



NGO Sector Review – Discussion Paper

The Local NGO Sector within Bosnia-Herzegovina – Problems, Analysis and Recommendations

OCTOBER 1998, SARAJEVO

IBHI, ulica Derviša Numića 50, 71000 Sarajevo, Bosnia and Herzegovina

Tel: (+387-71) 657-595/657-721; Tel/Fax: (+ 387-71) 656-479

E-mail: ibhi@bih.net.ba, ibhi@ekis.com.ba

Table of Contents

Introduction

PART ONE – The Regulation of NGOs in BiH and Recommendations for the Future

I	Introduction	4
II	The Present Legal Status of NGOs in BiH	5
III	The Constitutional Foundation and Framework for the NGO Regulation in BiH	6
IV	Recommendations – Proposed Changes in the Legal Treatment of NGOs	11

PART TWO – The Financial Regulation of NGOs in BiH

I	Introduction	14
II	Financial Resources and Sources of NGOs Resources in the FBiH and the RS	14
III	Financial Regulation of NGOs in the FBiH and the RS with Regard to Customs and Fiscal Benefits	18
IV	Recommendations for Improving the Financial Regulation of NGOs	24

PART THREE – The Local NGO Sector and its Role in Transition

I	Introduction	25
II	Background to the NGO Sector in BiH	25
III	Forms of NGO Activities	28
IV	NGO Structure According to Sectors	29
V	Geographical Distribution of NGOs	31
VI	Main Problems Facing NGO Development	31
VII	Indicators Relating to the Economic Position of NGOs	32
VIII	Role of NGOs in the Transition of the Social Policy System	35
IX	Recommendations	37

PART FOUR – Relationship Between International Agencies and Local NGOs in

I	Introduction	38
II	International Agencies in BiH	39
III	Promoting Civil Society	42
IV	Conclusion	45

Annex 1		46
----------------	--	----

INTRODUCTION

As a multi-ethnic State, BiH must ensure the protection of not only the principles of democracy, the rule of law, human rights, fundamental freedoms and transparency of public institutions, but also those structures and associations which enable citizens to take advantage of such opportunities and rights. The strengthening of sustainable non-governmental organisations, or the so-called "third sector", in accordance with the aims and objectives of the public at large, should facilitate the participation and accountability of citizens at a grass roots level.

Within BiH, sustained efforts should be made to promote rapid development of the civil society, through the establishment and strengthening of independent grass roots associations, all the more so in view of this development is heightened in the light of the fact that the governmental institutions of Bosnia-Herzegovina, both within the Federation and the Republika Srpska, are functioning inadequately and are often be-devilled by political complexities. Democratic elections alone cannot offer a panacea for these problems. National policies remain conditioned by the inheritance of recent history. Due to this situation, a weak "third sector" would merely contribute to existing problems. It follows that the development of the civil society, and thus the alleviation of many of the difficulties facing BiH, depends upon the development of what may be called the "missing link". It may take the form of a broad spectrum of institutions, operating at the grass roots level, such as citizens' associations and national NGOs. These institutions would offer a practical route through which to develop pluralism in Bosnia-Herzegovina. Experience has demonstrated that the most efficient way by which to accomplish multiethnic co-operation is at the grass roots level, where the focus is upon common, everyday problems and the approach is often more pragmatic.

It is essential to note the specific role played by national NGOs in Bosnia-Herzegovina. Due to their unique understanding of the local environment, national NGOs have made better progress in the field of social protection, as compared to the international NGOs. Humanitarian aid has already been considerably reduced and as various international organisations begin to phase out, it will be further reduced. It is clear that the strengthening of national NGOs is the most cost-effective way to continue humanitarian activities. Moreover, the development of a sustainable and widespread NGO network, within Bosnia-Herzegovina, will offer a smoother and less painful transition from an emergency situation to an environment of sustainable socio-economic development.

In the light of the factors outlined above, IBHI, in the context of the project "The Development of the Local NGO Sector and Promoting its Sustainability in Bosnia-Herzegovina", implemented with the support of the Government of the Netherlands, developed a discussion paper entitled "The Local NGO Sector within Bosnia-Herzegovina – Problems, Analysis and Recommendations" which in four parts deals with the main problems facing the NGO sector. This applied research was carried out in conjunction with the activities of the LEA/LINK project. It constitutes thus a continuation and expansion of the work on the project. Relevant ICVA data was also used.

Based upon the results of the LEA/LINK project, particularly regarding the legal regulation of NGOs (including a draft discussion version of the Law on Associations and Foundations), the research focused upon the position of NGOs within the Constitution, problems associated with the regulation of NGO finances (taxes, customs), the NGO sector and its role in transition, as well as the

relationship between international organisations and local NGOs. The Annex provides an analysis of the structure, activities and problems facing 200 NGOs covered by the CIP data base.

Whilst this document should be viewed as a whole, its individual sections benefited from the input by the following IBHI experts: Part One - Prof. Dr. Neđo Miličević, Part Two - Jasminka Džumhur, Part Three - Novka Agić, Part Four - Prof. Dr. Paul Stubbs. Dr. Žarko Papić - IBHI Resident Director, while Gavin Hood - IBHI Consultant and Ana Abdel Basit - IBHI Research Officer were responsible for the coordination of the work and editing of the text.

The preliminary results of the first version of the work were discussed at the roundtable "The Present Position and Role of Non-Governmental Organisations in Development of Civil Society – Strengthening the Local Non-Governmental Sector", held on 28 October, 1998 in Banja Luka. This Round table involved the participation of a large number of NGO representatives and experts in this field, from both the Federation of Bosnia-Herzegovina and the Republika Srpska. The results of the discussions have been used in the final version of this document.

The present Discussion Paper, together with a policy suggestion document "The Regulation of Non-Governmental Organisations within the Federation of Bosnia-Herzegovina and Proposals for the Future" (a similar document will be formulated for the Republika Srpska) should be viewed together. They represent the start of IBHI's action-oriented research aimed at bolstering the sustainability of the NGO sector in Bosnia-Herzegovina. These documents will be presented and will, hopefully, be useful to local NGOs, the authorities within Bosnia-Herzegovina as well as international organisations. IBHI will continue its work on these important issues through various forms of cooperation with these bodies.

October 1998, Sarajevo

IBHI

Part One

THE REGULATION OF NON-GOVERNMENTAL ORGANISATIONS IN BOSNIA-HERZEGOVINA AND RECOMMENDATIONS FOR THE FUTURE

I Introduction

In order to understand the legal framework regulating non-governmental organisations within Bosnia-Herzegovina, it is essential to first consider the basic framework of the Constitution of BiH, the organisation of State authorities, and the legal system currently in place.

Bosnia-Herzegovina is a State which consists of a highly complex and *sui generis* organisational and functional structure, in which its two Entities have a high level of autonomy in exercising a number of functions attributed to them.

It was envisaged that, following the signature of the GFAP, a legal system would be developed to implement those basic principles found within the Constitution of Bosnia-Herzegovina (Dayton Constitution). This legal system remains, however, in its birth stage. Moreover, the legal systems developed by the Entities were created independently of one another. They remain, by and large, characterised by those laws developed during the war, thus meeting specific war needs, as well as laws inherited from the former system.

The enactment of new laws is, to some extent, regulated by a Constitutional obligation to apply and ensure adherence to international law. Integral to the Constitution of Bosnia-Herzegovina are 16 international instruments including the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto. Their provisions have direct legal effect and supersede all other laws. When analysing the role and impact of this comprehensive international legal system, two factors must be noted;

- firstly, the pre-war legal system was not founded entirely within the context of international law and, in some respects, conflicted with such laws; and,
- secondly, there is a general lack of awareness of international laws amongst those involved in the legal system.

The Constitutional and legal organisation of Bosnia-Herzegovina and the State authorities is based upon a pronounced dominance of “national” interests. One consequence has been that the Constitutional organisation of the Entities, and the organisation of State authorities within them, differ significantly from one another. The Federation of Bosnia-Herzegovina is characterised by decentralisation. The Republika Srpska is, however, organised in a more centralised way. One manifestation of this is that in the Federation of Bosnia-Herzegovina there are four vertical levels of State authority (Municipality, City, Canton and the Federal Government of Bosnia-Herzegovina). In the Republika Srpska, however, there are only two such levels (the Municipality level and the Republika Srpska Government level).

The organisational-functional asymmetry, outlined above, should be adjusted in order to achieve correlation between State organs. This, in turn, would lead to greater efficiency in the exercise of State authority and greater protection of the rights of citizens.

The central administrative organs for the State of Bosnia-Herzegovina have a very limited jurisdictional and functional mandate. Moreover, their decision-making process, outlined in the Constitution, is both complex and time consuming. The lack of Constitutional guidance on the

implementation of policy decisions (with the exception of the limited and complex powers of the Constitutional Court of BiH) means that the limited number of decisions reached are sporadically enforced, depending upon the will of the Entities.

It follows from the Constitutional and legal framework existing within BiH that significant differences exist between each Entity, regarding the regulation of the same social relations. The legal treatment of the non-governmental sector within Bosnia-Herzegovina must be seen in this context. If the principles guiding basic social relations cannot be formulated within an ethos of co-operation and complementarity, then little progress can be expected within the context of the Constitutional proclamation on the "freedom of movement for people, goods, services and capital across Bosnia-Herzegovina".

Bosnia-Herzegovina has two distinct Entity systems for the protection of human rights and, at the level of the State, there are no institutions able to efficiently provide and harmonise such protection. The effect that this system may have on safe and unhindered legal transactions and upon the relations between the individual and authorities from different Entities, particularly court authorities, remains to be seen.

II The Present Legal Status of Non-Governmental Organisations in Bosnia-Herzegovina

The current regulation of the right to freedom of association within BiH is both inadequate and untenable, this is exemplified in the following respects;

- a number of legislative provisions conflict with the Constitution of Bosnia-Herzegovina and the European Convention on the Protection of Human Rights and Fundamental Freedoms;
- a number of legal provisions hamper, and even prevent the normal conduct of work and the operation of non-governmental organisations;
- despite a clear necessity, a number of issues and relations in this field remain unregulated.

The regulation of the right to associate in Bosnia-Herzegovina is currently divided between the Federation and the Republika Srpska. The Law on Association of Citizens, passed in 1995, is in effect in the Federation of Bosnia-Herzegovina. In the Republika Srpska Law on Association of Citizens, a regulation passed by the Federal Republic of Bosnia-Herzegovina in 1990, was adopted by the Assembly of the Republika Srpska in 1992.

