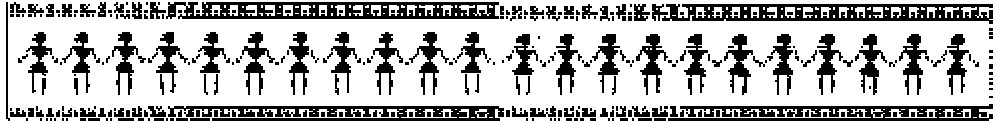


Unit 13

Statutory Requirements



General Objective

After studying this Unit, you should be able to help participants in your training session to provide an overview of the legal framework of functioning.

Specific Objectives

This Training Unit will help you to enable trainees to:

- Provide knowledge of the various kinds of organizations for enterprise activities;
- Assess advantages and limitations of working within a legal entity; and
- Describe sector-specific statutory regulations.

Planning

Time : One hour thirty minutes

Training Methodology: Participatory discussions and lecture

Training Material : Chart paper, markers

Trainer's Preparation : Preparation of chart versions, kinds of legal entities, their advantages and limitations. Also listing of various sectors of activity an entrepreneur can be engaged in.

Background Material

Role of NGOs

NGOs, in the present day, are engaged in a wide range of activities from relief and rehabilitation to research and development. The areas which have witnessed growing voluntary participation in the past few decades include education, health and primary care; women and child development; youth affairs, rural development; prohibition and prevention of drug abuse, science and technology, environment and sustainable development through popular participation. A majority of agencies are associated with awareness and income generation particularly for women and weaker sections of the society.

A host of services are being provided by the NGOs like counselling, training, legal aid, surveys, evaluation studies, research and consultancy. In the contemporary era, NGOs play the role of promoters of development, catalysts of social change, as mechanisms for popular participation in influencing public policy and public opinion, as motivators play a role in enforcement and provide a link between the people and the Government.

With their “third party” approach, NGOs can play a crucial role as a bridge between the Government and the people. Generally, NGOs are already established in their own field, command the respect of their people and generate faith and confidence. They can communicate with the community in a language and manner that is understood by the people.

In public perception, NGOs have several advantages. Government, NGOs are generally more flexible in their approach and methodology, depending of course on, the nature of the issues involved.

Role of Government

The relationships between the voluntary organizations and the Government have been continuously evolving and undergoing qualitative changes. The State acts as a regulator, funder and development actor in the voluntary efforts. Government cooperates, controls, and curbs voluntary action depending upon its changing needs. The government controls and regulates the functioning of these organizations in the following ways:

- Registration under an appropriate Act;
- Licensing under appropriate legislation;
- The work of the organization to be as per the conditions of the grant regulation;
- Levy of income tax on the profits of the organization; and
- Providing grant-in-aid for the implementation of programmes.

Legal Entity of an Organization

In the course of carrying out various socioeconomic activities and development projects, a time comes in the life of an organization when it needs to become a legal entity. The need to have a legal status arises when the organization becomes interested in acquiring resources either from various Government schemes or from donor agencies situated outside India. At this juncture it is important to give adequate thought to the need for registration and the form of legal entity an NGO wishes to adopt. This is so because different legal requirements are needed for different forms of registration.

Advantages of Becoming a Legal Entity

A registered NGO as a legal entity has the following major advantages:

- It becomes independent of its members or individuals who have founded it.
- It lends credibility to those who provide resources as well as to those who utilize its services.
- It gives a legal right to the members to hold property in the name of the organization.

- After registration, it enjoys the benefits and exemptions available under various laws, land ceiling regulations, approval from the various departments of local, State and Central Government for participation in the various Government sponsored schemes.
- It provides a greater degree of continuity and longevity to its programmes and activities.
- It provides limited liability to its members who have helped to set it up.
- It can sue, or be sued, in its own name and not in the name of its members.
- It enables the NGO to be registered under Foreign Contributions Regulatory Act (FCRA) of 1976, and the Income Tax Act of 1961.
- It delegates more formalized accountability to its various functionaries.

Limitations of Becoming a Legal Entity

Some of the disadvantages of becoming a legal entity can be pointed out as:

- Working of the organization is within a framework of rules and regulations, which leads to loss in the degree of voluntarism, a fundamental principle of NGOs.
- Various rules and regulations by which an organization is now bound leads to filing of various papers/returns, and compliance of statutory requirements – an additional work load.

Forms of Regulation

Among the most common forms of legal entity are:

- A Trust registered under the Indian Trust Act, 1882 or under the Charitable and Religious Act, 1920 or the Bombay Public Trust Act, 1950;
- A Society registered under the Societies Registration Act, 1860 or under various State Acts;
- A Company registered under Section 25 of the Companies Act, 1956; and
- A Co-operative under Co-operative Societies Act which is different for each state.

However, in Gujarat and Maharashtra, all societies have to register themselves as a Public Trust with the Charity Commissioner also.

Obligations of a Legal Entity

A registered NGO as a legal entity is required to fulfil certain obligations under the respective laws governing it. The most common ones are:

- Carry out activities as per the aims and objectives defined in the Memorandum of Association. (The aim and objects should be in accordance with the provisions of the laws governing the organization;)

The chief functionary, office bearers and staff should:

- Conduct the activities of the organization in a manner which is within the powers defined either in the bye-laws framed or specifically approved in the General Body or the Governing Body;
- Maintain up-to-date books of accounts as required by law for all incomes and expenditures, assets and liabilities;
- Frame financial rules and procedures for incurring of expenditure;
- Convene meetings of the General Body or the Governing Body;
- Record Summary of the proceedings of the meetings of the General Body of the Governing Body;
- Get the accounts audited by a Chartered Accountant;
- Seek approval under various applicable Acts and Rules so as to avail various benefits, exemptions, deductions etc. available to NGOs; and
- File annual/periodical returns in the prescribed format to the various authorities.

Employee Benefit Schemes

One of the issues under which development of accounting has taken place is in the area of Human Resource Accounting. In today's context, where participatory management and shared values are being emphasized, the relationship between the employer and the employees takes a new dimension. It is, therefore, very important that the organization addresses the social security measures of the employees. It needs to be seen that these are in-built in the financial system of the organization and adequate planning and budgeting is done towards the same. Many laws exist which make it obligatory on the part of the management to adapt some of the social security measures of the employees.

These measures are:

- Provident Fund;
- Gratuity;
- Medical Insurance.

In addition to the above, some of the organizations also provide the following benefits:

- Leave Encashment;
- Leave Travel Allowance; and
- Personal Accident Insurance.

Some of these social security measures are not only legally obligatory but are also socially necessary. These measures act also as motivators to the employees whose service and commitment contribute to the sustained growth of the organization.

A number of organizations working with even piece-rate workers and daily wage earners provide these measures of social security. Organizations dealing with women provide, additionally, a 3-month maternity leave to expectant mothers.

Enterprise related Sector-Specific Statutory Requirements

When NGOs initiate enterprise activity for income generation, they need to give sufficient thought to a number of regulations and statutory requirements set up by the Government. These regulations are generally sector-specific and an NGO needs to go into greater details about them. For the sake of convenience one can outline the following sectors in which an enterprise activity may be developed:

- Crafts;
- Forest Products;
- Textiles;
- Agriculture;
- Animal Husbandry;
- Trading; and
- Food Processing.

Mostly, the regulations, which are developed by authorized Government agencies, are more specific and detailed than laws, which are broad policy prescriptions framed by legislature. However, both are equally binding on the NGO who falls within the range of such activities.

The origin of regulations lies in the payment of taxes/revenue to the State or Central Government. Generally speaking, no regulations ordinarily apply if the enterprises are very small-scale in the area of agriculture-related activities or collections of produce from forests. However, when any processing or value addition is done to the product, or when any marketing/trading steps are undertaken, a number of regulations need to be looked at. Again, a complete listing of such regulations (which are sector-specific) is not possible. However, the trainer may provide an indicative list of such regulations.

Since much of the enterprise activity related to women is in the realm of food growing and food processing, the trainer needs to inform the participants of certain regulations like:

- Prevention of Food Adulteration Act (PFA),
- FPO Certification;
- Agmark Certification;
- Weights and Measures Act;
- Certain Packaging Requirements – where a listing of the contents and their respective quantities is made on the package;
- Organic Food Certification – in case the material processed is organic; and
- Sales Tax.

For details of all regulations and statutory requirements in the area of food processing, it is advisable for producers to get in touch with the Ministry of Food Processing Industries. This Ministry has its nodal agency in each state and help can be obtained from the respective state.

Sales tax is required to be paid on processed and packaged foods. In most

instances, food articles made by poor women in small quantities are adequate for only local sale and they may also not involve packaging. But, over time when the microenterprise activities expand, this may become necessary. In some cases this sales tax may be exempted. Many examples exist where organizations working for the poor and assetless women in food processing sectors and craft sectors have been exempted from the payment of sales tax. Mahila Griha Udyog Pratisthan, a unit of Mahila Mandal, Udaipur is one such example. Griha Udyog was confronted with the problem of having to pay exorbitant sales tax levied on their products mainly spices, papads, jams, squashes and pickles. The amounts to be paid as taxes further reduced the returns to women who were making very small returns. However, Griha Udyog succeeded in availing of exemption of Sales Tax through a Gazette notification issued by the Governor of Rajasthan in February 1986, vide Sec. 4 Sub-sec. (2) of the Rajasthan Sales Tax Act, 1954 for spices and papads. Soon thereafter tax was levied on packaging material which too proved difficult for them. Similar efforts led them to achieve exemption of such taxes in 1995 vide Section 15 of the Rajasthan Sales Act, 1994.

In the area of food processing, it has been experienced that when microenterprises develop products for sale – locally or nearby – there arises a need to register it under some brand name. This gives the product a unique identity and makes it distinguishable from similar products in the market. However, once the brand name is established, it may be possible that this brand name is taken over or copied by another enterprise. This has happened in the case of an organization in Orissa. Women SHGs formed by this NGO sold their turmeric powder and other forest collections under the name of “kandhamal”. However, after a couple of years another organization took over this brand name and the said NGO had to take on another name to sell its products. The time and effort spent in establishing the brand name had to be repeated.

In the crafts sector which encompasses all forms of handwork with a variety of materials, the concerned NGO needs to look into child labour regulations, payment of fair and minimum wages, and a clearance from the concerned authority if the material being used is under a ‘rare species’ or ‘banned items’ category. Again, in the area of trading and marketing – an activity that cuts across all sectors, mandi licenses and sales tax regulations need to be adhered to. It is also desirable to check with concerned authorities on the listing of craft items where sales tax is levied.

Conclusion

Any programme introduced and financed by the Government, which directly benefits the common people, particularly women, cannot be implemented effectively and successfully, unless the people themselves are involved in a participatory manner. However, involving communities, making them aware of the programme and ensuring their participation is not an easy task and is best left to the NGOs who can communicate with the community in a language and manner that is understood by the people.

However, many rules and statutory requirements have to be observed to make the association between the two meaningful and accountable. Observation of these regulations makes the functioning of the NGO and an enterprise activity legal, while non-compliance may initiate punishment in the form of fines or jail.

Annexures: A Note

The Annexures we have provided you give you an opportunity for further reading not only on microenterprises but also small-scale enterprises. They can also serve as additional background material/reference material. Use your originality to build them into your training sessions. The material has been adapted/adopted from the following IGNOU course materials.

