

Social Enterprise Policies in India: An Exploratory study

Mr. N. Sanjeev Kumar*

Dr. Vinod S Puranik**

ABSTRACT

Social Enterprises in India are functioning in a loose fashion without much recognition. In India we don't have any specific policy at centre and state level for supporting Social Entrepreneurs. At present SEs in India are registered under Indian Trust Act 1882, Societies Registration Act 1860, Section – 8 Company under Companies Act 2013, Special Licensing etc. This paper is aimed at understanding the need of an exclusive SE policy in India. This paper examines the prevailing state of relevant policies related to SE in India. The paper attempts to compare the SE ecosystems in terms of policies with India and countries like USA & UK. Few countries like the USA and the UK have got plenty of flexibilities and option in terms of legally structuring a social enterprise. USA have got few legal structures which are designed keeping in mind the special needs of a social enterprise. They are Low Profit Limited Liability company (L3C), Benefit Corporations, Certified Benefit Corporations (B Corps) and Flexible Purpose Corporations. The paper found that's there is a significant need and demand from Social Entrepreneurs across India for an exclusive SE policy. Hence the paper lays the foundation of recommending an exclusive SE policy in India.

Key-words: Social Entrepreneurship, Policy, SE Ecosystems, Government, India, Low Profit Limited Liability Company, Benefit Corporation, Certified Benefit Corporation, Flexible Purpose Corporation etc.

* Special Officer, Visvesvaraya Technological University, Belagavi, Karnataka

** Professor, Basaveshvara Engineering College, Bagalkot, Karnataka

I. INTRODUCTION

‘Social Enterprise’ is a very common term familiar to many but vaguely defined. Many a time it is often understood as a Non-Governmental Organisation, philanthropic activity, non-commercial activity or a trust that deals with service in a non-monetary fashion. Absence of a standard definition often leads to confusion of the concept of social enterprise. Many people end up understanding SE as a social service unit but SE is a very broad philosophy which involves whole lot of process. Social Enterprise are those social organisations who have come up with a mission to bring a positive change in the society. According to ‘Ashoka.org’, Social entrepreneurs are individuals with innovative solutions to society’s most pressing social problems. They are ambitious and persistent, tackling major social issues and offering new ideas for systematic level changes. Now these crazy people who believe in doing something different comes up with a unique idea of transformation. Such ideas may sound weird at the beginning and may lack any substance thus failing in attracting appreciation and support. Having said and understood the wide arrays of opportunities and benefits that could be derived from SE, sadly in India we don’t have a well-defined and structured system to address the needs of SE. We don’t have an exclusive policy which can assure or facilitate the functioning of SE in India. This research paper is aimed basically to address the policy related issues faced by SEs and prepare a recommendation for the necessary intervention by the Government.

SOCIAL ENTERPRISE - EXISTING ECOSYSTEM OF SUPPORT

Since 2005, India has witnessed significant growth in social enterprise activity (GIZ, 2012). It may not be wrong to state that this development has happened in a minimal direct government involvement. ASE stakeholder who founded a social enterprise incubator 15 years ago said that he has noticed particular changes in the ecosystem since then: the quality of ideas and business plans has improved dramatically due to training, workshops and other forms of skills support and because professionals are leaving their well-paid jobs to set up social enterprises, bringing their business acumen. There has also been significant growth in the availability of social investment available due to increasing awareness of the potential value of social investment and programmes which blend grants with investments to make them more accessible and affordable. It can also be observed from the recent developments that there is a growing number of support organisations – incubators, accelerators and academic, donor and government programmes – providing direct and indirect assistance to

SE. Many hand-holding and mentoring activities like workshops, orientation programs and SE conclave are being organised periodically by many organisations who are keen on facilitating and grooming young social entrepreneur. Stakeholders stressed a very crucial and alarming notion that an 'ideal' ecosystem does not yet exist in India. There is a confusion about the definition of social enterprise, registration formalities and procedures, access to finance and other government support continues to impinge upon the growth and development of social enterprises. Capacity building of social entrepreneurs, access to skilled professionals and a well-trained human resource pool and training facilities are gaps which are of immediate need to be filled.¹

LEGAL FORMS OF SOCIAL ENTERPRISE IN INDIA:

In the process of establishing a social enterprise it is a crucial decision for every entrepreneur to decide the legal form/structure of his/her firm. There could be number of reasons and its related implicating factors involved in deciding which legal form suits the best and why it should be given importance. Few core issues to be considered while choosing the format of social enterprise could be as:

- Funding and source of revenue generation
- Subsidies, tax exemption and tax liabilities
- Ease of doing business
- Proximity, accessibility and affordability
- Distribution of profits (if any)
- Governance structure
- Reporting responsibilities
- Ownership pattern

Few countries like the USA and the UK have got plenty of flexibilities and option in terms of legally structuring a social enterprise. USA have got few legal structures which are designed keeping in mind the special needs of a social enterprise. They are Low Profit Limited Liability company (L3C), Benefit Corporations, Certified Benefit Corporations (B Corps) and Flexible Purpose Corporations. Here in India there are limited options in terms of legal structure. In the present context, four types of legal structures are available that a social entrepreneur can opt for according to his choice and conveniences. It is important to

¹Social enterprisean overview of the policy framework in India, British Council, October 2015

understand the advantages and disadvantages of the available legal forms/structures before the entrepreneur chooses the one for his organisation. Below mentioned are the forms of organisation along with the advantages and disadvantages associated with it.

a) Non Profit or Public Charitable Organisation:

Non-profits or public charitable organisations can be registered as a “Trust” (under the Indian Trusts Act, 1882), a “Section 25 company” (under the Companies Act, 1956 or as a “Society” (pertaining to Societies registration of the concerned state). The biggest benefit of registering as a non-profit organisation is the eligibility to get tax benefits under the Income Tax Act of 1961 and they can also accept foreign donations under the Foreign Contribution Regulation Act (FCRA). The non-profit models is well suited for start-ups social enterprise as they do not expect immediate revenues from their activities and they don’t have a long gestation period before they start to accrue revenues.

Advantages of Non Profit or Public Charitable Organisation:

- Since it has less burden of financial return it can focus more on creating social impact.

Advantages of Non Profit or Public Charitable Organisation:

- Since it is operating with limited resources and less return, it is always a challenging process to mobilise funds.

b) The for profit social enterprise:

In India there are many choices for setting up a for profit social enterprise. There are five different types of for profit enterprises viz sole proprietorship, partnership, limited liability partnership, private firm and co-operative. The entrepreneur can adopt any of the structure based on his/her convenience. This type of social enterprise is considered to be best suited for those who are looking for growth and profit. A study undertaken by “Intellcap” found that 80% (out of total sample size for survey) of Indian social enterprises prefer to structure themselves as for profit private companies. Few good examples of such social enterprises in India are Vaatsalaya Healthcare, Ujjivan Microfinance and DLight. Such social enterprises have a product or services that are offered in market with a fair pay. And they can also accept funding from Venture Capitals and also can issue shares to public.

Advantages of the for profit social enterprise:

- Ability to raise funds through Venture Capitals. Issue share to public. And also can invest in technology and infrastructure development.

Disadvantages of the for profit social enterprise:

- Focus on profit making can often lead to deviate from the social objective and can annoy the investors, shareholders and stakeholders.

c) Hybrid Structures:

Hybrid structures incorporate features of both non-profit and for-profit simultaneously. These type of social enterprises starts with a non-profit and later ventured into profit making areas by floating an umbrella or sister concern profit making enterprise. Reasons are many, it may be lack of fund to run the organisations. A very fair reason could be to enable generate funding through venture capitals and other sources. Few good examples of such organisations in India could be “Head Held High Foundation”, “Fractal Foundation”, “Magic Wand Empowerment” etc. It is considered a good option and a great model as social enterprises can attract both donations and grants and at the same time can generate funding from venture funding.

Advantages of hybrid structures:

- It can have access to both donations and grants and at the same time can generate funding from venture funding. Also it can focus on both service and commercial activities.