These laws were passed during the war before the enactment of the Constitution of Bosnia-Herzegovina (the Dayton Constitution). As a result of this timing, the laws completely (in the Republika Srpska) or to a great extent (in the Federation of Bosnia-Herzegovina) inherit provisions from the law that was in force in Bosnia-Herzegovina in the pre-war system.

Although these relations were standardised, before the Dayton Constitution in each of the two Entities, they failed to resolve a number of issues affecting the regulation of the constitutional right of association within Bosnia-Herzegovina. It thus remains unclear as to whether citizens' associations are free to operate throughout the territory Bosnia-Herzegovina. Clarity is particularly required in this regard in the light of the fact that the responsible organs within the Entities will not allow the registration of those associations which stipulate, in their founding act or statute, that they will operate in the whole of the territory of BiH. Moreover, differences that exist between the Entity laws may throw into question the principle of equality, between the citizens of BiH, in the exercise

of the right to freedom of association.

Each of the laws identified above, in regulating the right to freedom of association, reflect the contradictory and transitional environment within which they were enacted. The title of the laws, "on association of citizens" indicate that the legislatures intention was to make a social process legally normative. Instead of dealing with its form, thus leaving the content of the process to its actors, these laws purport to regulate the act of "association" rather than the associations themselves. The concept of "association" represents a natural social process which, as a rule, is both difficult and unnecessary to legally regulate. Regulations should instead target the association in its formal, legal personality.

Whilst the law, regulating the activities of Associations, grants them legal personality for the purposes of economic activities, it fails to incorporate any restrictions. It follows from this lacunae that, whilst citizens' associations are not defined as non-profit organisations, they are not required to allocate profits for the development of the associations' basic activities.

The registration of associations is a precondition to their acquisition of legal personality. Registration is a two-stage process. Firstly, there must be 30 citizens of full age, who can confirm in writing that they are founding the Association. This high quantitative threshold essentially acts as a barrier to the formulation of such Associations. Secondly, the group must actively register. In the Federation of Bosnia-Herzegovina the Ministry of Justice – either of the Federation or the Canton, depending on its jurisdiction – is in charge of registration. On the other hand, in the Republika Srpska, registration is adjudicated by the high court, consisting of a three-judge panel. In that their role is reduced to verifying the registration conditions, one immediate question is whether a panel of judges is actually required.

The manner in which both laws regulate the termination of Associations is general and superficial. This evaluation is exemplified by the option, given to the responsible States to enter into arbitration. In practice, the use of this option may become common-place, motivated, at least in some respects, by a provision of the Law of the Federation of Bosnia-Herzegovina, that the organ also decides on "measures related to property" (Article 38), and in the Law of the Republika Srpska with an even more drastic conclusion that "property of the association becomes ownership of the municipality where the association is based" (Article 19).

III The Constitutional Foundation and Framework for the NGO Regulation in Bosnia-Herzegovina

The legal personality of non-governmental organisations in Bosnia-Herzegovina must be seen in the light of Article 2 (1) of the Constitution of Bosnia-Herzegovina. Pursuant to this article, Bosnia-Herzegovina and both Entities are obliged to ensure "the highest level of internationally recognised human rights and fundamental freedoms."

Paragraph II provides that "the rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia-Herzegovina." These shall have priority over all other law. Article 2 (3) enumerates a number of special rights and freedoms including, in sub-section (I), the right of all persons within the territory of BiH to enjoy "... the freedom of association with others."

Freedom of association is thus encapsulated as a constitutional right. Any restrictions placed upon the exercise of this right must accord with Article 11 (2) of the European Convention which provides that "no restrictions shall be placed on the exercising of these rights other than such as are prescribed

by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others".

The right to freedom of association is also encapsulated in a number of international treaties and conventions, contained within Annex I to the Constitution. Article 2 (7) of the Constitution incorporates these Conventions within the law of BiH, providing that Bosnia-Herzegovina "shall remain or become a signatory party to the international agreements." Each signatory party to these agreements is placed under a number of obligations. Compliance with these obligations hinges, however, upon the existence of a number of conditions within the State.

Each Entity is under a duty to "provide all necessary assistance to the Government of Bosnia-Herzegovina" in order to ensure compliance with the "international obligations of BiH." Concomitant to this, the Entities shall "maintain" civilian law enforcement agencies operating in accordance with civil institutions *for applying* legal regulations, which will function in accordance with internationally recognized standards, with respect for the internationally recognized human rights and fundamental freedoms (Referred to in the Constitution of Bosnia-Herzegovina)."

A central question remains as to how, in the light of the demographics of authority and responsibility within BiH, these constitutional and international standards will be reached?

It is clear that non-governmental organisations should be legally regulated. In Bosnia-Herzegovina, however, laws are passed by three separate legislative authorities: The Parliament of Bosnia-Herzegovina, The Parliaments of the Entities and Cantonal Parliaments. It is therefore necessary to analyse the Constitutional provisions relating to the responsibilities of all three legislatures, in order to ascertain the Authority responsible for the regulation of non-governmental organisations.

1. The responsibilities of the institutions of Bosnia-Herzegovina are enumerated in two ways by the Constitution of Bosnia-Herzegovina:

- a) as binding, and
- b) by a general optional clause on so-called "additional responsibilities."

The responsibilities of the central government institutions are contained in Article 3 (I) (a-j) of the Constitution of Bosnia-Herzegovina, they are as follows:

- Foreign policy.
- Foreign trade policy.
- Customs policy.
- Monetary policy, as provided in Article VII.
- Finances of the Institutions and for the international obligations of BiH.
- Immigration, refugee and asylum policy and regulation.
- International and inter-Entity criminal law enforcement, including relations with Interpol.
- Establishment and operation of common and international communication facilities.
- Regulation of inter-Entity transport.
- Air traffic control.

Almost those given responsibilities there is no mention of the regulation of non-governmental organisations. This lacunae should be read in the light of Article 3 (3) (a) where by, "All governmental functions and powers not expressly assigned in this Constitution to the institutions of Bosnia-Herzegovina shall be those of the Entities".

Does this presumption that mean that the legal regulation of the personality and operation of non-

governmental organisations rails within the domain of the Entities?

In seeking the answer to this question one should bear in mind the following provisions of the Constitution of Bosnia-Herzegovina:

a) Article 3 (3) (b) indicates that "The Entities and any subdivisions thereof shall comply fully with this Constitution," and that, "The general principles of international law shall be an integral part of the law of Bosnia-Herzegovina and the Entities".

b) Article 3 (2) (c) further details the obligations of the Entities, stating that, "The Entities shall provide a safe and secure environment for all persons in their respective jurisdiction... in accordance with internationally recognised standards and with respect for the internationally recognised rights and fundamental freedoms (outlined in Article 2)." One of these internationally recognised rights and fundamental freedoms is the right to freedom of association.

c) The provision regarding "Additional Responsibilities" (Article 3 (5) of Annex 4) indicates that Bosnia-Herzegovina "shall assume responsibility" for, among other things those matters round within, "Annexes 5 through 8 to the General Framework Agreement".

Annexes 5-8 of the General Framework Agreement include the Agreement on Human Rights (Annex 6). This Agreement specifically states that "Freedom of Association with others" is a fundamental freedom that shall be provided to "all persons" in Bosnia-Herzegovina, without discrimination (Article I).

It follows from the provisions outlined above, that *the freedom of the citizens of Bosnia-Herzegovina to associate with others is a right enshrined within the Constitution of Bosnia-Herzegovina, for which both the State of Bosnia-Herzegovina and the Entities must provide, without discrimination.* One also has to bear in mind, that the rights and freedoms outlined in Article II of the Constitution of Bosnia-Herzegovina, (amongst which is the right to freedom of association), *cannot be abolished or restricted even by modifications of the Constitution of Bosnia-Herzegovina.* It follows from this construction that limitations cannot be implemented through either the Entity constitutions or their laws.

2. Whilst the Entities have the power to regulate the legal personality and operation of non-governmental organisations, they are obliged to adhere to a number of requirements.

a) "Association of citizens with others" must be in harmony with the Constitution of Bosnia-Herzegovina, with Annex 6 of the General Framework Agreement and with the European Convention for Protection of Human Rights and Fundamental Freedoms.

b) This right of association must be secured, without discrimination, for all the citizens of Bosnia-Herzegovina.

c) Citizens of Bosnia-Herzegovina (in both Entities) exercise right to freedom of association with others *on the basis of the Constitution of Bosnia-Herzegovina*, that is to say those provisions outlined above at sub-paragraph (a). The general Acts of the Entities (including their Constitutions), which refer to a freedom of association, do not constitute this right, but merely confirm its existing status, established through those treaties, conventions and domestic legislation that have higher force (the Constitution of Bosnia-Herzegovina and the European Convention for Protection of Human Rights and Fundamental Freedoms). The fact that this right is also contained within the Constitutions of the Entities does not bring into question the primary legal basis for its protection. That basis is found within the Constitution of Bosnia-Herzegovina. The Constitution is a superior act in relation to which the Entity Constitutions must be harmonised. (Article 3 (3) (b) of the Constitution of BiH)

The authority granted to the Entities in regulating the right to free association in their laws, is a

consequence of the division of authority within the State. This regulatory authority is limited to the *manner in which the right is exercised*, and thus does not impinge upon the scope and content of that right (as defined by the Dayton Constitution).

3. The question that arises is how to secure conditions outlined above and what are the rights and responsibilities of the State of Bosnia-Herzegovina to that end? The following exemplify a number of possible approaches:

a) There are many reasons to conclude that, within the framework of, the Constitution and on the basis of the so-called "additional responsibilities" (Article 3 (5) (a)) of the Constitution of Bosnia-Herzegovina), a law should be passed, at the State level, to regulate the association of citizens. These laws should seek to secure equal treatment throughout BiH, in the exercise of the right to freedom of association, thus guiding those laws passed in the Entities .

b) Article 6 (3) of the Constitution of Bosnia-Herzegovina indicates that the Constitutional Court of Bosnia-Herzegovina is responsible for deciding "Whether any provision of an Entities Constitution or law is consistent with this Constitution". The exercise of this responsibility should result in the amendment of any provisions that are in contravention of the individuals right to freedom association arising from the Constitution of Bosnia-Herzegovina.

c) In the light of the legislative and executive authority granted to the Entities, the Parliamentary Assembly of Bosnia-Herzegovina should consolidate their activities, through legislation. Such laws should ensure that any decisions and Acts passed by State organs and authorised organisations in one Entity, have equal weight in the other Entity. The registration of a non-governmental organisation in one Entity should therefore be accepted and recognised throughout Bosnia-Herzegovina.

b) The Constitutions of both Entities state that the rights and freedoms guaranteed under the Constitution are to be protected by the domestic courts. Domestic legislation must therefore comply with those obligations which arise from Article 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. In order to ensure proper compliance with the provisions of the Constitution and, *a fortiori*, with the international laws therein, the law of Bosnia-Herzegovina should stipulate that the decisions of the courts apply throughout the territory of Bosnia-Herzegovina.