- MS-93: Management of New and Small Enterprises
Course Preparation Team: Prof. H.N. Pathak, Dr. K. Ramachandran, Mr. Vijay Jain, Dr. V.G. Patel, Mr. B.P. Murali,
Prof. K.P. Kumar, Dr. D.D. Kaushik, VSP Rao, Prof. Rakesh Khurana, Prof. Madhulika Kaushik, Mr. Upendra Gupta and Mr. Q. Haider
Course Coordinator: Prof. Madhulika Kaushik
- CWDL-03: Development of Self-Help Groups
Course Preparation: ACORD, Delhi
Course Coordinator: Prof. Prabha Chawla

STATUS, OWNERSHIP, ROLES AND SYSTEMS IN SELF-HELP GROUPS

Contents

1. Legal Status of a Self-Help Group
2. Income Generation Activity
 - 2.1 Guidelines for Income Generation Activity
 - 2.2 Area of Caution
 - 2.3 Feasibility
 - 2.4 Types of Income Generation Activity
3. Ownership and Decision Making in Self-Help Groups
4. Roles and Responsibilities in Self-Help Groups
 - 4.1 Rights and Duties of a Member
 - 4.2 Allocation of Roles to Members
 - 4.3 Election and Rotation of Leaders
5. Systems Required for Effective Functioning of Self-Help Groups
6. Meetings: A Mechanism for Sharing Information and Making Decisions
7. Rotation of Leadership
8. Organization of a Cooperative Society–Possibilities of Organization
 - 8.1 Stages
 - 8.2 Papers for Registration
 - 8.3 Preparation of Bye-Laws
 - 8.4 Steps for Organization of a Society

Introduction

The structure, systems as well as governance of the self-help group itself as well as their networks need to be consistent with the objectives and capacities of the members.

During the process of group formation, we have to pay attention as facilitators, to some crucial aspects such as the effectiveness and sustainability of the self-help groups. In addition, we need to be completely clear regarding the status of the group, the identity of its owners, their rights as well as their responsibilities.

The systems of any organization are crucial for its health. The appropriate systems for self-help groups, which are also like organizations are described in this discussion.

The following discussion will enable trainees to:

- Describe the legal status of the self-help groups;
- Identify the owners and decision makers of a Self-Help Group;
- List the duties and responsibilities of members;
- Describe the importance of meetings as a mechanism of sharing information; and
- Explain the reasons why leaders of Self-Help Groups should be rotated.

Let us begin with legal status of SHGs.

1. Legal Status of Self-Help Groups

Self-help groups may be registered or unregistered. Groups larger than 20 members undertaking activity that leads to profit have to register under the Companies Act. Other self-help groups have the option of remaining unregistered or registering as co-operatives, trade unions or societies. This will be discussed in greater detail in Block 2 (Unit 2).

However, the structure of most self-help groups is informal, that is they are not registered. This is partly to the advantage of members because groups do not have legal obligations unlike registered societies. e.g., auditing of accounts, filing of income tax returns, etc. The membership norms and rules are formed by the members and it can be altered as per their need. There is no legal restriction on the number of members required nor do members need to make any kind of equity contribution or pay any fee. The group need not maintain any written records unless it is for their own convenience.

Self-help groups are usually informal, that is without registration. The reason for this is that registration usually leads to the need for a lot of paperwork, such as filling up of forms that becomes necessary on a regular basis. This becomes too much of a load for the communities who are busy organizing for self-help, especially since the members are not very literate and cannot afford to employ legal assistance.

However, not having a formal legal status has its disadvantages too. For instance, the members who feel that the group has been unfair to them cannot easily fight a case in the court of law. This increases the responsibility of the promoters of the self-help group. The formation of the group, its composition, as well as its systems have to be healthy enough to ensure that members are not cheated.

The lack of legal status becomes quite significant when the group is dealing with money matters, such as in the case of savings and credit groups. In these cases, keeping suitable records also becomes important so that in case of a dispute these can be checked.

Governance and Management

Unregistered groups can form their own style of management and governance, as law does not dictate these aspects. Promoting agencies prefer to encourage leadership that is elected by consensus. Some groups opt for rotation of leadership positions to ensure that all members take turns at taking responsibility.

Research has shown that leaders of self-help groups can become quite dominant because promoting agencies fail to develop the skill and self confidence of all the members. In addition, the leaders get too loaded with work, while other members do not share in the functions of the group. As members of promoting agencies or as facilitators we need to be careful that we provide inputs to all members so that they grow in self confidence and awareness. In addition, we should not encourage the members to put too much responsibility upon the leaders.

2. Income Generation Activity

Income generation activity is an important tool for improving the economic condition of the poor. But different people hold different views with regard to

what is included in the income generation activity. Similarly, non-governmental organizations across the country hold different views on what should come under the purview of income generation activity. While some organizations hold that even helping the down-trodden to have access to employment on a daily wage is an income generation activity, others confine the meaning of income generation activity to only those money-earning activities which are by way of self-employment, whether in trade, production, service or profession as the case may be.

While some organizations feel that the aim of the SHGs is to inculcate the habits of savings and collective sources to provide only limited small loans for consumption purposes, others feel that SHG movement is initiated mainly to generate resources both by way of savings and external funds, not only to provide for consumption loans, but also to provide loans for small income generation activity. The overall aim is to extend a small loan to a poor person to enable her to establish her own sustained income.

2.1 Guidelines for Income Generation Activity

The success of an income generation activity can be measured by the profit gained from the activity and finally the improvement in the economic condition of the beneficiaries group. The success of the income generation activity depends on how the same has been managed and executed. In this section, we will discuss about the steps that need to be taken for initiating the income generation activity, the factors responsible for effective execution of the activity and the calculation of profit and loss of the income generation activity.

When an SHG decides to start a group based income-generating activity, it should keep the following guidelines in mind:

- Select the income generation activity according to the choice/traditional skills of the members. Start in a small way and proceed steadily after ensuring appropriate linkages.
- Go in for expansion of the income generation activity after ensuring marketing arrangements.
- The activity should not require too much technical know how and whatever essential technical knowledge is needed should be easily obtainable. In addition, it is suggested that high production techniques, which are not in tune with the local skills and rural culture of the people, should be avoided.

It should be possible to carry out the work within the house or in the village itself.

- Keep a watch on earnings – there should be a reasonable surplus amount and no loss.
- Take extra care before starting a joint economic activity such as a clear understanding – preferably a written agreement between the members joining the economic activity.
- Develop a cluster approach with common services for transport, procurement of raw material, marketing, quality control etc. This is in case more than one group is involved in a similar activity.
- Keep in constant touch with the members to sort out the problems, if any.

- Be cautious of vested interests, local business competitors/ contractors who may create hurdles and problems for the income generation activity of the members.
- Explore the possibility of getting the materials 'required for the activity' locally.
- Finished goods should be easily marketable.
- Production cost should be minimum. The group should ensure that the income generation activities do not suffer from lack of working capital.
- Returns should be immediate and not in the too distant a future.

2.2 Area of Caution

Care and caution should be exercised with regard to income generation activities in case the following unsatisfactory situations are observed:

- a) Misappropriation or diversion of funds;
- b) Recession in the market;
- c) Keen competition and consequential lack of orders;
- d) Non-availability of raw materials;
- e) Substandard quality of goods such as defects in the process of manufacturing etc.;
- f) Lack of technical personnel/expertise;
- g) Ill health of the members and consequent lack of attention to the business;
- h) Machinery breakdown;
- i) Uneconomic way of functioning/working; and
- j) Failure to adhere to the repayment programme.

Questions for Discussion 1

- 1) What guidelines should be kept in mind while selecting an income generation activity?
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The 'feasibility' will include the following steps:

Step 1

Define the costs to be incurred on the activity. There may be one time costs i.e. the fixed costs and the running costs, which have to be incurred at regular intervals.

Step 2

Study the market and see at what price the product can be sold.

Step 3

Depending upon the scale of activity, one has to see how many products can be sold in a given unit of time. This could be one week, month, three months, six months, one-year etc. For a small-scale activity it is advisable to work it out on a month-to-month basis. This will help the group to know whether they can repay the amount from the first month of starting the activity or not.

Let us look at the following example.

'Shakti Mahila Sangathan' decided to start a seed and grain bank. The facilitator helped them to do the feasibility in the following way.

Fixed Costs

Item	Qty.	Amount
1. Metallic drums	3	Rs.1500/-
2. Weighing machine and weights	1	Rs. 2000/-
3. Tarpaulin sheets	4	Rs. 800/-
	Total	Rs. 4300/-

Running/Variable Costs for 2 months

Item	Qty.	Amount
1. Rent of the room	1	Rs. 500/-
2. Seeds	30 kg.	Rs. 3000/-
3. Transport		Rs. 100/-
	Total	Rs. 3600/-
Selling Price		
Rs.150/- per Kg.	30 Kg.	Rs. 4500/-

Thus, we see that the profits do not come immediately with 30 kg. seeds. Therefore, the group either increases the quantity of seed or will have to wait to earn profit.

2.4 Types of Income Generation Activity

The selection of income generation activity should be done according to tradition, culture, and background of the beneficiary groups. Therefore, there

are various types of income generation activities which the SHG can take up. In the broad sense, these income generation activities can be categorized in the following manner:

Farm-based

- Vegetable cultivation;
- Seed bank;
- Paddy husking.

Off-farm-based

- Goat and pig rearing;
- Poultry keeping;
- Bee keeping;
- Dairy farming;
- Fish culture.

Production work-based

- Sewing and embroidery;
- Ready made garment shops;
- Pickle making;
- Carpet weaving;
- Book binding;
- Candle making;
- Clay utensils making;
- Leather works;
- Wood works;
- Knitting and weaving;
- Chalk making;
- Soap making;
- Envelope making .

Service-based

- Tea and snack shop;
- Repair work;
- Packed meals;
- Transport (cycle rickshaw).

Trade-based

- Grocery shop;
- Cloth selling and selling any item.

Questions for Discussion 2

1) What are the main types of income generation activities?

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3. Ownership and Decision-making in Self-Help Groups

We will be discussing ownership as well as decision making in self-help groups. To understand this, we will first take an example of Hiran and Ameera.

Think of an organization that makes bricks. Perhaps there is such an organization operating in our area. Let's say two friends Hiran and Ameera own it. The major decisions with respect to the business, such as the amount of bricks to be manufactured, the price at which these are to be sold, are likely to be made by both the friends, after discussion. Both the friends together will decide who are to be employed, what job they are supposed to do and how much they should be paid. At the end of the month, the friends will share the profit or loss equally.

Now, let us study this example from different angles. Suppose Ameera starts taking decisions regarding the business without thoroughly discussing the aspect with Hiran.

We can all guess the consequences. If Ameera takes decisions without consulting Hiran, there will be lack of trust between them and sooner or later Hiran will feel like breaking off from the business and doing it on her own.

On the other hand, suppose Ameera, who is responsible for managing the cash, does not share all the profit with Hiran? Most probably, Hiran will guess, over a period of time, that she is not getting a fair share of the profits and the partnership will break up.

Let us now try to adapt this example for the self-help groups.

Equal ownership in Self-Help Groups	
Question	Answer
Who are the owners?	All the members of the group are owners.
Who should make the decisions regarding the activities of the group?	All the members of the group should sit together and then decide the activities of the group.
Who enjoys the gains or problems that occur due to group activities?	All the members should share the benefits as well as problems equally.

These examples are being given to show that because all the members are equal owners of the self-help group, they must all be involved in the decisions that are made in the group. We can explain this situation through the following example.

Let's say, a group of women who are living in a small village, Ramiagarh, have formed a group. In a meeting 50 men belonging to this group are discussing the problem of water in their area and have decided to request the Gram Panchayat to install a handpump in their area. They have decided the location of that handpump in their area. They have not bothered to inform all the members of the group that they will be discussing this issue as well as deciding on their plan. Moreover what is likely to happen? The members who are not included, will feel ignored and the group may easily break up.

From the above example we can see that to ensure that a group is sustainable, i.e., the group continues to function, we need to ensure that:

- a) all members participate in the decision making;
- b) all members undertake activities that the group has decided to do;
- c) all members share equally in the benefits of the group's activities.