Disadvantages of hybrid structures:

- Focussing on both areas could be a serious issue resulting to compromise of interest and conflict on building a common organisational culture

II. LITERATURE REVIEW

A study on the existing legal framework for social enterprises in India reveals the fact that unlike many other countries, SEs in India have limited options in terms of legal structures they can adopt. Typically, SEs in India can take either of the following legal forms:

- Non-profitsor Charitable Organizations: This kind of organisations can register themselves under the Indian Trusts Act (1882); Section 25 of Companies Act (1956); State Society registration. E-g “Digital Green”; “Teach for India” “Akshaya Patra” etc.
- For-profits: This kind of organisations can adopt either of the structure like sole proprietorship, partnership, limited liability partnership, private firm and co-operative. E-g , Vaatsalya Healthcare”, dLight etc.

- Hybrid structures : This kind of organisations can incorporate features of both the above structures simultaneously. E-g; “Head Held High Foundation”; “Fractal Foundation” etc.

Lundstrom and Stevenson (2005): A Policy Framework for Social Entrepreneurship in India Stevenson found that entrepreneurship policy is different from country to other. The researchers came up with a framework of entrepreneurship policy which depicts the relationship between the determining variables (population growth, level of economic development, growth in per capita GDP, growth in immigration rate etc.) and entrepreneurship activities. Further, Lundstrom and Stevenson (2005) stated that the desired entrepreneurship policy outcome means an increased level of entrepreneurial activity in an economy. If entrepreneurship is a system, then the role of the Government and institutions is to foster environment that will produce a continuous supply of new entrepreneurs as well as to offer conditions that will enable them to start and grow enterprises.

The entrepreneurship process model introduced by GEM team focused on the conditions that shaped entrepreneurship, and its direct economic impacts. The GEM entrepreneurship framework described the framework conditions for e-g. the elements of environment, opportunities, motivation and capacity to shift the focus from conventional model to entrepreneurial model (Reynolds et. el., 1999).

Research conducted by Kim et. el., (2010) examined the effects of finance, labour and tax policy and other factors on entrepreneurial activity. The entrepreneurship policy is classified by two major dimensions i-e, the unit of analysis and level of analysis. The unit of analysis focus on the relation be-tween individual characteristics like personality traits, motivation, educational background etc. and entrepreneurship outcome and the level of analysis can be the regional or country wide focus of macro factors of entrepreneurship outcome.

Dana (1992) developed a framework of public policy on entrepreneurship by examining the role of public policy in affecting the entrepreneurship environment in six different economies. The study examined and classified the six different model based on the level of Government intervention and the affinity for entrepreneurship. The study found that the social value as attached to entrepreneurship and the level of Government intervention are two important factors affecting each other and suggests that a Government which values

entrepreneurship, coupled with laissez-faire- style policy of Government can serve as an asset in an economy. Thus, in less-developed economies, where there is low social value attached to entrepreneurship, the focus should be on entrepreneurship development programs. Thus the policies which can reach, educate and activate people at the local level are a must advocate (Dana, 1992)

Dana (1995) in a further study examined and classified the policy styles of thirteen Caribbean economies based upon the nine theoretical positions in an integrated framework. The study revealed that the economies with high levels of Government intervention and higher economic regulation coupled with lower entrepreneurial values had comparatively lower GDP's. While on the other hand, the economies with higher entrepreneurial values, minimum regulations and intervention had highest per capita GDP (Dana, 1995).

British Council, 2005 says that there is a confusion about the definition of social enterprise, registration formalities and procedures, access to finance and other government support continues to impinge upon the growth and development of social enterprises. Capacity building of social entrepreneurs, access to skilled professionals and a well-trained human resource pool and training facilities are gaps which are of immediate need to be filled.

The Indian Social Enterprise Landscape, 2018 says the Government of India is encouraging enterprises in the seven impact sectors through enabling policies, budgetary allocations, special committees, schemes, programs, and indirect incentives to help address critical challenges. Some of the facilitative programs and schemes released by a range of government ministries and their departments in India include the Pradhan Mantri Fasal Bima Yojana and Prime Minister Krishi Sinchayee Yojana in agriculture, the National Energy Policy 2017 for clean energy, the New Education Policy and Solid Waste Management Rules (SWM) 2016 for water and sanitation and the new Health Policy and the Digital India, Start-up India, and Stand-up India schemes, among others. The government has also eased a number of processes for social enterprises in India.²

² The Indian Social Enterprise Landscape, Innovation for an Inclusive Future, Bertelsmann Stiftung, October 2018

Social enterprises do not have a well-defined legal definition within Indian regulatory frameworks, they form a subset of the larger group of Micro, Small, and Medium Enterprises (MSME).³

In a situation where there is no legal framework, it could be very difficult to meet their objectives of both social and economic activities. Absence of legal framework may rise to irregular and inappropriate challenges that may restrict SE ecosystems in performance. In such a situation SE may face issues on generating funding, legal assistance, equity investment restrictions, restrictions on blended capital and restrictive laws on foreign capital flow etc. (GIZ, 2012).