The Parliamentary Assembly of Bosnia-Herzegovina should also provide guidance in relation to the conduct of State organs within the Entities. Such guidance would be particularly apposite in the light of those international contracts which stipulate that, "the law of Bosnia-Herzegovina shall be responsible" for certain legal relations. It follows from these agreements, that "an organ of Bosnia-Herzegovina shall be responsible" for resolving conflicts surrounding such relations. The law should also provide guidance as to the jurisdiction and mandate of those bodies responsible for the implementation of international laws. This would contribute to the protection of the Constitutional right to freedom of association and, in this regard, facilitate equality of treatment throughout Bosnia-Herzegovina.

4. If, regarding the Constitutional provision on so-called "additional responsibilities", agreement cannot be reached for the Parliamentary Assembly of Bosnia-Herzegovina to pass legislation within certain fields, it does not follow that harmonisation of laws cannot be achieved between both Entities.¹ Consideration should be given to the provision of other instruments, apart from Central

¹ Two examples from history, which were present in this region, may be used as evidence.

State legislation, by which the regulation of certain activities within the Entities could be more easily harmonised. This could take the form of, *inter alia*, "agreements" and "positions", which could be adopted by certain organs (such as the Presidency of Bosnia-Herzegovina, the Council of Ministers, an organ formed by the Parliamentary Assembly or delegated by the Entity Assemblies) and implemented through Entity legislation.

The legislative basis by which to develop this "authority framework" can be located within the "additional responsibilities" provision of the Constitution (Article 3 (5) (a) of the Constitution of Bosnia-Herzegovina). This Article provides the basis by which legislation with a common aim can be passed, and through which any "encroachment" upon the Constitutional Jurisdiction of the Entities can be limited.

5. Finally, Entity lawmakers themselves have the power to include within their laws provisions for the regulation of different forms of citizens' associations registered within the other Entity. This hinges upon the initiative taken by the Entity Authorities and thus the form and timing remain uncertain. Moreover, this may result in significant and unjustified differences in the conduct of the Entity Assemblies.

6. Pursuant to Article 3 (2) of the Constitution of the Federation of Bosnia-Herzegovina, Federal authorities and Cantons have joint responsibility for, *inter alia*, "guaranteeing and implementing human rights." It is provided that, depending on their needs, common responsibilities "may be realised jointly or separately, or by Cantons with coordination by the Federal authorities" (Article 3 (3)). The participation of the Cantons in the legislative process affecting the association of citizens is therefore secured. The Constitution of the Federation of Bosnia-Herzegovina has however anticipated several ways in which this participation can take place.

In the light of the fact that, pursuant to Article 5 (1) of this Constitution, the Cantons are authorised to undertake "all necessary measures to protect human rights and freedoms," and that the legal foundation for the right to freedom of association is contained within the Constitution of Bosnia-Herzegovina and the European Convention on the Protection of Human Rights and Fundamental Freedoms, "joint responsibility" must be realised "jointly" at the Federation level. An argument in support of this proposition is contained within the Constitutional provision by which "the federal authorities are entitled to define policy and pass laws related to each of these responsibilities" (referring to "joint responsibilities" – Article 3 (3) (3) of the Constitution of the Federation of Bosnia-Herzegovina).

In the light of the comments outlined above, there are both principled and pragmatic rationales for the Entities to engage in joint regulation. Co-operation of this nature would be particularly apposite

a) The Austro-Hungarian Monarchy did not have one parliament, but two separate ones. However, these parliaments constituted a common organ, composed of an equal number of their members, with the task of deliberating and taking positions on the legislative needs of the Monarchy. In cases when laws were passed by the separate parliaments, it was considered an obligation to create them in harmony with the positions taken by the common organ.

Taking advantage of this possibility should not neglect the fact that Bosnia-Herzegovina has its own parliament. This possibility can be used only in cases and relations that are not in the jurisdiction of that parliament, and if the Entities cannot agree on it in the sense of "additional responsibilities".

b) The Constitution of the former Yugoslavia did not stipulate jurisdiction of the federal organs in the fields of fiscal policy and the fiscal system. However, the Constitution did include a provision on the republics' obligation to "harmonise fiscal policy and the fiscal system by mutual agreement", after which they, within their rights and duties, regulated this field by their laws (taking into account the obligations assumed under those agreements).

when dealing with the protection of the human rights and fundamental freedoms of all the citizens of Bosnia-Herzegovina. The need for harmonisation in the field of legislation is reinforced by the fact that the Constitutional rights and freedoms of man, as the highest values that he exercises in the State, cannot be secured if the level of protection from injustice depends upon the area or Entity in which he lives.

IV Recommendations – Proposed Changes in the Legal Treatment of Non-Governmental Organisations

It is clear that a legislative framework should be established, at the level of the State, which provides guidance to the Entities regarding the regulation of non-governmental organisations. A primary question stemming from this commitment relates to the forms of Association that should be included within this framework. In the existing legal system, the most effective approach would be for each Entity to pass a basic law on citizens' associations. This law should be highly generalised, avoiding the detailed regulation of specific forms of association. Provisions should be drafted in such a way that they can be applied with regard to a number of forms of association of citizens, pending the enactment of separate regulations to address the needs of specific types of Association.

An approach of this kind would facilitate the development of a basic legal framework, thus ensuring some equality of treatment whilst acknowledging the need for more specific laws to address the requirements of certain forms of Association.

The law should not, however, refer to political parties, religious communities, syndicates and employer associations. These forms of association have specific characteristics, which require special legal treatment in a basic law.

In seeking to regulate one of the most important Constitutional Rights, the law on Association should ensure that the needs and interests of citizens are protected. These interests could be determined jointly by Statute, or through the development of specific organisations. Whichever approach is adopted, the law should ensure that the individual citizen is involved in the need identification process. The law should also adhere to those international laws having direct effect within BiH. In this regard, any statutory restrictions placed upon the right to establish and operate associations, must comply with Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The establishment of an association should not be guided solely by its registration but rather by the specific designs of its founders. Registration with the responsible State organ should merely represent the pre-condition to the acquisition of legal personality.

The law should ensure that associations of citizens are not profit making enterprises and that any profits made are re-invested in the organisation. This approach would accord more closely to the nature and purpose of such associations.

It is common practice that the titles of associations often include the names of the State, Entity, Canton, city and Municipality, their derivatives, or their coat-of-arms and flag/symbols, as well as the names of historic and other famous personalities. The law should stipulate that this is admissible, only if at all, with the approval of the responsible State organ.

In order to ensure compliance with international law, provision must be made to allow citizens' associations registered in one Entity, to operate freely throughout the territory of Bosnia-

Herzegovina. Associations should also be free to associate with one another, to establish bi/multi-lateral membership agreements as well as agreements with foreign and international associations, providing the activities of the latter are not in contravention of the Constitution and the law of BiH. Foreign and international associations must be accorded the right to open offices and operate in the territory of Bosnia-Herzegovina and to enjoy a status analogous to local organisations.

There is a high level of consensus amongst the NGO sector in BiH that the pre-conditions for the establishment of an Association should be amended. This focuses particularly upon the present need for 30 able-bodied persons of age. It is submitted that fewer citizens of Bosnia-Herzegovina, who are able to work, should be able to establish an Association, whilst foreign citizens who have permanent residence or have resided for a certain period of time in the territory of Bosnia-Herzegovina should have the same right.

The new legislation regulating non-governmental organisations in Bosnia-Herzegovina should adhere to the rule that regulations should be developed to address those issues essential to the well-being and operation of the organisation. All other matters should fall within the authority of the founders of the associations. This would facilitate the development of independent, context-specific regulations, enshrined within the statute of the organisation.

In this regard, the central registration should offer guidance as to the basic features of the Statute of the association. This should include regulations relating to, *inter alia*; the name and seat of the association, its area of operation, the activities of the association, the purpose and programme goals of the association, the conditions of membership and termination of membership, the rights, duties and responsibilities of members, the organs of the association, the procedure for their election, their powers and mutual relations, the duration of their mandates, the conditions and manner of recall, the decision-making process, the acquisition, use and disposal of resources, transparency of work, the process by which the statute is drafted, the authority by which to adopt, and process of adoption of, other general acts and provisions on the seal and representation of the association. The responsible registration organ, when deciding on the registration application, is assigned the task of determining whether the statute adheres to the framework provided by the law. Inquiries and demands, relating to the internal organisation, operation, authority and decision-making structures of the organisation, would encroach upon the essential autonomy of the association.

During a public discussion, held recently with non-governmental organisations from both Entities of Bosnia-Herzegovina, an almost unanimous opinion was expressed that the courts should act as the registration organ for associations. In that the court can offer greater independence, procedural certainty and guarantees, it would seem the most appropriate body for NGO registration. The registration and termination of the association should follow the provisions for “out-of-court procedures”. This would expedite the decision on registration, which could be taken within 15 days. The founders must have the right to appeal against a decision rejecting or refusing the registration application.

It would be necessary to have a unified register of associations, in order to avoid potential conflicts (relating, for example, to the title of the organisation) and to provide greater security.

Associations may terminate for a number of different reasons. In the light of this flexibility, it is imperative that legislation is not enacted to restrict or control the nature of the associations. Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms states that no restrictions shall be placed on the exercise of these rights other than those prescribed by law and necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the

rights and freedoms of others. This provision limits the scope of any legislative attempts or practices aimed at banning the work of an Association. The adjudication of the termination or outlawing of an Association should be a matter for the courts, securing the right to participation and the right to appeal. The regulation of non-governmental organisations would certainly be greatly enhanced by the adoption of the "Law on Associations and Foundations," prepared by the Law Group within the "Lea-Link" project.

Part Two

THE FINANCIAL REGULATION OF NON-GOVERNMENTAL ORGANISATIONS IN BOSNIA-HERZEGOVINA

I Introduction

This chapter analyses the financial regulation of non-governmental organisations in Bosnia-Herzegovina. The different approaches to regulation in this field are analysed in the light of various forms of organisation of citizens in the two Entities. The approach adopted is to examine those regulations that have a direct or indirect impact upon the financial arrangements of associations of citizens in both Entities.