The promoting agencies need to be very careful since there are several cases where their own staff makes several decisions on behalf of the group, without allowing the group sufficient time to discuss the various alternatives.

Questions for Discussion 3
1. What is the legal status of self-help groups?
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Hiran will tackle the job of manufacturing the bricks and ensuring that these are of good quality. They may also employ several people to help them with the business. For instance, they may hire a person who is responsible for keeping accounts. Another person may have the duty to ensure that the bricks in the kiln are fired properly. Several may be assisting with the process of actually making the bricks.

Through this example, let's try and understand the activities as well as roles and responsibilities in a SHG. We already know that the group members will decide the activities that they want the group to undertake. Just as in the case of the above example, the group members, as owners may decide to undertake the activities themselves or employ someone to do it for them. Usually, members of self-help groups undertake the activities themselves because they are too poor to employ others. The exception to this may be the SHG which undertakes savings and credit activity. In these SHGs, the loans that are given to members earn interest which can be used for employing a record keeper or an accountant.

Let us take up the same example of the group of women in Ramiagarh wanting to set up hand-pumps in their village. This may require several visits to the *Gram Panchayat* and the first letter to be submitted to the authority may need to be drafted, etc. The members may appoint member Shanti (because she is confident) and another, Sarita (because she can write) to go to the *Gram Panchayat*.

4.3 Election and Rotation of Leaders

Some groups appoint leaders. Roles are decided based upon the activities of the SHG. For instance, in a savings and credit group, the role of the leaders is usually to operate the bank account. Some groups appoint a secretary, who has some level of literacy, for keeping records and books of account. Members must elect members who are trustworthy, self-confident and intelligent.

There are some problems that can emerge if the group leaves all the tasks to a couple of leaders. These are:

- i) *The leaders can get overworked and be unable to manage all the work.*

In our example, Shanti and Sarita of the Ramiagarh self-help group had been appointed for some work on the installation of the water pump. Suppose the group continuously appointed them for every activity that needed to be done. Obviously, both Shanti and Sarita would wonder why they are the only ones doing all the work when the entire group is enjoying the benefits. They may stop attending meetings or being part of the group.

- ii) *As only a couple of members or leaders are doing all the work, the other members may become less and less involved with the various activities. Over a period of time the leaders may become more and more powerful and be tempted to misuse their power.*

Let us go back to that earlier example of Hiran and Ameera. Suppose Ameera does not do any work and Hiran is handling all the work? If Hiran is doing everything, she may not share all the details with Ameera – she may tell her that the profit from the business was only Rs. 5000/- when it was actually Rs. 8000/-. How will Ameera get to know the truth if she is not involved with the work?

In such a case, Hiran may also feel that it is better to have her own business – if she has to do all the work, why should she share the profit with Ameera?

Sharing of work in SHG

Questions	Answer
<p>Why should all members undertake the activities in a SHG?</p>	<p>The group may decide to allocate some responsibility to each member, based upon the abilities of each.</p> <p>All members must share the work as is required to be done by them.</p> <p>In addition, the group may decide to employ someone to help them with some activities.</p>

Question for Discussion 4

1. Why is it important for all the members to share in the work of the self-help group?

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5. Systems Required for Effective Functioning of Self-Help Groups

Self-help groups are like an organization. Every organization requires certain systems and mechanisms to ensure that it is able to realize its objectives. In this section, we will highlight two such systems (i) Meetings: a mechanism for sharing information and making decisions and (ii) Rotation of leadership for overall empowerment.

6. Meetings

A. Mechanisms for Sharing Information and Making Decisions

In any business or operation that is being conducted by more than one person, there is a need to ensure that there is a sharing of information.

Hiran and Ameera would sit down at the end of each day and discuss what had happened during the day. Hiran used to tell her friend how many bricks she had manufactured in the brick kiln and Ameera used to tell Hiran about the sales she had made, the orders that needed to be completed etc. This would enable them to plan the next week's activities. For instance, if Hiran had more sales, Ameera had to increase the number of bricks building up increased stocks. On the other hand, if sales decreased, the friends would decide to manufacture fewer bricks till more sales orders were obtained.

The above example indicates the need for a system by which people, who are involved in some common activity, find a way to share all the information.

In case of the self-help group in Ramiagarh, during the next meeting Shanti and Sarita will inform the group members of what happened when they went to visit the government officer, what the response of the officer was, etc. The group can then discuss the manner in which they are going to proceed further with the issue.

Sharing of Information in SHGs

Questions	Answers
Who needs to share information in a group?	All the members of the group need to share information with each other.
What will the members share information about?	The members need to inform each other about the tasks that they are undertaking for the group as well as any information that may be relevant for the group's activities.
How will the members share information?	The members need to meet regularly and sit together to discuss and then decide the activities of the group.

We must now realize the importance of regular meetings that all the members attend as well as participate in. The following factors can affect the attendance and participation during meetings.

Convenience of meeting time and location

It is important that the time and place of the meetings is accepted as well as convenient to all the members since this will ensure that they attend meetings. This is one of the reasons members who live close together form a SHG. If members live far away from each other, the group meetings will not be well attended and the group is likely to break up.

As promoters of SHGs, we need to ensure that these decisions are truly convenient to all members. In most parts of India it is the practice that Dalits (earlier known as untouchables) reside outside the main village. The Dalits are often the most oppressed of all the community groups and their convenience gets overlooked. The location of meetings may be far away from the homes of the members and this may steadily reduce the attendance at these meetings.

With regard to timing, the members may choose to meet on the day of the weekly haat or market because that is the day when several people do not go to the fields. The women usually have similar schedules if they belong to the same type of occupational group. For instance, all the women who go to work for wages may leave very early in the morning and may thus prefer to meet in the evening. On the other hand, the women who perform work on their own farms may have a different preference. Again, if the SHG consists of members who have similar work patterns, it makes it easier for them to fix a time for meetings that is equally convenient to all.

Awareness regarding location and timing

Obviously, if all members have participated in fixing the time and location of meetings, they must all be well aware of the same. Some groups prefer to fix a permanent and standard time and location for meetings so that there is no confusion regarding the same. For instance, groups may decide to meet once a month at the verandah of the local school on full moon day. Full moon evenings are preferred because women can easily find their way back home after the meeting even if it is dark.

Some groups decide the time and location of the next meeting at the end of every meeting. This can sometimes create problems because the members who are absent will have to be especially informed of this decision.

Participation

A group that meets regularly has to still ensure active participation of all the members in the discussions and decision making of the group. We will observe that in any group, a couple of members will be more active and will tend to dominate. These members may also get elected as leaders. However, as facilitators we have to ensure that all the members are confident enough to voice their opinions whenever needed.

As we have discussed in detail in Unit 3 of Block 1, in our country we have practiced the caste system for thousands of years. This system puts all the caste groups in a hierarchy in which every caste group is higher or lower than others. As a result, the toughest task for a facilitator is to ensure that the SHG is a democratic Unit in which all members participate equally. Though we would like to believe that this system no longer exists, there is no doubt that the caste identity makes a difference to the behaviour of a person. Thus a *Dalit* is unlikely to openly contradict the opinion of a *brahmin* because for thousands of years they have not been allowed to speak. Even if we think this does not happen in the area we are working in, it is better to be aware of the caste identity of each and every group member so that as facilitators we can ensure that all members are participating.

It is also important to evaluate the membership of the group against the composition of the village. If the village comprises various types of castes, all castes must become members of self-help groups, whether in the same group or in separate groups should be decided by the people themselves.

Most promoting agencies recommended that socially and economically similar classes be represented in a group because when there are social and economical differences all members do not participate equally. However, the most crucial aspect for a facilitator is to be aware of the existing differences and take these into account during the process of group building.

Questions for Discussion 5

1) Why are regular meetings important for a self-help group?

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2) In a group of various caste members, what aspects do you need to pay attention to?

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7. Rotation of Leadership

Several promoting agencies encourage the SHG promoted by them to rotate leaders to as so maintain a balance between confidence and knowledge of members. The explanation for this approach is that it helps towards:

Empowerment of all members

Anyone who has observed a self-help group over a period of time will notice that the members who take up leadership positions become very confident and acquire a lot of knowledge as compared to the other members. However, promoting agencies are aimed at empowerment of all the members, which will not be met in such a situation.

Sharing of work and responsibility

As we discussed earlier, members tend to leave a lot of work for the leaders which is not good from the point of view of the group. Rotation of leadership is considered better so that a couple of leaders do not end up with the entire load of work of the group permanently. The longer they do the work, the more difficult it becomes for some other member to take care of the same work. Besides, this will avoid the misuse of the leadership position mentioned earlier.

Questions for Discussion 6

1) Why is it important to rotate leaders?

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We have to recognize that the self-help groups are usually informal organizations without a firm status. In some cases this can imply that members who may feel wronged cannot seek legal solutions. This makes it even more important for promoters to ensure that the organization has systems that will prevent misuse.

During discussion of these systems it was emphasized that certain aspects need to be kept in mind for building an effective self-help group. These aspects are as follows:

- All members are equal owners and must participate equally in the work pertaining to the group.
- A system of rotation of leaders is likely to ensure that all members share in the work burden and benefit more evenly in terms of becoming more self-confident and empowered.
- Meetings should be held regularly since they present the opportunity for members to meet and discuss the issues pertaining to the groups. In this the facilitator has to ensure that all members participate equally. Special attention has to be paid to the weaker sections who may be hesitant to speak in front of others.

8. Organization of a Cooperative Society

The basic idea of formation or organization of a cooperative organization should come from amongst the needy people and in no case be thrust upon by any outside agency including the Government. The cooperative movement is basically voluntary in character. A cooperative society is defined as a voluntary association of persons having limited resources, working together for the achievement of common goals, democratically managed and working in accordance with universally accepted principles of cooperation. Procedure of organization of a cooperative institution, at the pre-registration stage has hardly been explained and defined in any law or rules relating to cooperatives. However due precautions are to be taken at this stage (formulation/organizational stage) because if the “seed is damaged, below quality/standard, the plant when grown cannot be strong and sustainable. Accordingly the society right at the beginning should be disease free”.

Cooperation being a State subject, the state Registrar, who is friend, philosopher and guide for the ‘Cooperative Movement’ has in some cases laid down certain procedures for organization of the society. The following people support cooperatives in different states.

- Field supervisors, organizers, inspectors and other supportive departmental staff;
- Staff and State/District cooperative union;
- Education Instructors;
- District Cooperative Federations in the line;
- Staff of development projects;
- Self help groups, voluntary agencies;

- Local leaders/influential persons; and
- Social workers.

8.1 Possibilities of Organization

There can be only two types of possibilities on the basis of which a cooperative organization can be promoted/organized:

- The felt need of the people where they themselves approach agencies for help.
- The need for organizing a cooperative society, of a particular type, is assessed by the Cooperative Department/movement and State agencies.

Further, promotion/organization of a cooperative can be done in either of the following ways:

- i) By organizing a new cooperative society or
- ii) By amalgamating/merging/dividing the existing society.

Here we are discussing only the organization of new/fresh cooperative institutions.

8.2 Stages

In the Pre-registration stage, promoters assist women interested in forming a cooperative. The first and foremost duty of the people, functionaries or agency entrusted with the work of organization is to identify its focus.

- The complete geographical, social, economic, agricultural milieu relating to a particular activity for which the society is proposed to be organized;
- The detailed statistics of the area;
- The different type of cooperative organizations existing and operating in the area;
- The educational status of the people of the area;
- The availability of sincere leadership;
- The natural calamities affecting the area;
- The potential viability of the society.

Three visits, as per practice, are considered appropriate for promotion/organization of a cooperative society.

