accountability and transparency; quality; and human resources.¹⁷

The CCC Code project is taking place in several phases—first, drafting, discussion, and endorsement by Cambodian NGOs and then, a certification and compliance system that is now being used in pilot programs around Cambodia.¹⁸ Under this process, 17 Cambodian organizations were certified between June 2007 and August 2009, out of 40 applicant groups. At the same time, collective action certainly has its limits, as the divisions within the Cambodian nonprofit sector illustrate clearly. Most of the participants in the CCC Code process have been development NGOs. “NGOs in the legal and [human rights] sector are far less well represented and have remained mostly aloof from the process,” in part because of their deep suspicions about the government and other organizations that work with the government.¹⁹

The Code discussions underway are closely related to many years of highly contentious discussions over a national Law on NGOs—a drafting development in which some organizations have cautiously agreed to work with the government to get the best possible draft law. But other groups—including some prominent human rights organizations—have lambasted the drafting process and declined to participate on the ground that the drafting process and the eventual Law is intended or will be used primarily against organizations that criticize the Hun Sen government.

In this highly charged political context, the drafting and discussion of the *Code of Ethical Principles and Minimum Standards* is intended to maintain some unity in the sector through collective action, at least among the organizations willing to participate, to indicate to the government that the sector is capable of engaging in some self-governance and strengthen quality and fight abuses in the sector. For those organizations, a Code and pilot projects to certify compliance are the most that can be done now, a form of cautious collective action intended to forestall government intervention while gradually bringing a fractured sector together.²⁰

The Philippines: Government Support for Collective Action Through Self-Regulation

The Philippines has the single most well-known experience in self-regulation anywhere in Asia—the successful if complex story of the Philippine Center for Nonprofit Certification (PCNC). At the same time, the applicability of the PCNC “model” elsewhere in Asia may be considerably more limited than is sometimes recognized—in

large part because the PCNC and its process are the result of direct cooperation with government backed up by government reliance on that certification process to issue tax exemptions. In addition, lost in the frequent discussion of this particular collective action model are the wide array of self-regulation experiments and initiatives underway in the Philippines well beyond the PCNC approach and the complexity of their interplay with the PCNC certification process.

The Philippine Council for Nonprofit Certification

Concern with self-regulation in the Philippines goes back at least as far as the inauguration of the Corazon Aquino government in 1986, when a number of nonprofit leaders joined the Aquino administration in one of the earliest and most prominent forms of friendly alliance between the state and the voluntary sector in Asia. In the early 1990s, the government suggested a nonprofit certification mechanism and government–nonprofit cooperation as the primary criteria for determining nonprofit “donee institution status”—the tax status that confers deductibility for donations, providing direct government backing for a form of nonprofit certification and self-regulation.²¹

That idea for government–nonprofit collaboration matured into the Philippine Council for Nonprofit Certification, which was founded in 1998 and assigned the task of certifying nonprofits for donee institution status under the Philippine tax code. The crucial role of the PCNC in this process and in raising standards in the sector arises out of an agreement with government for the nonprofit sector to play a significant role in a traditional government responsibility—the granting of nonprofit tax status—and it operates with official government support. In this way, a portion of the Filipino nonprofit sector took charge of its own certification process for nonprofit tax status, expanding that intensive examination and certification process to include a “Good Housekeeping” type of seal for nonprofit organizations.²²

PCNC has certified more than 400 organizations thus far, with more in the pipeline. And its goals have expanded: Today the PCNC certification process is “not only [intended] to pursue tax incentives for donors to NGOs but also, and even more importantly, to promote professionalism, accountability, and transparency among [NGO network] members, and the Philippine non-profit sector”²³ PCNC pursues these goals through the tax certification process, by evaluating nonprofits for a “Good Housekeeping”-type seal of approval, through capacity-building mechanisms, by involving nonprofit personnel as peer evaluators and capacity builders, by speaking for the sector and for nonprofit self-regulation, and in other ways.

The PCNC government-supported model has been discussed throughout Asia by nonprofit networks and governments interested in self-regulation and certification. PCNC’s intensive certification model may be most usefully applicable around Asia when government–nonprofit relations are close enough for substantive cooperation and the government has directly sought voluntary sector assistance in fulfilling regulatory goals—in this case, certification for tax exemption. That merging of goals through an intensive certification process also helps solve the problem of financial

sustainability that plagues discussions of most other certification and accreditation models around Asia, including in India and Cambodia.