II Financial Resources and Sources of Non-Governmental Organisation Resources in the Federation of Bosnia-Herzegovina and the Republika Srpska

2.1. Financial Resources and Sources of Non-Governmental Organisation Resources in the Federation of Bosnia-Herzegovina

The Federation of Bosnia-Herzegovina, both during and after the war, passed laws that facilitate the development of different forms of citizens' organisations.

Each different form of organisation requires different financial resources by which to create a material foundation for the work of non-governmental organisations and thus to achieve mandated aims. This Report reviews each form of organisation of citizens, outlining potential sources of finance for that specific form of organisation.

2.1.1. Financial Sources and Resources for Associated Citizens in the Federation of Bosnia-Herzegovina

The most common form of organisation of citizens in the Federation of Bosnia-Herzegovina is the Citizens Association, regulated by the Law on Association of Citizens (FBiH Official Gazette No. 6/95).

Article 32 of the Law on Association of Citizens provides that associations shall obtain resources from membership fees, contributions, gifts and income from any enterprises which they own, and other sources in accordance with the law.

The following section will examine these sources of resource, looking at the practical significance of each for the work of Citizens' Associations.

2.1.1.1. Resources derived from Membership Fees

The economic recovery of BiH is continuing, albeit slowly. A large number of individual citizens remains, however, below the poverty line or in other serious financial difficulties. As a resource, membership fees are therefore of limited practical significance. In those rare cases where

membership fees are paid, the amount is usually symbolic. These fees can only partly cover the basic structural requirements of the organisation (utilities, rent and other material costs), leaving nothing for the organisations' programme activities.

Membership fees are usually required in clubs and sports organisations and are used for competition fees, at different levels and for different categories (Municipal, Cantonal, Federal, State / categories may include pioneers, juniors, seniors etc.). It is unrealistic to anticipate any significant improvement regarding this source of income in the near future.

2.1.1.2. Resources from Contributions and Gifts

If we consider donations to be gifts, then there is no doubt that this source of income is the most significant for the work of associations in Bosnia-Herzegovina. Donors are usually foreign and are primarily international humanitarian organisations. Resources are usually given for a specific purpose and are channeled into certain projects and programme aims, investments are thus rarely made for the development of organisational structures. These structures include those elements essential for the upkeep of the organisation, such as premises, material costs, stimulating the organisation's activists and resources for their education. Due to bad experiences and insufficient training, organisations often do not request sufficient resources from donors, and neglect to include some budget items. This often means that projects cannot be completed, thus jeopardising the organisations future activities.

One question that arises is whether local bodies may act as donors? The strict answer is that they may. Legal restrictions however discourage potential donors, so financial resources for associations are rarely obtained in this way.

One such restriction can be found in the Law on Profit Tax (BiH Official Gazette no. 32A/97, Article 11). This law provides that expenses for humanitarian, cultural, educational, scientific and sports purposes, except for professional sports, are considered to be an expenditure upon a maximum of 0.5 percent of the total income. Over and above that amount, the donor has to pay tax at a fiscal rate of 30 percent. This means that if a local company acts as a donor and makes a total profit of 1,000,000 DEM during a financial year, its tax-free donation is limited to 5,000 DEM. Any amount over 5,000 DEM will be subject to a 30% tax.

2.1.1.3. Income from Enterprises Owned by the Association

In this area, in order for the income generated to be used, the enterprise must have been founded by the citizens association. In cases where the founder of the enterprise is a humanitarian organisation, the enterprise may not keep the profits. Any profits generated must be re-invested into humanitarian activities.

Enterprises founded by citizens' associations may make profits, however they are subject to a 30% tax. Moreover, if the enterprise wishes to give a donation to the association that has established it, it must pay a further 30 percent tax where the donation exceeds 0.5 percent of the enterprise's total profit.

Local bodies are therefore not provided with any incentive to promote donations to NGOs in Bosnia-Herzegovina.

2.1.1.4. Other Sources Under the Law

Amongst the other sources of finance referred to the law, one should primarily include profits from games of chance. Profits of this kind may be obtained only by running games of chance in accordance with Article 15 of the Law on Lottery of Bosnia-Herzegovina and Games of Chance (R BiH Official Gazette no 2/96), organized by persons registered for horseback-riding activities and sports organisations. Moreover, horseback-riding organisations are authorised to organise betting on horse races and sports competitions, whilst sports organisations and associations are limited to lotteries and bingo. This source of income is therefore restrictive, in that the generation of income is limited to specific associations within particular fields of sports. It should be noted that legislative amendments have been made concerning the way in which associations gained income within this field. Under the old system, resources were distributed, in order to finance social and humanitarian activities and for cultural development, after paying out the winnings. The law currently in force, no longer includes this type of threshold.

2.1.2. Financial Sources and Resources with regard to Humanitarian Organisations

The specific nature of humanitarian activities has necessitated the creation of basic structures by which citizens can organize themselves, in order to accomplish their humanitarian aims. The Law on Association of Citizens indicates that citizens may associate to achieve these aims. However, humanitarian activities, due to their uniqueness and stemming from the fact that they are targeted at citizens who are not members of the humanitarian organisation, require context specific regulations. Those matters which do not fall within this Law on Humanitarian Organisations, should be encompassed within the general Law on Association of Citizens.

The *sui generis* way in which humanitarian organisations operate, require the identification of different forms of finance.

In this regard, Article 20 of the Law on Humanitarian Activities and Humanitarian Organisations (Federation Official Gazette no. 35/98) states that humanitarian organisations shall obtain resources for their work:

- from the founding deposit,
- from membership fees, contributions and gifts from members,
- from the Federal budget, the budgets of the Canton and the Municipality, which is decided by the Government of the Federation at the request of the humanitarian organisation,
- from donations given by local and foreign legal and physical Entities,
- from other sources.

2.1.2.1. Resources from Founding Deposits

This manner by which to obtain resources is a novelty and represents one of the conditions for founding a humanitarian organisation. The drafters have not prescribed the minimum amount required for the founding deposit. This is, perhaps, in recognition of the need to avoid restrictions placed upon the establishment of humanitarian organisations. In practical terms, this means that the founder of a humanitarian organisation may establish the organisation with an unlimited minimum founding deposit. Article 14 of the Law on Humanitarian Activities and Humanitarian Organisations stipulates, however, that the organisational plan must include, in addition to the size of the founding

deposit, an outline of the way in which humanitarian activities will be financed. Through this approach, the founder is obliged to stipulate, in the founding act, the precise financial requirements of the humanitarian organisation.

2.1.2.2. Resources from Membership Fees

Elaboration in relation to this potential source of finance was given with regard to sources of finance for citizens' associations. An identical approach is adopted for citizens' associations and humanitarian organisations.

2.1.2.3 Resources from the Federal Budget, Cantonal Budgets and Municipality, Provided by the Government of the Federation, Canton and Municipality at the Request of the Humanitarian Organisation

These financial regulations represent a novelty, in that they have created a valid starting point for building partnerships between the authorities and humanitarian organisations in projects of mutual interest for the citizens of BiH. In order for this source of finance to expand – and the time is ripe for this to take place – it is necessary to develop a budget line at all levels of authority and to define the criteria by which humanitarian organisations may request resources. This would facilitate a more efficient allocation of resources and avoid those cases where the authorities may have been ready to provide resources, but the humanitarian organisations failed to make a request or, in a different case, where resources are approved for "appropriate organisations." The regulation of finance in this manner should also be introduced for citizens' associations. This would avoid the re-registration of citizens' associations as humanitarian organisations, despite them having a wider scope of operation, or for citizens' associations to register their own humanitarian organisations, intended to benefit from this source of financing. Budgets, at all levels of authority, should provide the resources necessary to finance projects created by both humanitarian organisations and associations of citizens. This finance should be divided proportionately in order to satisfy social, cultural, humanitarian, scientific and other goals. The direction of these resources should be redefined each year, depending on the needs expressed by the citizens. This source of finance provides an important basis upon which to develop the non-governmental sector in Bosnia-Herzegovina.

2.1.2.4. Resources from Donations Given by Local and Foreign Bodies

This source of finance was discussed in the context of citizens' associations. It has potential importance for the development of the non-governmental sector. Efforts should, however, be put into increasing the amount that local bodies may donate tax-free, as well as into creating fiscal incentives for the stimulation of further local donors.

2.1.2.5. Resources from Other Sources

The legislative drafters did not intend for the list of sources of finance to be exhaustive, provision was therefore made to accommodate the development of other resources. For instance, a humanitarian organisation dealing with psycho-social protection receives a gift of wool, which the persons involved in psycho-social therapy use to make woollen articles as a form of therapeutic

work. An interested person then buys all the woollen articles that are made. Resources obtained in this way provide an innovative source of finance for humanitarian organisations.

2.1.3. Financial Sources and Resources with Regard to Foundations and Endowments

Article 8 of the Law on Foundations and Endowments (Federation Official Gazette no. 16/98), stipulates that foundations may obtain income from:

- multilateral and bilateral assistance programmes,
- investments made by Bosnia-Herzegovina and the Federation,
- local and foreign donations,
- other sources of finance.

Article 28 describes endowment property as that property given by the endowment founder to the endowment through the founding act, whose value must not be decreased or lost by achievement of the endowment goal. This property becomes the property of the endowment and should be registered in the endowment registry.

The endowment may also obtain new property by utilising existing property (for instance through renting, leasing, profit, interest, dividends, income from copyrights, patents, licenses and income obtained from agricultural, wooded and other land), or through contributions and donations. In order to obtain property, the endowment may also organise certain fund-raising activities (charity performances, special lottery, making and selling special publications, emblems, badges, etc.).

The above sources of financing foundations and endowments show a certain specific characteristic, which imposes the need to look at financial regulations in the context of the entire Law on Foundations and Endowments. The current regulations which affect foundations and endowments, enable the Federation and its organs to exert a great deal of influence on, *inter alia*, their establishment, work and budget. The impression given is that the Law on Foundations and Endowments was enacted to accommodate the aims and interests of the Federation. This approach denies citizens the freedom to mould these forms. It follows, therefore, that their should be constructive dialogue with the authorities directed at the formulation of amendments to this law.