Asian Development Bank report, 2012 says there is an increasing recognition within India's central and state governments about the usefulness of engaging or facilitating the private sector to address some of the country's pressing developmental needs, although the specific nomenclature of "social enterprises" is not often used. The Government has been involved in three main categories: Micro, Small, and Medium Enterprises (MSMEs) engagement, government-backed venture capital funds, and policy formulation.⁴

III. RESEARCH GAP

- a) The legal status of social enterprises is still not yet recognise properly. As a result, fund raising is difficult as there is an issue of credibility and authenticity.
- b) Since the Government and institutions is to foster environment that will produce a continuous supply of new entrepreneurs as well as to offer conditions that will enable them to start and grow enterprises.
- c) The review of literatures reveals the fact that SE in India lacks a comprehensive policy framework for understanding the complexities of the phenomenon and determinants.
- d) There are no clear-cut guidelines of how to improve and enhance the activities of SE across nation.

³MSMEs as defined by the Government of India's Ministry of Micro, Small, and Medium Enterprises are engaged in one of two activities: (i) manufacturing, producing, or adding value to goods and products, or (ii) providing or rendering a service across industries. Approximately 50 million MSMEs operate within multiple sectors and drive development in different ways across India.

Ministry of Micro, Small & Medium Enterprises (2018). Annual Report 2018. Retrieved from: <https://msme.gov.in/relatedlinks/annualreport-ministry-micro-small-and-medium-enterprises>

⁴ India social enterprise landscape report, Asian Development Bank, 2012.

- e) Since SE in India is not systematically well-defined it is difficult to address the large and comprehensive issues and recommend for a policy.

IV. OBJECTIVES

- a) To explore the policy development of SE in India.
- b) To construct a conceptual framework for social entrepreneurship policy in India.
- c) To address the need of having an exclusive national policy of SE.

V. METHODOLOGY APPROACH

The researcher has analysed various existing policies related to voluntary organisations, NGOs, MSMEs, Startup India scheme, financing schemes, health schemes to understand the support system of GoI. Various research papers, publications and Government official circulars and releases has been analysed to understand the present state of legal setup of SE in India. The researcher has made an attempt to develop few crucial points on policy intervention based on the existing policy which are scattered in nature. The researcher has also consulted few stakeholders of SE to generate genuine observations and recommendation towards submitting a model for developing SE policy.

VI. PRESENT STATE OF SE POLICY IN INDIA

The GoI has initiated many public private partnerships in major developing areas like health, education, finance, energy etc. MSMEs have been identified as a priority lending sector. It helps in increasing the availability of capital through government provisioning of grants, equity and subsidized loans. Many SEs who are into the category of For-Profit and runs into a low budget will fall under this category. The Prime Minister of India has set a special taskforce to recommend on further development of MSMEs during the year 2010.

The National Innovation Council was set up by the Prime Minister in 2010 with an aim to catalyse innovation in India. The NIC aims at establishing government backed venture capital fund. The primary focus of this fund will be towards funding organisation working towards education, health, infrastructure and sanitation. ⁵

⁵Business Standard, March 7, 2011, Rs. 1000-cr innovation fund in three months.

The GoI is on a direction to formulate and change policies and regulations that could affect SE space. SEBI has floated a policy paper that suggests the need to separately recognise and regulate “social venture funds”.

GoI has initiated various projects and policies to support social/voluntary organisations which can be vaguely relate to SE. Out of the various policies that exists today in India, it can be categorically defined into three broad terms to fit the context of social enterprise development in India.

- a) NGO and civil society policy
- b) Financial inclusion and microfinance development and regulation
- c) Private sector development, in particular support to MSMEs.