The PCNC certification model is not the only nonprofit self-regulation initiative in the Philippines and, as in other countries, the interplay between PCNC certification and other self-regulatory mechanisms is complex, particularly where several self-regulatory processes or structures may apply to individual organizations.²⁴ But in recent years, the Philippine voluntary sector has made progress in resolving these overlapping requirements, often with the result that the PCNC certification process has been strengthened as a core self-regulatory mechanism, a form of collective action that has become considerably broader and more secure over time.

For example, the Code of Conduct for Development NGOs developed by the Caucus of Development NGOs (Code-NGO) in the 1990s, which was developed into the Code of Conduct became the *Code-NGO Covenant on Philippine Development* of which part III, Responsibilities of Development Non-Government Organizations, is generally referred to as the “Code of Conduct.” In the late 1990s and the early part of this decade, Code-NGO and its members faced questions about the overlapping nature of the PCNC certification process and adherence to the Code of Conduct. In 2003 Code-NGO—a core partner in the PCNC enterprise—sought to resolve these complexities by making adherence to the Code consistent with PCNC certification. Code-NGO “pass[ed] a landmark resolution that advocates for PCNC certification among the members, as the pillar and frontline strategy for promoting transparency and accountability within our ranks . . . [Code-NGO] resolved to maximize a mechanism that already exists—the PCNC, rather than expending considerable effort and resources developing and implementing a separate monitoring system.”²⁵

There are multiple additional nonprofit self-regulatory mechanisms in the Philippines that apply to particular subsectors of the voluntary sector. But in some of these cases as well intensive efforts have been underway to harmonize subsectoral self-regulatory requirements with PCNC certification. The Philippine Association of Foundations, for example, has its own Code of Ethics to which it requires adherence by members, but was also certified by PCNC in 2004 and in turn encourages its members to seek PCNC certification as a “top priority.”²⁶ And the PCNC process itself—one of the more successful nonprofit self-regulatory efforts anywhere in Asia—has not been free from occasional attempts by governmental agencies to usurp its special role.²⁷

Pakistan: The Overlapping Goals of Collective Action

In Pakistan, discussions and experiments with nonprofit self-regulation have come in response to sometimes intense state pressure on the nonprofit sector (Ismail & Baig, 2004), the need for a mechanism to provide tax benefits to the sector and to donors, and the sector’s perception that it must upgrade both the quality of its work and its perception among the general public (Sidel, 2003; Philanthropy and Law in South Asia 2007).

These responses have taken several forms. The most prominent is a certification program for nonprofit organizations operated by the Pakistan Centre for Philanthropy

(PCP). The certification program was the result of a multiyear program undertaken by the indigenous Pakistani nonprofit and philanthropic sector, supported by the Aga Khan Foundation and others, to strengthening the enabling environment for the sector in Pakistan. As the Centre puts it, “[v]arious stakeholders including large corporate donors and diaspora philanthropists indicated that a mechanism was needed to identify credible partners in development. International donor agencies, government, and individual philanthropists also expressed the view that philanthropic activity would increase in volume as well as effectiveness if the existing information and credibility gap between donors (individuals, corporate sector, government, and international agencies) and recipient NPOs is bridged.” (PCP, 2007)

In conjunction with partners in the sector, PCP developed a detailed and complex certification model under which organizations provide detailed voluntary information on governance, program delivery, financial management, and other issues and are then evaluated by certification teams named by PCP. The process includes meeting defined and detailed prerequisites as well as assessed parameters that include detailed criteria on internal governance, financial management, and program delivery (PCP, 2007).