In the first visit of the organizer to the area she will:

- try to find out the leaders/influential people (recognized as leaders);
- develop contacts with such people and discuss with them to find out their views about formation of the society as also the future of the society;
- leave a copy of the bye-laws of the proposed society (if decided to organize it) with the leaders so that she/they may discuss with other villagers.

- organize an informal meeting in the village/area, if possible. (Where she may explain the objectives, purpose and activities with management pattern etc.) She may also clarify the doubts, arising in the minds of certain people.

In the second visit:

- The organizer will again meet the people she contacted earlier – she should reach at the appointed time.
- She may organize an informal meeting again (even if organized earlier) and explain everything about the society and the bye-laws along with the role and responsibilities of the members.
- She may give clarifications, if needed by members.
- She should, invariably, keep a record of all such meetings.
- She should, in consultation with the potential members, fix up the date and time with the venue for the ‘Pre-Registration meeting’.
- She should ask all the potential members to come with the share amount and “admission fee” in the next meeting.

In the third and final visit of the organizer, she shall reach the place at appointed time and will:

- record the attendance (obtaining signatures) of the members/persons present;
- organize and conduct the Pre-Registration/Promoters’ meeting where only eligible persons will take part. (In some states due intimation is needed to be given to the Registrar so that his or her representative is present in the meeting);
- explain in detail the bye-laws of the proposed society;
- fill up the “Application for Registration” prescribed by the Act/Rules or the Registrar.

The proceedings must pass the following resolutions:

- Election of a Chairperson/President of the meeting;
- Organization of the society and request to RCS for its registration;
- Election of interim Board of Directors, Secretary, Treasurers etc;
- Approval of promoter members, acceptance of share capital and depositing the same in a scheduled/cooperative Bank;
- Operation of bank accounts;
- MCL/MBL of the society;
- Delegates of the society to different organizations;
- Naming the persons to sign the cuttings and overwriting on the Bye-laws;
- Any other resolutions as may be required by the Act/Rules or Registrar. The proceedings may be signed by the Chairperson and Chief Promoter/Secretary.

8.3 Papers for Registration

As soon as the business of the pre-registration meeting is over, the organizer will arrange to prepare the various documents, papers required under the provisions of State Cooperative Societies Act, Rules and the instructions of the Registrar. In general, the following papers are prepared to complete the lego-administrative formalities of registration of the proposed society;

- i) Application for Registration on the Form/Proforma prescribed under the Rules which can be procured either from the Registrar's office, Central Cooperative Bank, State Cooperative Union, any other officers office notified by the Registrar/Act and Rules. This may be priced or free as per practice prevailing in different states.
- ii) Three or four copies of the proposed bye-laws duly signed by the promoters. These bye-laws are also available in 'Model Form' from the officers.

8.4 Preparation of Bye-laws

The society is free to have/frame its own bye-laws provided:

- they are not in contravention of the provisions of the Cooperative Law, Rules, State Policy etc.;
- they are approved and adopted in the promoter's meeting;
- copy of the proceedings of the promoter's meeting (number of copies required as per state law) are duly signed and attested;
- Certificate from the bank regarding deposit of share money;
- Survey Report in respect of the society on the proforma prescribed for the purpose showing that the proposed society has potential for viability;
- List of all members (if not included in Application for Registration) along with amount of share contribution etc.;

The Bye-laws of a cooperative society (like Memorandum of Association of voluntary organizations, joint stock companies etc.) are made in accordance with the provisions of state cooperative law; Rules etc. Bye-laws are an informal set of rules of working and management of a society. Bye-laws are made separately for each society and are registered by the Registrar. In general, the Bye-laws contain the following:

- i) Name of the society, its area of operation, its registered office.
- ii) Objectives of the societies and the details of activities proposed to be undertaken.
- iii) Membership and share capital of the society – their class, type, authorized, issued, subscribed share capital along with share value – rights and duties of members, privileges and liabilities.
- iv) Management of the society – General Body, Board of Directors, Sub committees, Chairperson/president, Vice president, Treasurer, Secretary/Managing Directors – their constitution, election procedure, meetings, quorum, powers and functions, election rules.

- v) Procedure for expulsion of members, withdrawal of membership etc.
- vi) Staff recruitment rules
- vii) Amendment of bye-laws
- viii) Business Rules of the society
- ix) Accounts, their maintenance and submission of income tax returns etc.
- x) Disposal of profit/surplus
- xi) Procedure of settlement of disputes – arbitration
- ii) Constitution, maintenance and operation of various funds of the society.
- xiii) Business to be performed in Annual General Meeting
- xiv) Other issues which may considered necessary and in the interest of the members and the society.

Note: In no case will the bye-laws contravene/violate the provisions of the Act and Rules.

8.5 Steps for Organization of a Society

In order to ensure promotion/organization of a genuine and potentially viable cooperative society (of any type/level etc.) the following steps are needed:

- i) Complete organizational/promotional work as explained earlier.
- ii) Hold/organize promoters meeting and prepare different records/documents as prescribed under law, Rules and instruction of Registrar.
- iii) Submit all papers (as in serial ii) to Registrar or any other authority notified for the purpose.
- iv) Remove objections, if any, as intimated by the registering authority.
- v) Obtain the Registration certificate and the Bye-laws, and then organize a 'Post-Registration Meeting' for election of a fresh committee and office bearers, delegates, naming the persons and authorizing them to operate a bank account.
- vi) Establish an office with equipment and staff.

After this the society comes into operation.

Answers to Questions for Discussion

Questions for Discussion 1

- 1) Self-help groups are usually unregistered or informal.
- 2) We have made the following conclusions regarding ownership and decision making:
 - i) All members are owners of the self-help group.
 - ii) All of them should participate in the decision making
 - iii) All members share equally in the benefits of the group activities.

Questions for Discussion 2

- 1) It is better for all the members to share the work of the self-help group because not doing so can lead to (i) Overburdening of the leaders or a few members or leaders or a few members who are doing all the activities, (ii) only a couple of members or leaders are doing all the work, the other members may be less and less involved with the various activities, (iii) Over a period of time the leaders may be tempted to misuse this.

Questions for Discussion 3

- 1) Meetings are important because: (i) all the members of group need to share information with each other, (ii) the members need to inform each other about the tasks that they are undertaking for the group as well as any information that may be relevant for the groups activities, (iii) the members need to meet regularly and sit together to discuss and the decide the activities of the group.
- 2) In a mixed caste group, the facilitator needs to ensure that the weaker castes participate in all the discussions and decision making of the group. If the lower caste members are unable to speak up the facilitator has to encourage them and increase their self confidence. If the weaker castes are unable to participate inspite of these efforts, the facilitator should establish a separate self-help group for them so that they can discuss their own needs.

Questions for Discussion 4

- 1) It is important to have a system for rotation of leaders because:
 - i) This provides other members with the opportunity of taking leadership roles and responsibilities and thus leads to a more balanced empowerment within the group;
 - ii) Often leaders get an extra load of work. Rotation would give other members the chance to share this work;
 - iii) Rotation will ensure that a couple of members do not dominate or misuse their position.

FORMS OF BUSINESS ORGANIZATION

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8. Case Studies–Successful Women Managers in Companies

The following discussion should enable trainees to:

- describe the different organization alternatives open to the women;
- distinguish between a proprietorship, a partnership and a company;
- explain the relative advantages and disadvantages of these legal forms; and
- outline the important considerations in the selection of an appropriate organizational form.

Introduction

You have studied about identifying a business opportunity and preparation of the business plan for your enterprise. Integral to all these steps is the decision to choose the legal form of organization within the framework of which a plan to carry out the activities can be prepared. We now describe the various forms of business organization, their comparative advantages and disadvantages, as well as the criterion that governs the choice of a particular form of business organization.

1. Common Legal Forms of Business Organization

Entrepreneurs in the initial stages are usually neither bothered nor keen to know the legal and other aspects of the forms of a business enterprise. But as a trainer you can encourage decision making since the women cannot postpone this decision for long. This is because the banker or financial institution would like to know about the form of organization they have decided upon in case they need a loan. If they require a good team of employees, they might like to know about it and so on. Let us understand the various options. Their decision has to be very cautious because it would depend on:

- i) their personal capacity to take decisions, manage and control particular situations;
- ii) their capacity to cover risk;
- iii) their professional background which includes their educational background; technical expertise and experience or expertise in manufacture of proposed product; and
- iv) their capacity to invest in their dream enterprise.

Neena, before going in for her soap manufacturing business, was curious to know from her Chartered Accountant as to why a formal organization is needed. Her Chartered Accountant satisfied her by telling her that any activity done by an entrepreneur has a definite objective, which is a step towards her target, which in turn needs an organization in one form or the other. Consequently any business activity in order to be coordinated and managed needs to be organized in a formal pattern of relationship to ownership and control.

Further, at their desire, the women are free to change the form of ownership chosen. If a woman starts her business as sole proprietorship, she may convert it to partnership or to a company, or vice-versa, whenever she wants. Her options are confined to the forms of ownership:

- I) Individual Proprietorship;
- II) Partnership-Joint family business;
- III) Partnership with others;
- IV) Private limited company;
- V) Public limited company; and
- VI) Co-operative society.

Activity 1

Talk to some women entrepreneurs about to set up their own business. What is the form of business organization they have in mind? Describe two important reasons they give for choosing the desired form.

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2. Proprietorship

In a proprietorship the enterprise is owned and controlled only by one person. Here a single person sows, reaps and harvests the output of her labour. Of course there are her relatives, friends, family, financial institutions, Government and her employees to assist her. This form is one of the most popular forms in India and the reason for its being so popular is the advantages it offers.

Monika of Continental Enterprises preferred a sole proprietorship because her business was going to be very small and the degree of risk involved, not very high. Ratna preferred this form of ownership for her business because it does not require to be recognized by the law and all the formalities that go with that. In this form of ownership, business can be started simply after obtaining necessary manufacturing license and permits.

3. Partnership

When the quantum of business is expected to be moderate and the entrepreneur desires that the risk involved in the operation be shared, she may prefer a partnership. Swatantra Rastogi and Shashi, when they started a business of tile making, preferred a partnership because one of them had experience of tile making and the other had money. In India the law relating to partnerships is given in the Indian Partnership Act, 1930. A partnership comes into existence when two or more persons agree to share the profits of a business, which they run together. This business may be carried on by all or by any of them acting for all. Those persons who thus enter into an agreement are individually called a firm. The name under which their business is carried on is called the "Firm name". Some say that a firm is nothing but an abbreviation for its partners. The characteristics of a partnership are:

- i) Partnership is the outcome of a voluntary agreement between the persons, who after the agreement has been arrived at, would be known as partners. Therefore, a partnership cannot come into existence by a law or by status and a partnership agreement should have all the essentials of a valid contract.
- ii) A relation of partnership can be entered into between persons only. The maximum number of members that a firm may have is twenty but if the agreement is to carry on banking activities, not more than ten persons can be partners in such a firm. A partnership becomes illegal if it includes more than the stipulated number of persons.

Although it is left to the choice of the partners to decide as to what should be mentioned in their partnership agreement, usually the following matters are spelled out in the agreement:

- The object and duration of partnership;
- The duties of partners;
- The right of partners;
- How the losses and profits of the business shall be divided;
- Procedure to be followed when any partner wishes to withdraw from the partnership or a new partner enters the business;
- Manner in which any controversies that arise out of the partnership agreement will be settled.