At present various schemes, policy and programmes exist at both state and national level that could influence social enterprise activity in India⁶. It may be observed that SEs are influenced mainly by factors like registration, investment, incentives which includes both taxation and subsidies and supporting programmes like skill development, access to market and finance. There are end numbers of schemes that are rolled out by the present government through various ministries which can direct and indirect implications for SE. Those schemes which may be benefitted by the SEs in India include schemes related to education, health, fellowships, savings and credit, financial inclusions, subsidies, environment and cleanliness, sanitation, energy, agricultural loans and insurance, housing loans, skill development programmes, capacity building programmes for the weaker section of the society etc.

The government has also enabled corporate entities to provide support to social causes as part of corporate social responsibility (CSR). As per CSR rules, companies may contribute funds to technology incubators located within academic institutions that are approved by the central government as part of their CSR activities.

There are many Ministries under GoI that acts as a facilitating agent/body to promote social entrepreneurship in India directly or indirectly. Below are some of the ministries along with their activities as discussed.

Table No. 1: Table showing few Ministries of GoI and their influence on SE Development

Name of the	Policy, programmes and	Scope of supporting social
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⁶ Social enterprise an overview of the policy framework in India, British council, October 2015

Ministry	activities	enterprise development
Ministry of Skill Development and Entrepreneurship	Finalising Enterprise Law which contains reference to social enterprise	Explicit reference to social enterprise in Enterprise Law paves the way for bespoke programming and support by this new ministry
Ministry of Small and Medium Enterprises	Oversees MSME legislation and programming, covering social enterprise as MSMEs	Potential to include specific reference to social enterprise in subsequent iterations of the MSME Law, to provide bespoke programmes at national or state level and to capture data about social enterprise as an MSME sub-set
Ministry of Social Justice and Empowerment	Supports disadvantaged groups, provision of finance, technical support and skills development for livelihood and microenterprise	Potential to both provide specific support to social enterprise and to source programme delivery by social enterprises
Ministry of Human Resource Development	Oversees public education and private education facilities, setting public education curricula	Require social enterprise and entrepreneurship concepts to be taught at secondary level and encourage social enterprise programmes at tertiary level
Ministry of Science and Technology	Support to innovation and commercialisation of pro-poor technologies	Explicit recognition of social enterprises supported through existing programmes to provide bespoke support and/or raise awareness, as well as potentially compare impact with mainstream commercial solutions
Ministry of Corporate Affairs	Responsible for enterprise regulation and administration of the 2013 Companies Act	Potential role in formalising a definition and legal status for social enterprise
Ministry of Women and Children Welfare	Apex body for formulation and regulation of laws and programmes relating to women and children	Potential to source programme delivery from social enterprises
Ministry of Finance	Decides budgets and could allocate resource to social enterprise	Potential to provide specific budgetary support to social enterprise
National Institution of Transforming India (NITI) Aayog	Policy think tank that aims to involve states in economic policy making using bottom up approach	Potential to incorporate best practices at state level on social enterprise in future
Ministry of Rural Development	Leads socio-economic development of rural India, focusing on health, education, drinking water, housing and roads	Potential to source programme delivery from social enterprises

Source: British Council report 2015

Table No. 2: Key Policies impacting SE in India

Policy/Scheme Name	Ministry/ Department	Description
Startup India	Ministry of Commerce and Industry	The scheme aims to benefit several Indian startups through support services including IPR support, self-certification and tax exemptions. The website also provides useful information such as a list of incubators, list of facilitators for patents and trademarks, list of SEBI registered funds, and list of central and state government clearances that an enterprise needs to have. As of August 2018, there have been 197,967 registrations for the learning and development module, and 129 startups have been funded as part of this scheme
Scheme of Support for Entrepreneurial and Managerial Development of SMEs: Through Incubators	Ministry of Micro, Small and Medium Enterprises	The main objective of the scheme is to promote emerging technological and knowledge-based innovative enterprises that need business development and consulting support from professionals beyond the traditional activities of MSMEs.
Technology Incubation and Development of Entrepreneurs (TIDE)	Ministry of Electronics and Information Technology	TIDE assists institutions of higher learning to strengthen their technology incubation centers and enable young entrepreneurs to develop technologies and set up technology companies. TIDE incubation centers network with angel investors and venture capitalists, who provide mentoring and financial support to the startups and enable enterprises to graduate to the next level.