The goals, and results, are frankly stated as follows:

Certification, thus, offers a useful service to key stakeholders in philanthropic giving. On one hand, it promotes credible organisations through its databases and strives to link certified NPOs with various donors (individual as well as organisational). On the other hand, it provides the philanthropists with credibility assurance about their potential partner NPOs . . . Credibility and capacity of the Centre also speaks in the increasing awareness and understanding of the NPO sector about the rationale of certification as a mechanism for improving their accounting and governance structures and as a means of enhancing their credibility. (PCP, 2007)

Without government endorsement, as in the Philippines, certification would be a useful but ultimately considerably less powerful tool. One of the key features of the Pakistani process is that the government has, in fact, endorsed collective action by the nonprofit sector as a means to granting official tax exemptions. The Central Board of Revenue (CBR), Pakistan’s tax authority, “statutorily linked grant of tax exemptions with evaluation and certification by PCP” by notification in December 2003 and amendment of Pakistan’s Internal Revenue rules (PCP, 2007).

In specific terms,

the Central Board of Revenue grants tax exemptions to nonprofit organisations after an assessment of their performance as public benefit nonprofit organisations. PCP’s certification of an NPO is considered by the CBR as a valid proof of good performance of an organisation, and thus forms the basis on which tax exemptions are granted. (PCP, 2007)

As of December 2007 a total of at least 127 organizations had been certified (PCP, 2006, 2007; Dar, 2007).²⁸

Nonprofit Self-Regulation and the Collective Action Paradigm

When nonprofit self-regulation was first surveyed around Asia in 2003, a surprising array of experiments, initiatives, and pilot projects were unveiled in countries ranging from India and the Philippines, where the voluntary sector has relatively wide operating space, to nations such as Cambodia, Vietnam, and China, where nonprofit space is considerably more constricted and government intervention correspondingly stronger (Sidel, 2003).

Those experiments and initiatives continue in many countries of the region as the voluntary sector continues to work out relationships with the state and with each other. But India, Cambodia, the Philippines, and Pakistan stand out for the acceleration of voluntary sector efforts at self-regulation in recent years. In each country, efforts are coalescing around a certification process or a code of conduct (with additional self-regulatory efforts underway in a country as large, and with as rich an NGO tradition, as India). In two of these countries—the Philippines and Pakistan—these moves toward private governance have been aided substantially by government cooperation with self-regulators to issue tax exemptions. And in India, political support from the government is now aiding the expansion of self-regulatory mechanism. But in each country early stages of formulating self-regulatory certification processes or codes have been followed by far longer and slower implementation processes; in Asia, at least, collective action toward self-regulation seems smoother and more successful at the drafting stages than when it comes to enforcement, implementation, and scale-up. Collective action may well be more effective in beginning self-regulation efforts intended to defend the sector against potentially harsher government action focused on accountability and transparency as well as to raise quality in the sector in the face of popular skepticism and media attention, eliminate weaker or fraudulent operators, and serve as a measuring stick for government and private funders.

So this rapid expansion of nonprofit self-regulatory initiatives faces some common obstacles, roadblocks that may be more problematic for nonprofit collective action to resolve. These include

- The difficulty of transitions from codes to code implementation and enforcement, whether through certification, enforcement, or other means—not only complex problems in how to implement and enforce self-regulatory norms that have been called “obedience to the unenforceable” (Independent Sector, 1999) but also significant difficulties in scaling up to implementation beyond the relatively simple and passive process of signing on to codes of conduct or similar documents.
- Problems in coming to a financially sustainable model for self-regulatory initiatives, particularly in situations where government benefits are not tied to self-regulation and thus voluntary sector organizations may be unwilling to contribute to self-regulatory structures.

- Working out the overlaps between the multiple self-regulatory requirements that can apply to the same organization—for example, a national self-regulatory code or certification, subsectoral (functional) codes or other mechanisms, associational requirements, and even self-regulatory initiatives by voluntary sector networks at the state or provincial level. This rapid expansion of multiple and overlapping self-regulation initiatives is a rapidly growing problem well beyond Asia as well, and one that particularly threatens smaller, more local, and more fiscally strapped groups that find themselves pressed to comply with multiple self-regulatory norms at various levels—as well as, of course, the requirements of donors and government funders.
- The lack of effective negotiation between funder requirements, regulatory requirements, and self-regulatory requirements. That self-regulatory norms are expanding—and, in many countries, multiple and overlapping requirements at national, local, subsectoral, and associational levels simultaneously—does not mean that funders and governments are reducing their own burdens on voluntary sector organizations. Often the contrary is true—just as nonprofit organizations are coping with new, multiple, overlapping, and not always consistent self-regulatory norms, funders and government (often at national and local levels) are often adding to reporting and regulatory burdens as well. Nor, at least in most countries of Asia, are there effective discussions underway between funders and self-regulatory mechanisms on reaching the basic goals sought through funder requirements and self-regulation but in more streamlined ways that do not impose intolerable burdens on smaller and more local organizations.