In order to appreciate a partnership we should distinguish it from certain non-contractual, quasi-partnership relationships, which may be created on account of specific customs of personal law. The members of a Hindu undivided family carrying on a family business as such, or a Buddhist husband and wife carrying on business as such, are not partners in such business. These relationships do not come into existence owing to a voluntary agreement amongst them and are therefore not partnership but “joint ownership”. The contract by which the partnership is created may be express or implied. It is express when it is in writing or is created by word of mouth. It is implied when it is to be inferred from the conduct of the parties or from the circumstances of the case. But in view of the disadvantages suffered by a unregistered firm, it is in your interest that the partnership agreement should be drawn in the beginning and signed by all of you who have agreed to enter into a partnership. Losses are a fact of business life. The partners are free to provide in their partnership agreement that one or more than one of them will not be responsible to bear the losses of the business.

- iii) Another characteristic of a partnership is sharing of profits or business amongst the partners. Unless specifically mentioned, all partners are supposed to share the profits and losses of the business in equal share. Sharing of profits is a hallmark of a partnership but everyone who takes a share in profit does not thereby become a partner. The receipt of such share or payment – by a lender of money to persons engaged or about to engage in any business or by a servant or agent as remuneration or by the widow (or child) of a deceased partner as annuity or by a previous owner or past owner of the business, as consideration for the sale of the goodwill or share thereof, does not of itself make the receiver a partner of the persons carrying on the business.
- iv) The business of partnership may be carried on by all the partners or it may be carried on by any one of them acting for all. This element of partnership – mutual agency – shows that the persons of the group who manage the business do so as agents for all the persons in the group and are bound by their acts and liable to account for all.

After knowing the essential characteristics of partnership, let us remember that a partnership may be created for a fixed period only or even for execution of a particular venture. It is a fundamental feature of partnership that every partner has an option to withdraw from the partnership at any time, after complying with the formalities stipulated in the Act and in the partnership agreement.

A natural query at this stage may be – Can a minor become a partner? The answer is no, but with the consent of all the partners, the minor may be admitted to the partnership to share the profits of the business carried on by them. Such a minor has the right to such share of the property and of such profits of the firm as may be agreed upon. The point to remember is that the minor is not personally liable for the losses of the business. Liability is limited to only his or her share in the partnership business. When such minor attains majority or when he or she obtains knowledge that while he or she was a minor was admitted to the benefits of partnership, which ever date is earlier, within six months of such date, such person is required to decide whether he or she elects to become or not become a partner, in the firm. Such election shall determine his or her position as regards the firm. If he or she decides to become a partner, his or her rights and liabilities continue from the date on which he or she becomes a partner. He or she also becomes personally liable to third parties for all acts of the firm done since he or she was admitted to the benefits of partnership.

If he or she elects not to become a partner in that situation, his or her rights and liabilities shall continue to be those of a minor up to the date on which he or she gives public notice of his or her intention of not continuing his or her relationship with the firm.

3.1 Duties of partners

Partners are free, of course, subject to the provisions of the Partnership Act, to agree upon their mutual rights and duties. This agreement is not immutable and the terms of the agreement may be varied by consent of all the partners. Usually the partners agree to the following duties:

- 1) that any partner shall not carry on any business other than that of the firm while she is a partner;
- 2) that the partner will attend to her duties diligently in the conduct of the business;
- 3) that she shall indemnify the firm for any loss caused to it by fraud or willful neglect in the conduct of the business;
- 4) that she shall not derive any profit for herself from any transaction of the firm or from the use of the property or business connection of the firm or the firm name;
- 5) that she will be liable jointly with all other partners and also severally for all the acts of the firm done while she is a partner;
- 6) that she will remain just and faithful to other partners and will render true accounts and full information of all things affecting the firm to any partner or her legal representative.

3.2 Rights of partners

As the partners are free to decide their duties, they are likewise free to decide by contract between themselves their mutual rights. Usually a partnership agreement guarantees the following rights to every partner:

- i) every partner is entitled to take part in the conduct of the business.

- ii) every partner has a right to have access to and to inspect and copy any of the books of the firm;
- iii) every partner is entitled to share in the profits earned;
- iv) every partner has a right to be indemnified in respect of payments made and liabilities incurred by her in the ordinary and proper conduct of the business;
- v) every partner has a right to be consulted and heard before any decision is taken in relation to any matter concerning the firm;
- vi) if any partner makes for the purposes of the business, any payment or advance beyond the amount of capital he or she has agreed to subscribe, is entitled to interest thereon.

Activity 2

Discuss with two small partnerships to find out:

- a) How have the objects of partnership been defined?
- b) How are the rights of partners defined?
- c) What is the profit sharing ratio of these partners?

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4. Registration of Firms

The law relating to registration of firms is very interesting. While it is not compulsory for a firm to get itself registered, it becomes highly desirable for firms to get themselves registered, because of the limitations unregistered firms have to face.

For the purposes of registration the State Government appoints a Registrar. When you want to get your firm registered you may send your application to the Registrar of Firms along with the prescribed fee. This application may be sent by post or may be delivered in person to the Registrar of the Area in which the place of the business of the firm is situated or proposed to be situated.

The application has to be in the form of a statement which should indicate:

- a) firm's name;

- b) place or principal place of business of the firm;
- c) names of any other place where the firm carries on business;
- d) date when each partner joined the firm;
- e) names in full and permanent addresses of the partners; and
- f) duration of the firm.

This statement should then be signed either by the partners or by their agent specially authorized in this behalf. After affixing their signatures, these signatures have got to be verified. When the Registrar is satisfied that all formalities relating to registration have been properly complied with, he or she shall make suitable entries in a register known as Register of Firms and shall issue a certificate of registration.

In order to fully appreciate this part, you should know the effect of non-registration of a firm. If a firm is not registered,

- 1) No suit (No case can be filed in court) to enforce a right arising from a contract or conferred by this Act shall be instituted in any court on behalf of any person such as a partner. Such a suit can neither be instituted against the firm nor against any co-partner including a past co-partner.
- 2) No suit to enforce a right arising from a contract can be instituted by or on behalf of a firm against any third party.
- 3) Neither the firm nor any partner is competent to make a claim of set off or other proceedings based upon a contract.

However this disability does not restrain the third parties to sue (file a case against) the firm or any partner for the enforcement of their rights.

5. Dissolution of Firms

If one or more than one partner leaves the firm and other partners continue in the firm, it is called dissolution of partnership but when all and each one of the partners ceases to carry on the business and decides to separate, it is dissolution of the firm.

Strictly speaking, the dissolution of partnership between all the partners of a firm is called the “dissolution of the firm”. A firm may be dissolved with the intervention of the court or without the intervention of the court. Following are the ways in which a firm may be dissolved:

5.1 Dissolution by consent/contract

With the consent of all the partners or in accordance with a contract between the partners, a partnership can be dissolved. Since a partnership is created by a contract, it can be dissolved by a contract. At any time during the firm’s life, all partners may decide to dissolve it or may dissolve it in accordance with a contract already made in the partnership agreement. Mohini Kumar and Jaya Kumar are partners in a firm. The partnership deed provides that the firm can be dissolved only by mutual agreement. Mohini Kumar wants to dissolve the firm. She cannot compel Jaya Kumar to dissolve the partnership.

The situation would be different if the partnership is Partnership at will. In such a case the firm may be dissolved by any partner giving notice in writing to all the other partners. The firm in such a case shall stand dissolved from the date of notice. If no date is given in the notice the dissolution will be effective from the date of the communication of the notice.

5.2 Compulsory dissolution

Under any of the following circumstances a firm is dissolved:

- i) by the adjudication of all the partners or of all the partners but one as bankrupt (insolvent), or
- ii) by the happening of any event which makes it unlawful for the business of the firm to be carried on or for the partners to carry it on in partnership.

M/s Rainbow Financiers which has twelve partners are carrying on a business of financing automobiles. The Parliament passes an Act which makes it unlawful for any firm having more than ten partners, to carry on such business. The partnership is dissolved.

However, if the firm carries on many separate undertakings or ventures, the illegality of one or more shall not of itself cause the dissolution of the firm in respect of its lawful ventures and undertakings.

5.3 Dissolution on the happening of certain contingencies

A firm may be dissolved:

- i) if the partners so agree;
- ii) if constituted for a fixed term, by the expiry of that term;
- iii) if constituted to carry out one or more ventures or undertakings, by completion thereof;
- iv) by the death of a partner; and by the adjudication of a partner as insolvent.

5.4 Dissolution by Court

Under any of the following circumstances any partner may present a petition before the Court for the dissolution of the firm, whereupon the court may dissolve the firm, when:

- any partner has become of unsound mind;
- any other partner has become in any way permanently incapable of performing her duties as partner;
- any other partner is guilty of conduct which is likely to affect prejudicially the carrying on of the business, regard being had to the nature of the business;
- any other partner willfully or persistently commits breach of agreement relating to the management of the affairs of the firm or the conduct of its business, or otherwise so conducts herself in matters relating to the business that it is not reasonably practicable for the other partners to carry on the business in partnership with her;

- any other partner has transferred the whole of her interest in the firm to a third party, or has allowed her share to be attached or to be sold in the recovery of arrears of land-revenue or of any dues recoverable as arrears of land-revenue due by the partner;
- the business of the firm cannot be carried on save at a loss; or
- there exists any other reasonable ground which renders it just and equitable that the firm should be dissolved.

Activity 3

Partnership has a temporary existence in that it can be dissolved with comparative ease. From five women entrepreneurs who have had experience of running partnerships earlier, find out and describe:

- What are the most common reasons for dissolution?
- Do you think these causes can somehow be taken care of, to make the existence of this firm more stable?

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6. Company

Besides partnership, which is a very common form of organization among small entrepreneurs, another form of ownership that you should know about is a Company. The law relating to companies in India is contained in the Companies Act of 1956.

6.1 What is a Company?

A company may be understood as an association of persons in which money is contributed by them to carry on some business or undertaking. Persons who contribute the money are called the shareholders or the members of the company.

Given below are the characteristics of a company:

- Artificial legal person:* As soon as an association of people gets incorporated as a company, it assumes the identity of an artificial person. Since the company after incorporation, in the eyes of law is treated as a person, the company may sue or be sued by its members/ shareholders whenever any breach of their rights or duties is committed. As a person the company can enter into contracts in its own name and likewise may sue and be sued in its own name.
- Separate legal entity:* As is apparent from the above description, after registration the company acquires a personality of its own which is distinct and different from the personality of the members/ shareholders

constituting the company. Although an independent “person”, yet the company can neither think, nor do anything by itself. Therefore its affairs are managed by a Board of Directors, who manage the affairs of the company on behalf of the company and in accordance with its Memorandum and Articles of Association.

- c) *Common Seal:* A company being a creation of law is not affected by the joining, leaving, death, insolvency or insanity of any of its shareholders. Since the company enjoys a separate legal existence from that of its members, any variation in the number or identity of its members does not affect the corporate existence and corporate identity. It is rightly said “members may come, members may go but the company goes on for ever”. Further since a company comes into existence only through a process of law, it can only be dissolved through a process prescribed by law.
- d) *Transferability of shares:* The shares of a Joint Stock company (except private company) are freely transferable. A private company through its articles places certain restrictions on the transferability of its shares. For all other joint stock companies members owning fully paid up shares can freely transfer their shares at a stock exchange or through agreements entirely at their own discretion but subject to the rules of the company. Any absolute restriction on the transfer of shares of the company is, however, avoided.
- e) *Limited liability of members:* This characteristic emerges as one of the major advantages of this form of organization. In case of a company limited by share, the liability of the members of the company is limited to the nominal value of shares held by them. In case of a company limited by guarantee, members are liable only to the extent of the amount guaranteed by them.

An incorporated company is a corporate body and by fiction of law it is treated as a legal person. This means that a company has a personality of its own. The company thus has an independent status which is different from the status of the members/shareholders constituting it. Consider this example. Sheela, Shabnam, Sarla and Sadhna form a company and get it registered in the name of Gift Ideas Pvt. Ltd. Once the company is registered, this company Gift Ideas Private Ltd. will be regarded as a person and as such would have an independent personality different from the personality of Sheela, Shabnam, Sarla and Sadhna.