2.2. Financial Regulation of Citizens' Associations in the Republika Srpska

In the territory of the Republika Srpska the non-governmental sector is comprised exclusively of citizens' associations, regulated by the Law on Association of Citizens (SR BiH Official Gazette No 5/90). Been modified from the date of its enactment. As far as sources of finance for citizens' associations are concerned, they are identical to those in Bosnia-Herzegovina. In this regard, this paper will not seek to elaborate on them again.

III Financial Regulation of Non-Governmental Organisations in the Federation of Bosnia-Herzegovina and the Republika Srpska with Regard to Customs and Fiscal Benefits

The attitude of the authorities towards the non-governmental sector can be identified through their treatment of NGOs in the field of customs and fiscal benefits. One should, however, be cautious, the light of the fact that the role and significance of the NGO sector in BiH is still relatively unknown. The fact that the Entities have adopted different regulatory paths for the non-governmental sector,

indicates the need for discussions between representatives of the authorities and the non-governmental sector. Whilst laws were passed and modified in the Federation of Bosnia-Herzegovina, the pre-war Law on Association of Citizens remained in effect in the Republika Srpska. One possible reason for this approach may be the authorities' attitude towards the international community. By analysing customs and fiscal benefits within both Entities, we will best be able to determine the real relationship between the authorities and this sector.

3.1. Financial Regulation of the Non-Governmental Sector in the Federation of Bosnia-Herzegovina and the Republika Srpska with Regard to Customs Benefits

3.1.1. Financial Regulation of the Non-Governmental Sector in the Federation of Bosnia-Herzegovina with Regard to Customs Benefits

In the Federation of Bosnia-Herzegovina customs benefits are regulated by the Customs Law (Federation Official Gazette no. 2/95). This law regulates the type, manner and conditions under which they may be taken advantage of, as well as those who are eligible.

The law is widely drafted, to allow a broad spectrum of bodies to take advantage of the benefits. Article 28 (1) (5) is of particular interest for the NGO sector. This section provides that State organs, enterprises and other legal Entities are exempted from paying customs duty on free goods, which they receive from abroad, for scientific, educational, cultural, sports, humanitarian, religious, health and social purposes. Furthermore the amount of 1 percent of the customs base, required for the purposes of customs registration, shall not be charged for goods imported, brought or received in the territory of Bosnia-Herzegovina, where they are exempt from customs duty. Such wide customs duty exemption enables all non-governmental organisations to claim some form of exemption. Conditions exist however before goods can be received for free from abroad and used for one of the above purposes. A second factor, restricting benefits, is that goods exempt from customs duty may be sold only three years after the day of importation, or be given to someone else or used for purposes other than those for which the goods were exempted from customs duty. Breach of this rule will result in a demand for customs duty to be paid, according to the customs tariff, together with interest.

For non-governmental organisations, the manner and procedure by which to claim exemption from customs duty is of primary importance. This procedure is found in Article 19 of the Rules on Procedure for Exercising the Right to Customs Duty Exemption (Federation Official Gazette no. 5/96). In order for non-governmental organisations to take advantage of the customs benefits, they must give the responsible customs office the following documents:

- a letter or invoice from the foreign sender, showing that the goods are sent free of charge;
- a written statement by the user of the benefit that the goods will be used for scientific, cultural, humanitarian, religious or social purposes; and,
- an act from the responsible administrative body or a document from the registry of the responsible court that the organisation for which the goods are imported is registered for performing those purposes.

These statutory provisions are clearly intended to allow the non-governmental sector to take proper advantage of custom benefits. In practice, however, problems are often encountered in seeking these benefits. These difficulties stem from bureaucracy and the insufficient awareness of the non-governmental organisations themselves.

3.1.2. Financial Regulation of the Non-Governmental Sector in the Republika Srpska with Regard to Customs Benefits

Customs exemption in the Republika Srpska is regulated in a similar way to that of the Federation. The present regulations should however be amended to exempt non-governmental organisations from paying customs duty in those cases where they import goods, unavailable in BiH, which are necessary for achieving their programme aims. One limiting factor, as in the Federation, is that goods exempt from customs duty cannot be sold for a certain time period.

3.2. Financial Regulation of the Non-Governmental Sector in the Federation of Bosnia-Herzegovina and the Republika Srpska with Regard to Fiscal Benefits

A primary difficulty facing any review of this area is the identification of which types of tax have the most significant effect on the non-governmental sector. Various non-governmental organisations have indicated the need to be exempt from product and service excise tax. This stems from the fact that a number of non-governmental organisations perform certain productive or service activities and are of the opinion that their products and services should be tax exempt. This view reflects an insufficient familiarity with the fiscal system. We intend to provide an analysis of a number of taxes and tax benefits, in order to paint a picture of how they affect non-governmental organisations, both within the Federation and in the Republika Srpska.

3.2.1. Financial Regulation of Non-Governmental Organisations in the Federation of Bosnia-Herzegovina with Regard to Fiscal Benefits

This section will provide an analysis of the financial regulation of non-governmental organisations in the Federation of Bosnia-Herzegovina, from the respective of product and service excise tax and special taxes on high-tariff goods, profit tax and income tax.

3.2.1.1. Financial Regulation of Non-Governmental Organisations in the Federation of Bosnia-Herzegovina with Regard to Product and Service Excise Tax

Product and service excise tax regulations are contained within the same law (Federation Official Gazette no. 6/98). The law stipulates that product excise tax is to be paid for the sale of products used for final consumption. Pursuant to the Law on Product and Service Excise Tax, the excise taxpayer is defined as the legal Entity and/or citizens who sell products to the final consumer. When selling products to the final consumer, taxpayers calculate the appropriate excise tax according to the sale price.

In order to qualify for tax exemption, the following conditions must be fulfilled:

- the buyer must give a statement and an order form, before procuring goods, identifying the purpose for which the products that are being procured,
 - payment must be made by money transfer from the buyer's account to the seller's account.
- Buyer's statement is essential in that it identifies the purpose for which the product is to be used. This will determine whether the purchaser is entitled to fiscal exemption or a favourable fiscal rate. Whilst Article 19 determines fiscal exemption, Article 19(8) is significant for non-governmental

organisations. Pursuant to this provision, product excise tax is not to be paid on goods received by the Federation Red Cross and other humanitarian organisations, without compensation, where they are to be used for their founding purposes. Passenger cars and high-tariff goods are not included within this exemption. Goods of this nature, exempt from tax, cannot, of course, then be sold. A practical example will serve to clarify these provisions. If a non-governmental organisation were to produce rugs, it is obliged to calculate the product excise tax into the price of the rugs. Where, however, a buyer provides an order form and a statement to the non-governmental organisation and fulfills all other conditions, the non-governmental organisation in that case does not calculate the product excise tax. The product is sold exempt from product excise tax. In order to produce rugs the NGOs must procure the necessary materials. Where the NGO provides a statement and order form to the supplier, and fulfills all other conditions, it should also be exempt.

As mentioned earlier, the Red Cross and other humanitarian organisations are exempt from product excise tax. This exemption should be expanded to include citizens' associations and foundations, where those bodies use products to achieve their programme goals.

A similar approach has been adopted with regard to service excise tax. Humanitarian organisations do not pay service excise tax in relation to achieving the goals for which they were founded. This should be extended to include citizens' associations and foundations.

It is clear that regulations passed the non-governmental sector, were not harmonised with those regulations in the field of product and service taxation. This is incongruent to the realisation, seen in the approach of the legislature, that humanitarian organisations and citizens' associations that in practice perform equal or similar activities.

3.2.1.2. Financial Regulation of Non-Governmental Organisations in the Federation of Bosnia-Herzegovina with Regard to Special Taxes on Coffee, Liquor, Tobacco and Tobacco Derivatives, as well as Crude Oil and Oil Derivatives.

Special taxes on high-tariff goods: coffee, liquor, tobacco and tobacco derivatives, as well as crude oil and oil derivatives, are defined by the following laws:

- The Law on Special Tax on Coffee (Official Gazette no. 6/98)
- The Law on Special Tax on Tobacco and Tobacco Derivatives (BiH Federation Official Gazette no. 6/98)
- The Law on Special Tax on Crude Oil and Oil Derivatives (BiH Federation Official Gazette no. 6/98)

The particularity of these taxes means that they are of limited importance to the non-governmental sector.

It should, however, be noted that a small percentage of this tax goes into financing the activities of the non-governmental sector.

3.2.1.3. Financial Regulation of Non-Governmental Organisations in the Federation of Bosnia-Herzegovina with Regard to Profit Tax

Profit tax is highly significant for the non-governmental sector and is defined by the Law on Enterprise Profit Tax (Federation Official Gazette no. 32a/97). Article 11 of this law stipulates that expenses for humanitarian, cultural, educational, scientific and sports purposes (except for professional sports) are recognized as expenditures, up to a maximum of 0.5 percent of the

enterprises total income. This means that an enterprise that generates a total of 10,000 DEM in one financial year, may give 50 DEM to a non-governmental organisation, in the form of a donation or a gift, without having to pay profit tax. Where the enterprise donates more than 50 DEM, it will pay a 30 percent profit tax on the difference. In order to encourage greater donations, the limit of 0,5 percent should be increased. Moreover, enterprises founded by non-governmental organisations should be exempted from profit tax if they re-invest the profit they make into the work of the non-governmental organisation.

3.2.1.4. Financial Regulation of Non-Governmental Organisations in the Federation of Bosnia-Herzegovina with Regard to Citizens Tax

Current regulations in the field of citizens tax fail to reflect the post-Dayton organisation of the State. Income from citizens tax is, for the most part, given to the Cantons and Municipalities. It follows therefore that regulations should be enacted at the Cantonal level. Some Cantons, such as the Sarajevo Canton, have already passed a Cantonal Law on Citizens Tax, whilst the Law on Citizens Tax (SRBiH Official Gazette no. 18/91) remains in effect in the remaining territory of the Federation. Citizens tax concerns the tax obligations of the individual, or citizen, and is allocated in order to satisfy general social needs. This type of tax is of interest to the non-governmental sector in that individual taxpayers may decide to channel a small part of his/her tax obligations to the non-governmental organisations of his/her choice. This law should be expanded to allow citizens, engaged in the non-governmental sector, to be exempted from paying tax if the amount they receive as volunteers is symbolic, using for example the average salary in Bosnia-Herzegovina. These individuals should not be full-time employers of the non-governmental organisation.