At root each of these motivations and factors in nonprofit self-regulation is a reflection of the collective action paradigm in which nonprofits develop various sorts of mechanisms to police themselves. Effective collective action through self-regulation can help achieve all the goals listed above, and in ways that provide informational benefits and results to government, donors and other actors as well, further strengthening the rationale for nonprofit self-regulation. The classic, collective action free-rider problem (Olson, 1965) is considerably less of a problem in the self-regulation context—at least in the examples from Asia described here—because of the fairly clear bounds of self-regulation and the organizations it both regulates and serves. Simply put, the systems in place in India, the Philippines, Cambodia and Pakistan may provide little benefit to free riders because the self-regulatory systems are so well identified with specifically certified or otherwise branded organizations.

Where free ridership is an issue, the clearly stated norms, developing “coercive” (often certification or government-supported) means, private benefits, or privileges we described briefly in the introduction to this minisymposium—all of which are at work in the Asian country context—seem able to differentiate organizations and the benefits of self-regulation. It is no accident that nonprofit self-regulation in Asia has almost always begun with, as we put it in the Introduction, organizations that are “in

close geographic, social, or operational proximity and where good information is available on the actions of other [generally similar or field-bounded] actors.”

In the end, the evidence from Asia on nonprofit self-regulation clearly shows that the collective action paradigm is a significant explanatory tool for the initial, standard-setting aspect of self-regulation. But compliance is always more difficult, and that is illustrated partly by the multiple compliance mechanisms under experimentation in India, the Philippines, Cambodia. Collective action does not so readily solve the issues of compliance, implementation and enforcement that follow initial stages of standard setting, and nonprofits are hard at work at that problem in Asia as elsewhere around the world. New self-regulatory initiatives are constantly springing up around Asia: For example, over the past two years the nascent but rapidly developing private foundation sector in China has formulated its own self-regulatory principles to be observed by its members, another example of collective action intended to strengthen quality in a newly developing sector and forestall or guide stricter government regulation. All these initiatives will bear close watching in the years ahead.

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Notes

1. In the United States, nonprofit self-regulation has become, at least in part, an entrepreneurial opportunity for groups that take the lead in advocating and implementing self-regulation and may compete vigorously among themselves for competitive position in the new market for self-regulation, sometimes even seeking alliance with government to support and fund their self-regulation model over others in this new and important market. For a critical discussion of this phenomenon in the United States, see Sidel 2005. Fortunately we see less of this in Asia.
2. I am grateful to many Indian friends for helping me understand nonprofit self-regulation in India including Sanjay Agarwal, Niloy Banerjee, Mathew Cherian, Murray Culshaw, Noshir Dadrawala, Sandeep Deshmukh, Gopa Kumar, Priya Viswanath, and other colleagues. Interpretations are my own.