Activity 4

Are the following statements true or false?

- a) Under law the company is treated as a separate person.
- b) The property of the members of the company is separate from that of the company.
- c) The shares of every type of company are freely transferable.
- d) The death of all the members of a company would affect the existence of the company.
- e) The members of a company have only limited liability.

f) The company cannot sue in its own name.

Depending upon the type of restrictions you want to impose upon your organization, you may form a

i) Private Company or a

ii) Public Company.

Under Section 3 (i) (iii) of the Companies Act, a Private Company has been defined as a company which by its Articles of Association:

a) restricts the right to transfer the shares, if any.

b) limits the number of its members to fifty, and

c) prohibits any invitation to the public to subscribe to the shares or the debentures of the company.

A public company by definition in Sec. 3 (i) (iv) is a company which is not a private company. By implication, therefore, public company is one, registered under the Companies Act, which places no restriction by its Articles of Association on the Transfer of shares or on the maximum number of members/ shareholders and can invite the public to subscribe to its shares, debentures and public deposits. You must understand that these provisions also mean debentures of a company. This has interesting implications for dilution of ownership and control which you may like to consider before deciding upon the organization form. The distinction between a private company and a public company have been detailed out in Table 1 below:

Table 1: Comparison between a Private Company and Public Company

	Public Company	Private Company
1. Formation	a) At least seven members are required	a) At least two members are required.
	b) Formation is difficult because it requires many formalities such as consent of the directors. Copy of contract to acquire qualification share within stipulated time, has to be filed with the Registrar of companies. Before such company can commence business, it should obtain Certificate of Incorporation as Certificate of Commencement of Business.	b) Formation is simpler. Documents relating to director's acquiring qualification share are not required to be submitted to the Registrar of Companies, nor director's consent to act as directors are needed. Such company can commence its business soon after obtaining Certificate of Incorporation.

	c) Minimum number of directors needed is three.	c) Minimum number of directors needed is two.
	d) Minimum number of members needed is seven.	d) Minimum number of members needed is two.
	e) No restriction on the maximum number of members.	e) Maximum number of members cannot exceed fifty.
2. Prospectus	a) Filing of prospectus or a statement in lieu of prospectus with the Registrar of Companies is necessary before company can allot shares.	a) Not needed.
3. Documents	a) Seven members have to sign the memorandum and articles of association.	a) Only two members need to sign the documents
	b) It need not prepare articles if it chooses to adopt Table A of the Companies Act as its articles of association	b) Articles of association have to be compulsorily framed as the company places certain restrictions on itself through the provisions of its articles.
4. Allotment of shares	a) Shares cannot be allotted till the amount of maximum subscription in cash has been received.	a) No such restriction is applicable.
	b) Can issue only equity and preference shares	b) Can issue both equity and preference shares as well as share with disproportionate voting rights.
	c) Invitation to public to subscribe for the shares, debentures or public deposits can be made through prospectus.	c) No such public invitation can be made.
5. Transfer of shares	a) Shares are freely transferable and can be quoted on the stock exchange	a) Transfer of shares restricted by the articles and therefore shares can not be quoted on the Stock exchange.

	b) Company can issue bearer share warrant	b) Such warrant cannot be issued.
6. Directors	a) Law places restrictions on the remuneration payable to Directors.	a) No such restriction applies.
	b) Directors are subject to retirement by rotation.	b) Directors are not liable to retire by rotation.
	c) Loans to Directors cannot be sanctioned without approval of the Central Government.	c) Directors can borrow from their company without the approval of the Central Government
	d) Any Director having an interest in any subject matter of the meeting cannot participate and vote on the issue.	d) Interested Director can participate as well as vote.
7. Statutory meeting	a) Company must hold a statutory meeting and file a statutory report with the Registrar of companies within six months from the date of obtaining the Certificate of Commencement of Business.	a) No such restriction applies.

In view of the restrictions discussed in relation to the private company you may think that it may not be a preferred form of ownership. On the contrary a substantial number of entrepreneurs prefer to form a private company since the private company has been granted several privileges under the Companies Act. Some important privileges among those are:

- a) Only two members are required for forming a private company.
- b) Such a company may commence business immediately after incorporation.
- c) A private company is not required to hold a statutory meeting nor is it required to file a statutory report.
- d) Such a company may issue any kind of shares and allow disproportionate voting rights.
- e) A private company need not file a prospectus or a statement in lieu of prospectus, to the Registrar of Companies;
- f) The directors of a private company are not required to file their consent to act or to take up their qualification shares prior to their appointment.
- g) The directors of a private company are entitled to vote on a contract in which they are interested.

- h) A non-member cannot inspect the copies of profit and loss account filed with the Registrar of Companies.
- i) Limits imposed by Section 309 of the Act, on payment of maximum managerial remunerations are not applicable.
- j) Restrictions on the appointment and reappointment of managing director are not applicable.

Activity 5

What in your opinion is a more suitable form of company for a small enterprise – a private or a public company? Discuss with women entrepreneurs managing both these types of concerns, to explain their views on the suitability of the public vs. private company form.

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In case of both private and public companies, on the basis of liability of members, companies can be classified as:

- a) Company limited by share;
- b) Company limited by guarantee; and
- c) Unlimited company.

Company limited by share is a registered company in which the liability of members is limited to the amount remaining unpaid on the share held by them.

Company limited by guarantee means a company in which each member is liable, in the event of liquidation, to pay a specified sum of money, guaranteed by her. If the guarantee company has share capital also, the members have two fold liability: to pay the amount which remains unpaid on their shares, whenever called upon to pay and secondly to pay the amount payable under the guarantee when the company goes into liquidation. The voting power in a guarantee company is determined by the shareholding and not by the guarantee. An unlimited company [Section 12(2-C)] is a company not having any limit on the liability of its members. In the event of the winding up of the company, the liability of the members may reach upto the limits of their personal assets, to meet the obligations of the company.

Such companies may or may not have share capital. It may interest you to know that the company law recognizes some more classes of companies, important among them are:

- a) Government company;
- b) Foreign company; and
- c) Holding and subsidiary company.

A Government company is one in which “not less than 51% of the paid up share capital is held by the Central Government or by any State Government or Governments or partly by Central Government and partly by one or more State Governments. Indian Telephone Industry, Hindustan Machine Tools and Hindustan Aeronautics Limited are examples of Government Companies.

A foreign company is a company which is incorporated in a country outside India under the law of that country but has established a place of business in India. Some of the provisions of the Indian companies Act are applicable to such companies. A foreign company may be either a private company or a public company.

A holding company is one which has another company as its subsidiary. According to Section 4 of the Companies Act, a company A shall be deemed to be subsidiary of company B if and only if:

- i) Company B (holding company) controls the composition of the Board of Directors of Company A (subsidiary) or
- ii) Company B (holding company) controls more than 90% voting powers of company A (subsidiary) or
- iii) Company A is a subsidiary of company C which is itself the subsidiary of the company B.

6.2 Formulation of a company

As you must have earlier noted, a company comes into existence only after registration. For registration the following documents need to be filed with the Registrar of the companies of the State in which the company wants to have its registered office.

- i) *Memorandum of Association*: It is a document originally created for every company which governs the area of operation and the relations of the company with the third parties. It mentions the name of the company, place of its registered office, object/objects of the company and lays down provisions regarding its capital and the liability of its members, shareholders and lastly a declaration by the members of the company and they have associated to form a company and that all the necessary formalities have been complied with.
- ii) *Articles of Association*: It is another document consisting of regulations for all aspects of the internal management of the affairs of the company like the rights of members, conduct of meeting, appointment and removal of directors etc.
- iii) A list of persons who have given their consent to be the first directors of the company (Applicable only in case of a public company).

- iv) A written undertaking by each of the proposed directors to accept and pay for their qualification shares, if any (Applicable only in case of a public company).
- v) A statutory declaration, by a Chartered Accountant as director of Company or an Advocate or the secretary (or a person who is named) along with the required registration fee and the stamp duty, declaring that all the legal requirements of the Companies Act in respect of formation of the company have been complied with. As the company has not yet come into existence, the preparation of these documents and fulfillment of the attendant formalities are undertaken by a group of individuals/an individual interested in the formation of the company called the promoter(s) of the company.

After being satisfied that all the documents are in order and all the formalities relating to registration of a company have been met or complied with, the Registrar of Companies would register the company and would issue a Certificate of Registration of the company. A private company can start its business after getting this certificate. But a public company cannot start its business unless it has obtained yet another certificate from the Registrar of Companies – Certificate of Commencement of Business.

6.3 *Management of the Company*

You have already noted that a company is managed by the system of representative management i.e. through individuals known as directors, collectively known as the Board of Directors or the Board. The directors act as the brain of the Joint Stock Company. Legally their position is that of an agent of the company in some aspects. As trustees in respect of the properties and powers of the company, the directors are expected to act in good faith and in the interest of the company as the company with outsiders and are liable in all cases where an agent is personally liable under the law of contract. Although in matters relating to the management of the company the directors are the highest authority, legal restrictions on their powers have been put through the Memorandum and Articles of Association, the Companies Act and the general laws in the country.

6.4 *Winding up and dissolution of the Company*

Being a creation of law a company can be wound up only through a process prescribed by law. Winding up is the process by which the assets of the company are realized and distributed. A company can be wound up by the following modes:

1. Winding up by court
2. Voluntary winding up: (Members' voluntary winding up, Creditor's voluntary winding up)
3. Winding up under the supervision of the court.

You must be clear about the fact that even if all the members of the company or all the creditors or both agree to dissolve the company even then they cannot do so except through a process of law since a company unlike partnership has not come into existence through a contract between members but through a process of law.

7. Forms of Ownership – Advantages and Disadvantages of Organizational Form

Having understood the salient characteristics of different forms of business organization, let us now assess the relative advantages and disadvantages of these forms.

7.1 Advantages of the proprietorship

A sole proprietorship, as you know, is a business owned and controlled by one person and being the simplest form of a business enterprise has several advantages such as:

- a) Lack of restrictions;
- b) Owner's enjoyment of all profits;
- c) Owner's freedom to take all decisions;
- d) Financial advantages;
- e) Tax advantages; and
- f) Secrecy.

Lack of restrictions

Lack of restrictions or minimum legal restrictions is the distinguishing feature of a proprietorship concern. In a proprietorship the entrepreneur is required to file a few reports and is not required to draw up legal documents to commence his or her business nor is she required to pay any fees to set up her business. No formal registration is statutorily needed. Most common amongst the proprietorships are the sole proprietorships i.e. one person operating the whole business.

Owner's enjoyment of all profits

One advantage of proprietorship is that the owner keeps to herself all profits of her labour. Unlike other forms of ownership, in a proprietorship, there is no other person to share her profits, which in turn is a source of great personal satisfaction to her. She may work for as many or as few hours a month, as the proprietor.

Owner's freedom to take all decisions

Another advantage of proprietorship is that the proprietor is free to make all decisions. There is no other person who can weigh her down or create administrative problems for her. In this way she may freely concentrate on her business.

Ravina Khatoor owns a nursery which employs 19 people. The nursery has been operating quite successfully. Number of customers has increased by an average of 30 per cent per year. One factor behind her sale strategy is that she offers the plants at a particular price and is not bothered about the profits. Her prime object is the future business which she thinks she is likely to get from a particular person. This freedom of decision has resulted in good results for her.

Financial advantages

One major advantage of a proprietorship is the financial advantage involved in this form of ownership. Personal reputation and her personal assets stand behind the concern. Whenever needed the proprietor can draw upon both to augment her business resources.