3.2.1.5. Financial Regulation of Non-Governmental Organisations in the Federation of Bosnia-Herzegovina with Regard to the Salary Contributions and Taxation of Those Engaged in the Non-Governmental Sector

This field has provoked the greatest controversy within the non-governmental sector. A transitional regulatory framework between the relevant Ministries of Bosnia-Herzegovina and the NGO Council. A more permanent solution must, however, be sought. Employees in non-governmental organisations must, of course, be treated the same way as those employed in any other organisation. It is, however, necessary to acknowledge the *sui generis* nature of NGOs and the need to attract employees. In this regard, persons engaged in the non-governmental sector, without full-time employment, should be granted those benefits outlined above, at paragraph 3.2.1.4.

3.2.2. Financial Regulation of Non-Governmental Organisations in the Republika Srpska with Regard to Fiscal Benefits

It may be argued that, in principle, in the Republika Srpska and the Federation, there are no regulations specifically addressing the financial aspects of the work of non-governmental organisations. In order to fill this lacunae, general fiscal regulations are applied.

3.2.2.1. Financial Regulation of Non-Governmental Organisations in the Republika Srpska with Regard to Product and Service Excise Tax

In order to avoid repetition and confusion in relation to this area of taxation, the following should be noted:

(a) That excise tax does not have to be paid on products imported as a for of humanitarian relief, through the Red Cross and the Commissioner for Refugees, on products received by the Red Cross and the Commissioner for Refugees receive for humanitarian relief, and on products provided for refugees.

(b) The Law on Service Tax also exempts those services performed by the Red Cross, to achieve its mandated aims, as well as services performed by religious organisations.

The Law on Product and Service Excise Tax (RS Official Gazette no. 15/96, 19/96, 23/96, 16/97) does not, however, mention non-governmental organisations within the provisions on tax exemptions and benefits.

The law also does not contain any other exemptions or benefits that would affect non-governmental organisations in those cases where they are producing goods, providing services or purchasing resources for their work.

3.2.2.2. Financial Regulation of Non-Governmental Organisations in the Republika Srpska with Regard to Special Taxes on Coffee, Liquor, Tobacco and Tobacco Derivatives, Crude Oil and Oil Derivatives

Unlike the Federation, there are no specific regulations in the Republika Srpska for this type of tax. Regulation is encompassed within product and service excise tax.

3.2.2.3. Financial Regulation of Non-Governmental Organisations in the Republika Srpska with Regard to Profit Tax

Enterprise profit tax in the Republika Srpska is regulated by the Law on Enterprise Profit Tax (RS Official Gazette no. 14/92, 11/93, 19/93 and 8/94). This law provides that the basis for calculating profit tax is the fiscal base of the taxpayer, determined by the fiscal balance, where the fiscal rate is proportionate and equal and amounts to 30 percent. As far as fiscal benefits are concerned, they are only provided to those taxpayers who invest in capital assets, purchase shares or other forms of capital participation, in which profit is taxed at a 30 percent. Maximum rate of restrictions do, however, exist. Those investments for which the fiscal base was reduced, cannot be sold for a minimum of five years.

3.2.2.4. Financial Regulation of Non-Governmental Organisations with Regard to Salary Contributions and Taxation, in the Republika Srpska, of Those Employed within the Non-Governmental Sector

Without entering into a detailed elaboration of individual financial obligations within the non-governmental sector in the Republika Srpska, suffice it to say that the total contribution rate in the Republika Srpska is 48.15 percent of the gross salary. Similar obligations regarding temporary service contracts are at approximately 29 percent. Whilst the law provides for certain exemptions or benefits, they have no effect on employees in the non-governmental sector.

IV Recommendations for Improving the Financial Regulation of NGOs

In the light of the comments made above, it is clear that the non-governmental sector, despite being an important sector, still has not been accorded an adequate place in society. This is perhaps a reflection of the short time that has passed since the signing of the Dayton Agreement, the present political environment and the slow promulgation of legal regulations. The analysis both raises questions and provides solutions.

With regard to the financial aspects of the work of non-governmental organisations, and noting the responsibilities outlined in the Constitution of Bosnia-Herzegovina at the State level, further regulations should be developed in the area of customs and monetary policy.

In those cases where no regulations exist at Entity level, general fiscal regulations are applied to their work. It is important to develop a systemic approach at the Entity level in the light of the fact that they provide specific guidance for NGOs within their jurisdiction.

In terms of the technical approach to regulating financial relations in the non-governmental sector, there are two possibilities:

The first is for these issues to be regulated by local laws and other regulations that otherwise control social relations. The use made of present regulations is an example of this. If this approach is adopted, it would be necessary to modify those laws which currently regulate the financial activities of NGOs. Guidance as to the form of these modifications, is to be formed in the previous sections.

The second approach is for those financial relations to be regulated by a specific law on non-governmental organisations.

The latter form of regulation would, in principle, be more appropriate for the non-governmental sector. It would facilitate the monitoring of the legal framework guiding the NGO sector, in that relevant regulations would be encapsulated in one law. A comparison of regulatory approaches indicates, however, that the former approach is normally adopted.

Whichever approach is adopted the legal framework must be clear, and exemptions and benefits for NGOs must be flexible and broad.

Part Three

THE LOCAL NGO SECTOR AND ITS ROLE IN TRANSITION

I Introduction

The development of a democratic society is intrinsically linked to the appearance and development of open civil society and, in particular, the third sector. This sector comprises non-governmental organisations (also known as charitable organisations, civil society organisations, private voluntary organisations, etc.), which lie between the State and the market economy.

Different approaches are adopted to defining and understanding the term and role of non-governmental organisations (NGOs) within Bosnia-Herzegovina. The lack of an adequate legal framework also leads to confusion.

There are two main laws in the Federation upon which the non-governmental sector is built. They are the Law on Associations of Citizens and the Law on Humanitarian Organisations. The former deals with those civil society organisations that, in one form or another, existed before the war. These included, *inter alia*, various organisations, invalids' associations and sports associations. The latter law was intended to regulate the work of international organisations operating in Bosnia-Herzegovina and local NGOs that operate in the field of humanitarian aid.

In Republika Srpska, the work of NGOs is governed by the Law on Association of Citizens, inherited from the previous system.

Like many other countries that emerged from the communist system, Bosnia-Herzegovina is encountering a number of problems related to transition. This transition also involves changing the government's attitude towards the private and non-profit sectors.

II Background to the Non-Governmental Sector in Bosnia-Herzegovina

It is difficult to determine the moment at which the first forms of civil organisations appeared in this region. According to a number of writers, the 19th century saw the development of civil organisations. They were concerned with developing literacy amongst their members, awakening and spreading national awareness, cultural and other forms of development. These associations played an important role and the most significant among them became the founders of national movements in Bosnia-Herzegovina. Until the beginning of the socialist period, these associations worked to found schools, small enterprises and to provide other endowments. In principle, however, they cherished national exclusivism.

During the socialist period, the work of civil organisations, in all fields of public, social and political life, was quite prevalent. These organisations included, *inter alia*, associations of citizens and youth, syndicate organisations and sports associations. They became an important feature of social life, and developed, to a certain extent, connections with international associations. A number of organisations dealt with matters of a purely humanitarian nature. Amongst such humanitarian organisations only the Red Cross took on real importance in times of humanitarian crises.

National humanitarian societies such as Merhamet, Caritas, Le Benevolencija and Dobrotvor, began to revive or strengthen their work in 1989. This corresponded to the beginning of the transition in the

territories of the Former Yugoslavia. 1992 saw the beginning of the war and the influx of a large number of international organisations. Most of these were humanitarian organisations, assisting the population and offering them health and social care.

The first local NGOs began to appear in 1993. Many local NGOs developed as part of the projects initiated by international organisations, who wanted to "leave something behind", or at the instigation of local staff employed in those organisations. At the outset, the majority of the organisations dealt with women's issues. They operated within a limited geographical area, with the biggest concentration in Sarajevo and Tuzla. A limited number of these NGOs were registered during that period. Other organisations developed spontaneously in order to solve problems at a local level. They exploited the opportunities created for them when donors developed special funds. A large number of these organisation have been focussed upon an expressed need for togetherness within local communities. They do not reflect the form of organisation that NGOs rest upon in Western countries. NGOs dealing with human rights issues have achieved the highest level of development, in comparison to the Western system of organisation.

The attitude of international organisations and the international community has also had an impact on the development of local NGOs. According to international sources, UNHCR has been criticised for the lack of attention paid to local organisations and favoured foreign organisations. During 1995, there was a change in policy and UNHCR gave considerable resources from its funds to local organisations, thus providing more resources for their operation. Considerable contributions to their development were also made by the European Community Humanitarian Office, as well as by many individual countries. These include, primarily, Canada, France and the Netherlands, who initiated financial donations, for local non-governmental organisations, through their Embassies. In 1996 and 1997 the United States joined these countries.

In the light of the fact that the non-governmental organisation sector is *sui generis* to this region, a number of international organisations created programmes to build the capacity of NGOs and develop self-sustainability. Some focused on bolstering NGOs, at local level, by organising training, technical assistance and project support.

Whilst civil organisations in the territory of Bosnia-Herzegovina have long history, one must acknowledge the immediate consequences of the war. The destruction of local communities and huge displacement of the population, has hampered the strengthening of NGOs at a local level. Moreover, pre-war civil organisations have disappeared, for example, in Tuzla there were 800 organisations before the war, reduced today to 44.

It is interesting to compare the situation in Bosnia-Herzegovina to that in Hungary, the process of transition having begun in both countries at the same time. In Hungary there has been no war, and the following table (Table 1) shows how normal transition conditions affect the development and strengthening of non-governmental organisations. Comparison can illuminate some of the effects of the war in Bosnia-Herzegovina on the development of the NGO sector.

Table 1

Year	Hungary ¹ Number of NGOs	BiH Number of NGOs	FBiH Number of NGOs
1989	8,914	> 5,000 ²	-
1990	13,120		-
1995	43,335		145 (108) ³
1996	47,000		175 (223) ³
1997	52,500	1,500 ⁴	534 (322) ³

It is very difficult to estimate the exact number of non-governmental organisations in the entire territory of Bosnia-Herzegovina. Their number keeps increasing, particularly within the Republika Srpska. The laws by which they are registered are, however, Entity laws, thus a very small number of organisations are registered in both Entities. Moreover, many NGOs in the Federation of Bosnia-Herzegovina are registered only in the Cantons (if they are active only in a certain canton). The FBiH Ministry therefore registers only a part of the total number of NGOs that operate in the territory of the Federation of Bosnia-Herzegovina. In the Republika Srpska parallel organisations do not register with Ministries, but with the Municipal courts.