3. See <http://www.fundraising-india.org/>
4. For details on the rating criteria, see <http://www.indianngos.com/recommendedngos/1.asp>
5. For more information on the M-CRIL ratings process, see <http://www.m-cril.com/FinancialRating.aspx>
6. On the Give initiative, see also Aarti Madhusudan, Noshir Dadrawala, and Priya Viswanath, *India*, in the background papers for the APPC (2003) conference, pp. 121-22, at http://www.asianphilanthropy.org/files/india_2003.pdf
7. Sections 4.4 and 5.6.2 of the National Policy on the Voluntary Sector (2007, <http://planningcommission.nic.in/data/ngo/npvol07.pdf>). Compare the sophistication of these recommendations to the careless, simplistic, and potentially harmful discussion of nonprofit self-regulation in the U.S. Senate Finance Committee's Staff Discussion Paper in 2004, including staff expression of a clear preference for one self-regulation entrepreneurial provider over many other models. See Sidel (2005).
8. See *Enhancing the Credibility of the Voluntary Sector in India (Need for Standards/Grading of NGOs)*, Credibility Alliance, at www.credibilityalliance.org, and other CA documents on the website. For an initial discussion of this process two years after these explorations began, see Madhusudan et al., *supra* Note 6.
9. http://www.credall.org.in/about_us/aboutus.htm
10. Information from Indian nonprofit-sector colleague.
11. Information from an Indian colleague.
12. For discussions on developments in Cambodia I am indebted to John Clark, Gina Frothingham, Terry Parnell, In Samrithy, Carol Strickler, and several others. All interpretations are my own. I have served as a consultant to the Cooperation Committee on Cambodia on nonprofit self-regulation and law but nothing in this article represents the views of CCC or any other organization.
13. http://ngoforum.kh/Development/Docs/ngo_recommendation/executive_summary.htm
14. *Goal, mission, roles and code of ethics for NGOs and POs* (Star Kampuchea, June 13, 2003).
15. <http://www.ccc-cambodia.org/aboutus.html>
16. For additional information on the drafting and discussion process see Cooperation Committee for Cambodia, *Annual Report 2005*, pp. 12-13, http://www.ccc-cambodia.org/downloads/Annual_Report_05.pdf
17. See Cooperation Committee for Cambodia, NGO Good Practice Project (NGO GPP), *Preamble, Draft Code [of] Ethical Principles and Minimum Standards for NGOs in Cambodia* (Revision December 6, 2005; rerevised, May, 2006.) The most recent version is Revision 7 (October, 2006; Appendix B). For extensive information on the operationalization of the Good Practice Project, see <http://www.ccc-cambodia.org/ccc-project/gppproject.html>
18. Id. For a more detailed description of the Phase 2 and Phase 3 activities, see Briefing Paper, NGO Good Practices Project, at <http://www.ccc-cambodia.org/ccc-project/gppproject.html>
19. Communication from donor intermediary in Cambodia.
20. For more details on these processes, see Samrithy (2006).
21. <http://www.pcnc.com.ph>. See also Sidel (2003).
22. I am indebted to several friends and colleagues in the Philippines for discussions of the PCNC process over the years and more recently, among them Fely Soledad, Rory Tolentino,

Marianne Quebral, Eugene Caccam, Jaime Faustino, and others. See also the useful review in Abella and Dimalanta et al. (2003).

23. <http://www.pcnc.com.ph>
24. The same conundrum faced the efforts by the Independent Sector Advisory Committee on Self-Regulation in the Nonprofit Sector to devise an implementable set of principles for nonprofit self-regulation in the United States when most of the nonprofits to which the principles would apply are already governed by self-regulatory norms within functional areas of work (i.e., associational standards and accreditation), federal standards, and state standards (both self-regulatory and regulatory).
25. See <http://www.code-ngo.org/> for a relatively comprehensive discussion of this process.
26. PCNC Certification for Members Still Top AF Priority, Association of Foundation News, at <http://af.pfconline.org/news37.htm>
27. Illustrating the continuing complexities of nonprofit self-regulation in the Philippines, in 2007 PCNC and its process came under direct attack from a key government agency. In October 2007, the Philippine Department of Social Welfare and Development drafted and had signed by the Philippine President an Executive Order that divested PCNC of its role in determining nonprofit tax status and clawed back that authority to government and, at least temporarily, threatened to dissolve nearly a decade of close government–nonprofit collaboration on nonprofit certification. In December 2007, PCNC responded with a letter to Philippine President Arroyo seeking recall or repeal of the Executive Order and a return to its previous role in accrediting nonprofit tax status, and in January 2008 the President's office suspended enforcement of the Executive Order. Executive Order No. 671 (October 22, 2007), PCNC's letter to the President of the Philippines, November 19, 2007, and other relevant materials are available at www.pcnc.com.ph
28. Another Pakistani self-regulatory initiative is the Pakistan NGO Forum Code of Conduct devised by several networks of NGOs and NPOs in the early part of this decade as a means to counter strong government pressure on the sector and build capacity within it. The Code of Conduct coexists with the Pakistan Centre for Philanthropy's government-sanctioned certification process and, because it is a less onerous self-regulatory procedure, may involve a larger group of organizations though without the tax benefits that the certification process brings (PNF Code of Conduct, 2007).

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Bio

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