Source: Bertelsmann Stiftung

VII. RESEARCH FINDINGS

From the research study undertaken the following observations are found:

- a) Social Enterprise is still in a nascent stage in India, but has a huge potential to grow.
- b) SE domain is mainly unorganised and scattered.
- c) SE in India faces multiple challenges including registration, funding, recognition, credibility, sustainability, legislative issues etc.
- d) There is no single point of contact to address issues of SE in India.
- e) SE in India are working under different channels registered as NGOs, Trust, Societies etc.
- f) There are no exclusive policy or policy framework for SE in India.
- g) Many Ministries under GoI are working independently to support SE.

- h) SE has got a huge potential to address societal needs and require immediate attention from government.
- i) SE should be recognised by government and should be supported with required infrastructure and aid.
- j) There is a tremendous thrust and opportunity of SEs under MSME.
- k) A conducive SE ecosystems needs to be created to facilitate SEs in registration, legal compliance, funding, mentoring, business promotions etc.
- l) Potential to tap CSR fund if channelise properly.

VIII. CONCLUSION AND RECOMMENDATION

- a) The government should take steps to create an overall enabling environment using appropriate legal and fiscal instruments, to incentivize the transition of MSMEs from the unorganized to the organized sector as well as for their corporatization as entities. It should also encourage higher investments for innovative and knowledge based ventures as well as for research and development through greater partnership between the industry and academic institutions.
- b) The SE ecosystem will continue to grow rapidly and will attract interested stakeholders. SE has got the potential to address societal needs and it will bring a positive impact to the society.
- c) SE ecosystem in India operates in an unorganised fashion. It needs a platform for communicating social and economic values thus leveraging business opportunities.
- d) It needs to streamline and establish institutional structure for standard setting and measuring impacts.
- e) SE in India need to develop a managerial framework which can be adapted and act as a guidebook for young entrants. It can help in cutting down errors and managing the organisation in a much matured fashion.
- f) A huge potential is seen to link SE to CSR. SE can avail various benefits apart from funding if CSR policy is streamlined in a coherent manner.
- g) With the rapid advancement of technology SE can enhance its business. It will become easier to promote their business through internet enable apps, mobiles and even Artificial Intelligence (AI) and Machine Learning (ML)

- h) It is strongly recommended to provide SE with incubation support, research support and financial support. In addition to providing support at fundamental level the Government should aim at setting up of technical advisory team whose role is to mentor emerging SEs and provide them guidelines on registration, funding, management, business, networking, expansion, collaboration, innovation etc.
- i) There is a need to have an all in one exclusive SE policy in India which can act as a one point of guidelines and solution to all the issues that are raised in SE operations.

Abbreviations:

SE	:	Social Enterprise
NGO	:	Non-Governmental Organization
GoI	:	Government of India
CSR	:	Corporate Social Responsibility
USA	:	United States of America
UK	:	United Kingdom
MSME:		Ministry of Medium and Small Enterprises
GIZ	:	Gesellschaft für Internationale Zusammenarbeit
GDP	:	Gross Domestic Product
GEM	:	Global Entrepreneurship Monitor
SWM	:	Solid Waste Management Rules

Reference:

- 1) Khanna, A. A. and T. (2015). A 5-point list of policy recommendations for robust social enterprise development in India. *Intellectap*.
- 2) Insight, A. (2016). The social enterprise landscape, (October), 45–50.
- 3) British Council. (2015). Social Enterprise: An Over view of the Policy Framework in India. *Social Enterprise UK*, (October 2015), 1–50.
- 4) Asian Development Bank. (2012). *India Social Enterprise: Landscape Report*.
- 5) Satar, M. S. (2016). A Policy Framework for Social Entrepreneurship in India. *IOSR Journal of Business and Management*, 18(09), 30–43. <https://doi.org/10.9790/487x-1809013043>
- 6) Manku, M. (2016). Indian social enterprises have huge potential: British Council report. *Livemint*.
- 7) Lundstrom, Anders, Stevenson, L. A. (2005). *Entrepreneurship Policy: Theory and Practice*.
- 8) Reynolds, P. (2000). *Global Entrepreneurship Monitor: 1999 Executive Report*. <https://doi.org/10.13140/RG.2.1.4860.6247>