At this stage 534⁵ non-governmental organisations are registered with BiH Federation Ministries, although their number is undoubtedly larger. In addition to these, 322 foreign NGOs are also registered. A realistic estimate is that there are around 1,500 local NGOs in Bosnia-Herzegovina today. In the light of the fact that Bosnia-Herzegovina has a population of about 3.4 million, it follows that there are 0.44 NGOs per citizen. The same of comparison, in Hungary, for instance, shows that there are 4.94 NGOs per citizen.

In an effort to identify the real number of NGOs, ICVA and Federation Government data was also used.

¹ Eva Kuti "The Non-Profit Sector in Hungary"

² Civil organisations preceding NGOs

³ International non-governmental organisations

⁴ Estimate

⁵ According to FBiH Ministry for Social Policy, Displaced Persons and Refugees and the FBiH Ministry of Justice, meaning only data from the Federation of Bosnia-Herzegovina.

According to ICVA data (March 1998), the situation is as follows:

Table 2

Area	Local NGOs	Int. NGOs	Int. org.	UN	State	Others	Total
Federation	124	174	18	18	29	15	378
RS	66	46	10	10	25	7	164
	190	220	28	28	54	22	542

As far as local NGOs in the Federation are concerned, until and the adoption of the Law on Humanitarian Work and Humanitarian Activities in 1995 (R BiH Official Gazette no. 12/95), they operated pursuant to the Law on Association of Citizens (R BiH Official Gazette no. 33/94). When this law came into effect, all organisations involved in humanitarian activities were obliged, in accordance with the law, to amend their registration documents within six months. 1998 has seen the enactment of a new law on humanitarian work and humanitarian organisations (F BiH Official Gazette no 35/98), its application is currently underway. The total number of humanitarian organisations registered so far is 334 (records are kept by the Federal Ministry of Social Protection, Displaced Persons and Refugees), 200 organisations are also registered under the Law on Association of Citizens (Federal Ministry of Justice registry).

A number of local organisations operate solely at the level of the local community. They are registered only at the Cantonal level, which means that the number of non-governmental organisations is actually larger than the statistics show.

III Forms of NGO Activities

According to present regulations, a non-governmental organisation is considered to be any civil organisation that defines itself as a non-governmental, non-political and non-profit making organisation.

As seen in parts 1 and 2, within the Federation there are three forms of NGOs:

Associations of Citizens, are based on the free will of associated citizens who join, as a collectivity, to perform cultural, educational, artistic, scientific, health care, social, humanitarian, sports, technical, professional, innovational, ecological and other activities.

Humanitarian Organisations are a form of civil organisation that give direct or indirect humanitarian aid to the population. Assistance is given to those in a state of social need, often in the form of money, goods and services, without reward and without territorial, national, religious and political bias. There can be both local and international humanitarian organisations.

Foundations, in the present legal sense, are those organisations whose aim is to fulfill a charitable purpose within the fields of, *inter alia*, science, education, health care, sports and ecology. Foundations are established by the Government, and by foreign and local bodies with prior Government approval.

This list of activities is exhaustive. All organisations must be registered with the court, they must

keep business books and make financial reports, pursuant to the regulations of the Federation and the Cantons in which they operate. It should also be noted that, in the Republika Srpska, there is only one form of non-governmental organisation – associations of citizens.

According to information taken from the Centre for Information and Support to the Non-Governmental Sector (CIP) data base, out of 200 surveyed organisations, 61.5 percent said they were associations of citizens, 21 percent said they were humanitarian organisations and 17.5 percent did not place themselves under any category.

IV NGO Structure According to Sectors

According to the content and areas in which they operate, NGOs may be placed within the following categories: human rights, health care and social protection, reconstruction and rehabilitation, assisting displaced persons and refugees, psycho-social aid and other activities aimed at giving direct or indirect humanitarian and other aid to the population.

According to a general analysis of the organisational structure of NGO activities based on CIP and Dialogue Development¹ data, a large number of organisations base their activities on close links with international organisations. They have focused to a large extent on activities dealing with the consequences of the war, in which they overlap with the international community's work concerning humanitarian aid.

The database analysis performed by CIP encompassed 200 organisations (See Annex I), the parallel analysis by Dialogue Development encompassed 176 organisations. A comparison of these studies, in terms of sector coverage, resulted in almost identical results. Later in this work we provide CIP results, upon which a framework can be outlined as to the division of NGO activities according to sectors.

Table 3

Sector	%
1. Human rights	40.0
2. Social issues	33.5
3. Youth, students, children	33.5
4. Culture, sports and leisure time	38.5
5. Reconstruction/repatriation	22.0
6. Health care	21.0
7. Women	18.5
8. Humanitarian aid	18.5
9. Environment	16.5
10. Assistance to NGOs	13.0

¹ Dialogue Development "Strategic Options and Programme Priorities in the BiH Civil Society Development Programme", Sarajevo

11. Media	6.5
12. Ethnic minorities	6.0
13. Political education	5.5
14. Agriculture	6.5
15. Demining	3.0

The sectors of work are divided into five groups. Responses to questions have shown that the largest number are engaged in activities related to human rights (40 percent). This is a burning issue in the region and individuals are becoming increasingly aware of its importance. This has also led to the acknowledgement of the width of human rights and groups have developed dealing with, for example, women's rights, rights of children and the youth, rights of demobilised soldiers and invalids. The youth, students and children's sector (33.5 percent) is also encouraging. The same percentage for social issues is, however, a reflection of the generally poor social position of citizens.

The peace process, care for displaced persons and repatriation, distribution and monitoring of humanitarian aid, as well as women's issues, remain a central focus for a large number of organisations. Areas such as ecology are not however represented, confirmed by the fact that only 16 percent of NGOs that are active in this sector. The inconsistent implementation of reconciliation policies and strong media control have restricted the number of organisations dealing with media issues and education in relation to peace and the restoration of trust.

Whilst in some areas representation is high, in others there is a distinct lack of NGO interest (de-mining organisations 3 percent). It is important, however, to note the appearance and development of NGOs dealing with economic revival and labour assistance. Moreover, the creation of a network of non-governmental organisations, indicates a developing awareness of the need for, and transformation of, such organisations.

A specific problem facing NGOs in Bosnia-Herzegovina is how to adapt their work to the interests of donors.

In 1994, 1995 and 1996 a large number of NGOs were created to deal with psycho-social issues – orphans, the elderly, handicapped persons, widows, as well as all others who were traumatised by the war. These reflected immediate needs and, at the same time, formed the priority for donors.

The signing of the Peace Agreement, saw the emergence of new priorities. Reconstruction of housing, schools and health centres appears became the focus for donors. The World Bank has concentrated particularly upon economic development and, accordingly, donations were made to NGOs for the development of micro-entrepreneurship and micro-credits.

Those NGOs created prior to the re-orientation, find themselves faced with rapidly diminishing funds. Many psycho-social activities, for example, performed by NGOs, remain expensive, from Centres for Social Work and governmental organisations, who are able to adapt and redefine their work. Uncertainty of this nature results in an unwillingness on the part of NGOs to change their sector of work. In this regard, it is of seminal importance that local NGOs receive guidance on self-sustainability.

V Geographical Distribution of NGOs

Table 4

<u>F e d e r a t i o n</u>			<u>R e p u b l i k a S r p s k a</u>			BiH
City	Number	%	City	Number	%	
Sarajevo	104	40	Banja Luka	56	60	
Tuzla	34	12.6	Other	37	40	
Zenica	53	19.2				
Mostar	24	9				
Bihać	2	0.7				
Livno	9	3.2				
Other	42	16				
Total	268	100		93	100	361

According to Dialogue Development data

As far as geographic distribution is concerned, it is clear from the table that NGOs are concentrated in large cities, where the organisations first appeared. Within the Federation, 71.2 percent of organisations are based in Sarajevo, Tuzla and Zenica, and in the Republika Srpska 60 percent are based in Banja Luka. This distribution is very worrying from the perspective of civil society development. The rationale behind this distribution is two fold: firstly, international organisations and donors are located in these centres; and, secondly, there is insufficient understanding and impetus, on the part of the political authorities in smaller towns, to develop this sector. In the light of existing socio-economic problems, the development of civil society organisations is of great importance.

In this regard, organisations must be stimulated equally, throughout the territory of Bosnia-Herzegovina and, in particular, within the Republika Srpska.

VI Main Problems Facing NGO Development

There is a growing realisation, amongst individuals and groups, as to the need for individual initiative and self-help. This is also a reaction to the problems facing the State and the diminishing role of central institutions. In order to develop this self-help ethos, and to bolster the non-profit sector within Bosnia-Herzegovina, the following problems must be addressed:

- financial insecurity;
- the lack of institutional infrastructures;
- inadequate legal regulations;
- deficiencies in mutual co-operation and co-ordination;
- the manner by which new members and volunteers are recruited;
- the lack of information on donors, and

- the attitude of the authorities and co-operation with the authorities, from a local to an Entity and State level.

The problems outlined above have often been quoted and need no elaboration. The issue of members and volunteers should however be examined.

The manner of registration, according to which 30 signatures are necessary to register an organisation, defines the organisations membership.

Certain organisations, such as refugee associations, have thousands of members. This in fact paints an inaccurate picture, since their membership has only a formal character and does not represent the organisation's real strength. The number of members is not as important as their efficiency and role within the organisation itself. According to the CIP analysis, 172 organisations said that they had 610,168 members, providing an average of 3,574 members per organisation. In countries in transition, such as Poland and Hungary small organisations have been seen to be more efficient. The stability of this sector rests among other things on the professionalism and status of the staff.

In addition to economic difficulties, the NGO sector even in developed countries, encounters a problem of employment. Although employment is high in Hungary, only 11 percent of organisations employ full-time staff.

During the war, volunteers performed a whole series of different tasks, from administration, giving advice, distribution of humanitarian aid and other activities performed by the organisation. Due to the changing socio-economic climate the number of volunteers is now decreasing. According to estimates, more than 50 percent of the population of Bosnia-Herzegovina are in a state of social need and are therefore not interested in working without reward (According to CIP, out of 200 surveyed organisations, 138 said they had 5,256 volunteers).

In this regard, attention should be turned to promote volunteer work and to develop awareness about the importance of the role of the volunteer in civil society.

VII Indicators Relating to the Economic Position of NGOs

The importance of the role played by NGOs has been seen in the Western, industrialised world and during the crises in Africa and Asia. It is also important to note that, with regard to former socialist countries, non-governmental organisations played a significant role in transition.