Tax advantages

A proprietorship form of legal organization has certain tax advantages which are not available to the other forms of business ownerships. Individual proprietorship income is taxed only once while corporate income is on occasion, taxed twice.

Secrecy

Secrecy is another advantage offered by proprietorship. In present day business atmosphere, the less a competitor knows about one's business, the better off one is. In proprietorship the proprietor is required to reveal very few things to others about her operations. He can keep her business secrets to herself and the competitor can only make guesstimates regarding its sales, profit margins and overall financial strength.

7.2 Disadvantages of the Proprietorship

In spite of all the above mentioned advantages, there are some drawbacks associated with the proprietorship. In deciding whether the type of operation will suit her best for the business, the entrepreneur needs to consider such things as:

- 1) *Owner's probable lack of ability and experience:* The owner may truly lack requisite ability and experience to run a business enterprise of her own. Though this flaw in the entrepreneur's capability does not apply in sole proprietorship only, it could apply in partnership and companies as well. In the latter cases the lack of ability and experience may be compensated by the ability and experience of other partners/directors. In sole proprietorship since the entire decision-making is centralized in the owner's hands this flaw may become a debilitating one.
- 2) *Difficulty in raising capital:* The raising of capital single handed can be a problem as the owner has only her own assets and goodwill to fall back upon, abetted by the assistance provided by the financial institutions. As a generalization one person would have less to invest to meet the capital needs of a new small business than a group of owners. If the owner does not wish to share the ownership of the business, the alternatives for raising capital for her business are rather limited.
- 3) *Limited life of the organization:* The life of the proprietorship depends solely on the proprietor. If she dies, becomes insolvent or permanently incapacitated or insane, the business may wind up. This has implications not only for the employees of her organization but also for the creditors. It is not uncommon to find creditors requiring the proprietor to carry life insurance sufficient to meet the financial obligations of the proprietorship.
- 4) *Limited size:* Since there is only one owner of the business, the amount of capital that can be raised for operation and consequently the probability of attaining a large size are limited. This is especially true

since the growth of a proprietorship is to a large degree dependent upon reinvested profits. As the capital that can be raised is limited, the growth of the business can also attain only a limited size. The problem of size may also be linked to management of the proprietorship. Being the only owner, the proprietor is responsible for carrying out all decision-making activities and quite a few of the operational ones. This can become a burden as the business increases in size. Delegation of authority offers a solution, but the major decisions continue to be the owner's responsibility. It is then that she or he makes a conscious decision on whether or not to increase the size of the business enterprise any further.

- 5) *Unlimited liability*: By far the greatest disadvantage of sole proprietorship is that of unlimited liability. The sole proprietor is personally responsible for all the debts that she incurs. The creditors having a claim on these debts can exercise it against both the business and the personal assets of the proprietor. For example if the proprietorship operation is worth Rupees 10 lakhs but the proprietor has debts of 25 lakhs, the creditors can sue the proprietor and force her to liquidate personal assets to pay the financial obligations. What this amounts to is that even though the proprietor believes that only part of her total capital is invested in the business; she is liable to the full extent of total personal assets for liabilities of her business. A damaging law suit lost, a serious accident involving injuries to employees, a critical marketing setback are some of the contingencies that can create liabilities far beyond those anticipated at the time of planning the business. The owner's personal savings, investments and all other assets are liable and may be endangered.

7.3 Advantages of the Partnership

From the point of view of evaluating it as an organizational form, the following advantages of partnership must be considered:

- a) *Ease of organization*: As partnership is based on mutual contract between all the partners, it is relatively easy to form. The legal formalities associated with formation are minimal, so much as that registration of a partnership firm though desirable, is not obligatory.
- b) *Combined talent, judgement and skill*: The old maxim of two heads being better than one aptly applies to partnership. If there are three or four or more partners the chances that better decisions collectively will emerge are higher than in case of a proprietor operating alone. Pooling of skills, especially when each partner specializes in a different area, gives the firm a competitive advantage of collective expertise.
- c) *Increased sources of capital and credit*: We have just seen that the sole proprietorship suffers from the limitation of limited capital because there is only one individual to invest her assets and bring in credit. A partnership can overcome this problem to a certain extent by bringing into association more people with capital to invest as well as personal assets that can be used as collateral for bank loans and other credit. The lending institutions also perceive less risk in granting credit to a partnership than to a proprietorship because the risk of loss is spread over a number of people rather than only one.

- d) *Improved chances of growth:* Consequent upon the increased sources of capital and credit and better decision making potential, the partnership is in a much better position to expand and grow than a proprietorship. Being managed by a group of people, a partnership has both monetary and managerial resources to manage larger facilities and more employees. Therefore, as the operations expand in size, the owners are able to maintain effective control.

Tax advantage: From the taxation point of view partnership seems to be the most desirable form of organization as the taxation rates applicable are lower than both the other forms in question.

7.4 Disadvantages of the Partnership

In spite of its numerous advantages the partnership also has some important disadvantages which must be seriously considered before opting for this form of organization.

- a) *Unlimited liability:* As already noted, unlimited liability is an important characteristic of partnership. Just as this condition is applicable to proprietorship, it becomes an even more serious limitation in partnership. Not only is a partner liable to the extent of her personal assets, for the debts of the firm, she is also responsible to the full extent of her resources for the debts contracted by other partners. Similarly, as profits and losses are to be shared between the partners, even if one partner cannot come up with her share of the losses, the others will have to make up the deficits.
- b) *Limited life:* If any partner dies, becomes insane or is otherwise incapacitated or simply wants to withdraw from the business, the partnership gets terminated. As the number of partners increases, the probability of occurrence of these contingencies goes higher. This creates problems of continuity in business.
- c) *Divided authority:* We can talk about the maxim of two heads being better than one. Carried to an extreme the situation may turn into “too many cooks spoil the broth”. As long as each partner restricts her activities to her defined area of operation, the problems of whole firm, financing plans, evolving personnel policy and ideas on expansion can create possibilities for conflicting authority.
- d) *Danger of personal disagreements:* Being an association of people, a partnership is always open to the danger of disagreement between its members which at times may become extremely serious. Even if a partnership agreement is thoroughly detailed, clauses may be subject to different interpretations. Some partners may willfully exceed their defined authority and discontent may develop because of diverse working styles and conflicting egos. Many successful partnership firms have been dissolved because of serious disagreement between the partners.

7.5 Advantages of a company

The important among the advantages of a company are:

- a) *Limited liability:* The advantage of limited liability offered by a company forms an effective incentive for choosing this form of organization as

the shareholders are fully aware that they stand to lose no more than what they have agreed to invest in the business.

- b) *Perpetual existence*: Continuity to the business is ensured as unlike a partnership or a proprietorship, a company enjoys perpetual succession. Death, incapacity or insanity of the shareholders do not affect the corporate existence of the company as the shares simply get transferred to the legal heirs who can sell them further if they do not want to retain the share contingencies like insolvency of the shareholders or selling of the shares by them also do not bring the life of the company to an end, since these factors would only result in the change of ownership of shares.
- c) *Transferability of shares*: Ease of transfer of interest in a company represents another major advantage of companies. The very fact that you can transfer your interest anytime you want to, facilitates both investment and disinvestment decisions in this form of organization.
- d) *Expansion potential*: In comparison to proprietorship and partnership, the company has far greater potential for raising capital through issue of shares. This has implications for both ease and volume of expansion.
- e) *Representative management*: Both proprietorship and partnership are characterized by direct management in that the owners/partners directly participate in the management of the organization. A company, on the other hand, is characterized by representative management in that shareholders elect the directors to manage the company. The directors, in turn, manage the company as agents and trustees of the company, for the benefit of the company. If found to be deficient in performing their duties, any director may be removed. In addition to the Board of Directors, the company also relies on bringing in specialists as managers to manage the affairs of the company, which augurs well for efficiency and management.

7.8 Disadvantages of a company

- a) *Lack of secrecy*: As the company has to make various statements available to the Registrar of Companies and Financial Institutions, there is much less confidentiality of operations as compared to the other forms of organization. In addition, the company has to provide an annual report to every shareholder, which further reduces the degree of secrecy, as everyone including the competitors can find out details of all financial data.
- b) *Legalities of formation*: Being a creation of law, a company involves far more legal formalities of formation in comparison to the other two forms. These include registration and pre-registration formalities like preparation of documents entering into pre-incorporation contracts, obtaining the consent of directors and furnishing the stamp duty. All these steps considerably lesser the ease of formation characterizing the other forms of organization.
- c) *Legal restrictions*: The operation of a company are far more regulated by the comprehensive legislation of the Companies Act. Almost all aspects of its management and operation must comply with the

provisions of the Act. In addition to the Company Act, several other Acts impose restrictions on the activities of companies in India.

- d) *Heavy taxation* : Companies are subject to heavier taxation rates. There is also an incidence of double taxation in that after deducting tax, when the company pays dividend to its shareholders, the individual shareholders is also liable to pay personal Income tax on all dividends recovered depending upon their respective tax brackets.

Activity 6

Now that you have understood the relative advantages and disadvantages of all the forms of ownership, what kind of ownership pattern would you suggest for:

- a) A person planning to form a part-time service organization who has limited capital resources.
- b) A person going in for readymade garment export trade.

Give reasons for your answers.

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8. Case Studies: Successful Women Managers in Companies

(These case studies are drawn from the Times of India.)

**Riding the Recession
Sandhya Sridhar**

India is the largest market for tractors, states Mallika Srinivasan, director of Tractors and Farm Equipment (TAFE), Chennai. "It may not be in billions of dollars, but in the number of units sold, we are the largest market."

Mallika Srinivasan, Director, TAFE

TAFE is the second largest agricultural tractor manufacturer in India and takes pride in its innovations and technological advancements that help keep it going strong in the market race. "It is a mature industry in India," says Mallika, "In this sector, India can be a big global player and integrate itself in the global markets quite easily." Her vision for TAFE, an organization that gives a lot of importance to research and development (R&D) and technology, is to take it forward into global markets with bigger strides.

"The future will be technology-led," is Mallika's comment on the global scenario.

With markets taking a beating, TAFE found itself briefly in the third spot among tractor manufacturers. “We’re back at No. 2,” the lady tells us, talking of the steps this corporate took to tide the recession. “When markets went down and everyone else in the industry continued to bill, filling up the farmer, we decided to follow the market with a fair degree of caution.” TAFE decided to cut back, offered support to dealers to tide through the rough period and kept the focus on business. “It was a delicate balance between the wholesale share and the retail share,” she admits, “We kept the retail promotion programmes going, offering new models, schemes, and kept our retail market share.”

This clever, shrewd businesswoman is glad that she took the prudent route to success. “We have,” she states with justifiable satisfaction, “as a result of this dip, emerged stronger. We have been able to control receivables, brought down our debt yet we kept new products going. We have kept healthy profits. Whoever weathers this storm with financial strength, survives.”

Focus on technology and R & D continues at TAFE even as the thrust of the company has changed to retail focus. The group’s Internet domain carries the tagline ‘the heartbeat of India’. The web space, according to Mallika, serves as a networking facility for TAFE dealers and customers, keeping them abreast not just of latest innovations in tractors and farm implements, but also providing them with agricultural information and advice.

Finally, this is Mallika’s dream where the small and medium Indian farmers find their own space in the country’s growing lifestyle scene, with a fair bit of disposable income in their hands. “We are still not independent of the monsoons,” she says, “On the one hand we have a drought and on the other, excess food grains. We can have a workable food for work programme, wherein employment can be generated by building projects like desalting existing tanks and building catchment areas for rain. Thus we build infrastructure for eternity, we are also free from the scarcity for water resources – agricultural production will not see such sharp cycles then”.

The Sweet Taste of Success
Dhiman Chattopadhyay

Meenakshi Saraogi, Joint Managing Director, Balrampur Chini

When IDBI agreed to finance the asset expansion of the Babhnan unit of Balrampur Chini a few years ago, it laid down a unique pre-condition: the company’s deputy managing director Meenakshi Saraogi would have to stay at the plant for at least six months to get the plant on stream!

For more than two decades Meenakshi, now 58, has been the driving force behind Balrampur Chini Mills Ltd. – working quietly, away from the publicity and media hype and yet making herself heard within the industry. In 1992 the country recognized her worth and honoured her with the Padma Shri award for her contribution to Indian industry.

When she joined Balrampur in 1980, it was an insignificant mill lost in East UP. Today Balrampur is one of the biggest agriculture-based corporate success stories in the country.

When she took charge, the sugar mill was a single location company. By the end of 2003, Balrampur will be placed across four locations in UP alone.

Born in 1944 into an affluent Kanpur-based business family, Meenakshi studied at St. Mary's Convent in Nainital and graduated from Kanpur. In 1964 she married into the Kolkata-based Saraogi family. "I found business conversation quite boring. I was happier looking after my children and pursuing hobbies like painting and embroidery" she says.

The break came in 1979 when the family business appeared headed for a split. Husband Kamal Narayan Saraogi was advised to sell off the loss-making Balrampur sugar plant. It was then that he discussed the matter with Meenakshi and she stepped into the company as a professional for the first time.

Her biggest disadvantage turned out to be her biggest asset: her ignorance. She set about learning business from the basics – studying cash vouchers, bills and master files. Meanwhile, she continued to wield control with 15 managers reporting to her each day.

During her first year, she made an interesting discovery. "I found bills for non-existent purchases, a slack workforce and low capacity utilization due to inadequate spares," she says. She made an unprecedented decision – sacking the general manager, the chief chemist, the cane manager as well as the factory manager in quick succession and filled their positions with young and enthusiastic replacements.

There were many voices of protest and the workers even went on strike. But they were silenced when at the end of her first full year in office, Balrampur Chini recorded a profit of Rs. 44 lakh, after sustaining losses for two years.

"I brought in a lot of changes," she recalls. Records confirm her claim. Meenakshi did not allow her executives to sit inside their offices. On the contrary, they were encouraged to be on the shop floor. Workdays were extended from 8 a.m. to midnight. As a result, all expansion programmes were formulated not inside the boardrooms but on the shop floor.

Meenakshi took operational and financial control of the company until 1986, when she delegated the responsibility to her son Vivek, who is Balrampur Chini's managing director at present.

No wonder then, that this dynamic lady, even at 58, continues to lead from the front as joint managing director and takes Balrampur Chini to greater heights.

**Ever on the go
Kinjal Shah**

Simone Tata, Chairperon, Trent

Reticent, shy, soft are the words that come to your mind when you meet Simone Tata, the 72 year-old chairperson of Trent – one of the fastest growing retail chains in the country. Behind this soft cover is a woman, who has been a pioneer of sorts, a trend-setter and the key driver of fashion and beauty in the country. Simone Tata has several firsts to her name – the first businesswoman to introduce cosmetics to Indian consumers, the first businesswoman to start the practice of beauty salons in the country, the first to introduce a 100 per cent private label store in the country. And all

these achievements have been the outcome of a very clear and deep understanding of the consumer. Says an ex-employee of Trent (formerly Lakme), “Nobody can ever make out from her knowledge of the consumers that she is not an Indian. It is only her style and the way she conducts herself, that makes you realize her foreign upbringing”.

Born in Geneva, Switzerland, Simone's early childhood was deeply influenced by the events of World War II, which created hardships and insecurity in this small country. This is perhaps the reason for the kind heart and loving personality that her employees and people who come in contact with her claim are her biggest assets. Her association with India started when she was working for Air-India and developed a keen interest in the country. Her marriage to Naval Tata in 1955 further fortified this association.

French to the core in her love for the perfectly made-up look, Simone Tata started India's first indigenous beauty company, Lakme, in 1962, which went on to become synonymous with high quality affordable products that were international in appeal, yet very Indian. She developed and sharpened her entrepreneurial skills on Lakme, and was appointed as its first MD in 1964 and also assumed its Chairmanship in 1982.

Simone is credited with the introduction of several product categories, which were unheard of in India, like pencil *kajal*, hair removing lotion, winter care and sunscreen lotions. Over the years, Lakme became India's premier cosmetic company with the highest brand recall amongst women. The company also developed powerful export markets in Russia and Eastern Europe.

Despite such acclaim, Simone has always taken care to see that her customers get the best quality at the right price – and under no circumstances has quality been compromised upon. Adds another ex-employee, “If it was a choice between cost and quality, she would go for quality at any cost”. It is due to this undeterred devotion that Lakme grew by leaps and bounds. From a turnover of about Rs.11 crore in 1981, in 1996 when the company was sold to HLL, Lakme managed a turnover close to Rs.150 crore in a difficult market like India.

For industry observers, her exit from Lakme was a signal of retirement – but not for Mrs. Tata. She was ready for more challenges. Her Lakme experience had apprised her of the difficulties consumers faced due to lack of proper displays in the stores and lack of knowledge of the products. This in many ways was back to square one for a person, who was at the helm of affairs of a flourishing business. But it did not deter her. The Westside store chain was her answer to the problems faced by consumers.

In just three years, Westside is opening its eighth store shortly. Says an employee, “Our biggest strength is that we keep refining ourselves and improving our offering.”

Simone has never believed in resting on her laurels. Under the aegis of her skillful stewardship, the company also introduced the latest retail management technique like balanced scorecard, effective merchandise and sourcing techniques and forward looking human resource practices. In March 2002, the company achieved a turnover of Rs. 91 crore and a profit of Rs.10 crore. The company is now looking at rapidly expanding the Westside model

to other cities. It wants to cover most of the big cities — metros and mini-metros of the company. In the next financial year itself, the company has planned three new stores. Next, Trent plans to enter food retailing by the end of this year.

But this sharp business person is also a very kind woman. Says an employee of the company, “as a leader she is not only knowledgeable, but also open to all discussions and debate. Her respect for her colleagues is what draws us to her. Even when she is giving negative feedback, she will say it so politely, that no one feels hurt. Finally she also involves herself and goes out of her way to solve any problems her employees face.” As also the level of empowerment she gives to her employees. Continues her colleague, “She gives us so much freedom, that it really gets the best out of us”. Perhaps this is the main reason, why Simone has been able to develop such wonderful teams, who have been the secret behind her success.

Industrious Hospitality Nona Walia

Priya Paul, President, Park Hotels

Priya Paul had a boutique thought. She wanted to create a chain of hotels that would think for its clients. It would be a boutique hotel. She wanted to create a hotel that would know how you like your tea; which side of the bed you wake up on; a hotel that listened and understood life. Today, she runs three boutique hotels and plans to open two more shortly.

In the last few years, Priya Paul has fitted perfectly into her role as president of the Park Hotels and director of Apeejay Surrendra Group. Taking over as president of The Park Hotels in 1990, the lack of training did not stop her from realizing that the time was right to redefine and reposition the hotels. She decided that the key to The Park’s success would be the creation of a different product in each market where it had a presence and not support the established ‘chain’ concept.

Of course she has succeeded, as is evident by the following figures: When Priya took over as President in 1990-91, the group’s occupancy was 25 per cent. The average room rate (ARR) was Rs. 938 and total revenues amounted to Rs. 5.5 crore. In 2000-01, occupancy was up at 65 per cent, ARR was Rs. 2,828 and total revenues amounted to Rs. 60.7 crore.

“I believe in being different. I want my hotels to be different from each other. We’re winners all the way,” says a confident Priya. In the last few years, she’s been on top in the hotel industry and her specialization in ‘luxury boutique hotels’ has made her a success in her own right. “I believe in making my chain of hotels stylish and fun rather than sticking to the formal and stiff image synonymous with hotels. We’ve tried to become hip `n’ happening.”

Be it the hottest nightclub Tantra at the Park, Kolkata; the pulsating Latino Bar and Someplace Else in New Delhi; Bamboo Bay in Vishakhapatnam; I-talia, the Italian restaurant or I-Bar, the techno-electric, neon field in Bangalore, the 36-year-old Priya has always gone for the original. She’s also the vice-president, Hotel Association of India (HAI), member Confederation of Indian Industries (CII), founder member, World Travel Tourism Council and member of the advisory board of directors, IIM, Lucknow.

“Being a good manager isn’t a man or woman thing. It’s about being good or bad in your job. I think people who are team players, don’t mind getting their hands dirty, understand issues and have high level of commitment.”

So, what does success mean to her? “It’s about finding fulfillment in what you’re doing. It’s not the same as financial success. I don’t count success in numbers. I define my goals.”

After her father, Surrendra Paul’s death 12 years ago, she was more than determined to throw herself into work. “I knew repositioning the hotels was a must. I tried to make the hotels younger and more vibrant. I believe in creating exciting products at fair prices. My hotels are about quality.”

Her discipline made her win the Young Hotel Entrepreneur Award from the Federation of Hotel and Restaurant Association of India (FHRAI). “I’m a creative person. I keep doing things differently. I identify myself with all forms of expression. May be that’s why I’m a success in the hotel industry.”

Corporate Conscience
Abhay Vaidya

Anu Aga, Chairperson, Thermax Limited

Does corporate India have a social conscience? Does corporate India have a stake in India’s secularism and communal harmony? Can Indian industry prosper amidst the death and destruction unleashed by communalism? Anu Aga was among the first corporate leaders to raise these concerns after the recent Gujarat carnage. Unhappy with the Indian industry’s reluctance to take a stand against communal violence, Aga regrets that corporate India has done little to strengthen secular values despite having the financial muscle and manpower. Chairperson of the much-respected Pune-based engineering group, Thermax Limited, Aga, 61, has won many admirers through her commitment to secularism and concern for the needy. This, despite passing through trying times – both in her personal life and on the corporate front.

The four years, from 1996 to 2000 were the toughest and the most painful in her life. In February 1996, she lost her husband Rohinton, who was the heart and soul of Thermax. A year later, her 25-year-old son, Kurush, died in a car accident.

This was also the time when Aga found herself in charge of a company, which like all engineering industries, suffered a downturn. Thermax posted losses and the situation called for drastic steps. Tough decisions followed and Aga exited non-core businesses, closed down a number of floundering joint ventures, trimmed workforce and completely overhauled the Thermax board.

Thermax has achieved a turnaround by posting Rs. 24.01 crore profit for the year ended March 2002, after a loss of Rs.13.22 crore in the fiscal year 2001. The company is now in the hands of a professional management team.

Immense faith in God has helped Aga cope with the tragedies of her life. “I am not a religious person, but have immense faith in God. I feel He knows what’s best for each of us,” says Aga. This faith, and the love and support of her family and friends... this is what Anu Aga values enormously. During

this difficult period, she also discovered the therapeutic value of Vipasana and since then, meditates for an hour every day.

At Thermax, her key contribution has been in the area of human relations based on trust, encouraging innovations and de-emphasising hierarchies. These value systems, says Aga, existed in the company “right from my father’s time and continued during my husband’s tenure”. What this graduate of Mumbai’s St. Xavier’s College and Tata Institute of Social Sciences did was to strengthen this tradition.

“We take performance for granted,” says Aga about her work at Thermax. “But there’s no soul in simply making profits.” And therefore, the effort to make Thermax “human” through an enjoyable work environment and a purposeful place for each employee. In addition to her priorities on the family and corporate front, Aga finds time to do her bit for communal harmony. In her own small way, she carries on the crusade for peace and tolerance by speaking to students in Pune “to fight prejudice than often gets ingrained and set at a young age”.