Within BiH, non-governmental organisations, domestic and local, have played a vital humanitarian role. This has not merely involved the provision of essential food, accommodation, fuel, clothing and medicines, but has also included helping people to normalise their lives, addressing the needs of the most vulnerable segments of the population and helping people to cope with war trauma.

The role of NGOs in the transition of the system in Bosnia-Herzegovina, will involve building and developing civil society and democracy, the transition of the social policy system in general, and particularly within the fields of social protection and health care. The reason for the latter is that, in the previous system these sectors had completely depended on the budget and were strictly controlled. Economic development is also of importance, however, it remains in its initial phase and a larger number of bearers of these projects are international NGOs.

In the light of the fact that there is no unified obligation to apply and register all projects, there is no precise data on the financial effects of project implementation through NGOs. It is clear that the impact is significant. Efforts must therefore be put into finding the most efficient methodology by which to include and calculate the effects of their participation in the gross domestic product.

Several indicators as to this effect will be provided latter in this text.

According to USAID data (September 1998), more than \$80 million has been provided, thus far, to non-governmental organisations, for the implementation of various programmes in Bosnia-Herzegovina.

In 1997 non-governmental organisations within the Sarajevo Canton undertook projects worth more than 35 million German marks, amounting to eight percent of the total cantonal budget. In terms of those of resources spent on health care in Sarajevo, it is estimated that non-governmental organisations provided approximately 20 percent.¹ The resources used by local non-governmental organisations normally come from international donations, the budgets and from individual contributions.

what follows is an analzsis of NGO resources, according to 1997 sources prepared for the Federation. These statistics provide some guidance as to the participation of the NGO sector in the revenue structure.¹ The statistics are taken from total of 259 local non-governmental organisations, who reported their business results for 1997 to the Bureau of Payment Operations of the Federation of Bosnia-Herzegovina.

The following table shows the results according to sectors²:

Table 5

- in 000 DEM

Name of sector	Number of organisations	Total earnings	%
1. Social and health care	48	1,841	17.6
2. Women's organisations	15	940	9.0
3. Associations of displ. persons	16	122	1.2
4. Culture	36	1,982	19.0
5. Sports	91	3,220	30.8
6. Human rights	2	18	0.1
7. Development	5	560	5.4
8. Agriculture	4	51	0.5
9. Ecology	1	-	-
10. Other	38	1,696	16.4
Total	256	10,430	100
1. Foundations	3	1,660	-
Total	259	12.090	-

¹ According to FBiH Payment Operations Bureau data

² Data from ZAP FBiH, Computer Centre, was used to calculate economic effects

It is clear from the above table, that organisations dealing with sports and sports activities have the highest participation rate (30.8 percent), both in terms of the number of registered organisations and their earnings. Culture is in second place (19.0 percent), where in most organisations are national societies. Social protection and health care are third (17.6 percent), reflecting the consequences of the war and current needs of citizens. Women's organisations follow in fourth place (9.0 percent). It is important to note that, within the development group (5.4 percent), in addition to economic organisations, other organisations exist to deal with the development of the NGO sector. The number of registered organisations in the field of human rights is surprisingly small (2), particularly when compared to the statistics on sector coverage for registered organisations (See Table 3). When it comes to human rights, it is likely that certain organisations did not specifically report their activities in the field of human rights, we can therefore conclude that a number of them will fall within the "other" group.

A large number of organisations exist (35), with income participation (16.4 percent), whose sector coverage could not be determined. Moreover, a number of organisations that delivered reports do not have any income, while only 20 percent of the total number of surveyed organisations expressed 70 to 80 percent of their total income in all sectors. For example, in group number 3 (associations of displaced persons and refugees), 37 percent of organisations do not have any income, and yet 25 percent of the organisations make up 84 percent of the total income.

Table 6

- 000 DEM-			
No.	Source	Amount	%
1.	Budget	2,646	20.4
2	Own activities	5,942	49.1
3.	Organisation's organs	934	7.7
4.	Other income	2,568	22.8
		12,090	100

Most income is derived from the organisations own activities (49.1 percent), while budget resources amount to 20.4 percent, individual (private) resources to 7.7 percent and other earnings 22.8 percent. This distribution can be explained in 2 ways: firstly, as a country emerging from war. BiH currently suffers from economic depression; and, secondly, the lethargic pace of transition directly impacts upon the local non-governmental sector.

The way in which low economic development and the problems facing transition have impact upon income distribution in the non-profit sector, can be seen from a comparative review of countries in the following table:

Income distribution according to 1990 sources in %

Table 7

Country	Budget	Private	Own activities	
Germany	68	4	28	100
France	59	7	34	100
Italy	43	4	53	100
England	40	12	48	100
Japan	38	1	61	100
USA	30	19	51	100
Hungary, 1990	23	20	57	100
Hungary, 1996	22	21	57	100
BiH, Federation (97)	20	8	49	23* 100

* other income.

It is clear from the table that Hungary gives less support to the non-profit sector than Western Europe, Japan and the United States. The data for Bosnia-Herzegovina serves merely as an illustration and cannot properly be used for comparison. The reason for this are twofold: firstly, the process of transition has not been completed; and, secondly the non-profit sector is still in its early stages of development. The data does however serve to outline the possible income structure within in the non-governmental sector.

The contribution made, in 1997, by NGOs to the economy of the Federation, was approximately 0.10 percent. This reflects the weakness of the NGO sector (the NGO sector provides 1.4 percent in social activity revenue and 3.18 percent in health care and social protection revenue).

The number of full-time employees, calculated on the basis of hours, is 189. Only 73 percent of organisations, out of a total of 259, therefore employ full-time staff.

VIII Role of NGOs in the Transition of the Social Policy System

As a multiethnic civil society, BiH must ensure democracy, the role of law, human rights and fundamental freedoms and the transparency of public institutions. In addition to these principles, organisations must be established through which citizens are able to secure their rights. This calls for a radical change in thinking and behaviour, at all levels of society, and requires basic structural reforms.

In order to achieve these reforms, the policies, priorities and methodology, applied by the international community, must be re-thought. This reformation should be focussed upon the shift from direct assistance to vulnerable groups, to financial assistance (for capacity building and training) for local institutions, to facilitate their transition into a modern, democratic environment. This process should involve NGOs in the identification of problems, providing policy proposals and measures by which to strengthen the sustainability of this sector. International organisations have

indicated an interest in this form of financial support.

Based upon field work experience with individuals, NGOs, Centres for Social Work and State authorities, as well as international organisations, the Independent Bureau for Humanitarian Issues (IBHI), in cooperation with local experts and relevant Ministries, was the first organisation in Bosnia-Herzegovina to begin work on the transition of the social policy system. A preliminary study entitled “Transition of the Policy and System of Social Protection in the Federation of Bosnia-Herzegovina” was made. A study of the same name, following the same methodology, was made for the Republika Srpska.

Social policies are facing the full and dramatic social impact of both the war and the concomitant economic collapse. Existing social policies must therefore be amended to take account of new requirements. These reforms must address traditional concepts and expectations whilst, at the same time, serving the basic needs of the population. Social protection must be adapted to take account of both available material and realistic financial resources.

Social institutions must be transformed into economically healthy, market-compatible and functional institutions, whilst maintaining their specific characteristics. The social institutional network should be expanded. In this regard, non-profit organisations and non-governmental organisations should be recognised and strengthened. Concomitant to this, the importance of local and voluntary initiatives should be recognised and further bolstered. Such an approach would, at the same time, make a significant contribution to the development of civil society structures and the democratisation of Bosnia-Herzegovina.

The proposed institutional models, particularly those of the Centres for Social Work, envisage that these institutions will take over social protection activities and those activities relating to the reintegration of refugees and displaced persons and the support of civilian war victims and other groups affected by the war. This would enable international humanitarian aid, intended for those purposes, to be implemented in a more rational, efficient, cost-effective and durable way, through centres supported by local NGOs.

These processes commenced before the basic social policy system was established. The development of this system will serve to define the relationship between social protection and other areas of social policy, social security (including pension and invalid insurance, health care and unemployment benefits). A number of Centres for Social Welfare in both Entities, have already adapted their work to those concepts and solved a number of existing problems. The examples provided above, indicate that the integration process, through the development of NGOs at a local level, is unfolding much faster and within a much wider territory than the political system.

The IBHI study “Transition of the Policy and System of Social Protection” was translated into a realistic context in the pilot project “Maps of Local Community Needs and Resources”. In the light of the experiences gained in the development of the local community and civil society, through the protection of the most vulnerable groups of citizens in the health care, social protection and education sectors, a UNOPS-PRINT Project was implemented, with pilot projects relating to Maps of Needs of Resources in the Travnik, Kakanj, Zavidovići and Doboј Municipalities.

This project has shown that basic existential needs, regardless of sector divisions, are indivisible and that it is much more efficient and rational to resolve them through an integrated approach. Linking of these three sectors, through this methodology, had an educational character, providing models for self-sustainability. The results obtained have a number of practical uses.

They can serve as a foundation for creating a development strategy and policy plan, for both the micro local community and the macro local community – Municipality. This provides a basic model for cooperation between NGOs and organs of authority at local grass roots level and facilitates the identification of available resources.

IX Recommendations

Despite a number of economic and political difficulties, NGOs within Bosnia and Herzegovina continue to play an important role. The reformation of the system within which they operate is, however, imperative. These reforms should include the development of legal regulations, and the redefinition of the role and tasks of existing civil organisations and other institutions.

Volunteers and beneficiaries within the civil society system should be encouraged through non-governmental organisations, to identify and express their needs, and to record existing resources. Through a proper application of available resources, individual citizens, in conjunction with expert assistance, may contribute to resolving problems and satisfying those needs. In addition to the will and education of the citizens themselves, it is imperative to have context-specific legal regulations, project reporting and a unified methodology by which to present data. Incentives and other stimulating measures should also be introduced through the fiscal and customs system. Dialogue between the non-profit sector and local and State authorities should commence. Those in authority must shift their approach to NGOs from competitive non-integration to co-operation and integration. The work of NGOs must be transparent and subject to the judgement of the public in order to attain essential public support and trust.

Part Four

RELATIONSHIP BETWEEN INTERNATIONAL AGENCIES AND LOCAL NON-GOVERNMENTAL ORGANISATIONS IN BOSNIA-HERZEGOVINA

I Introduction

This part is an attempt to examine aspects of the relationship between international agencies and local non-governmental organisations in contemporary Bosnia-Herzegovina. It is not at all a systematic analysis of all aspects of this complex relationship. Rather, it seeks to provide a framework, and a number of examples, which can be debated and taken further by scholars and activists within Bosnia-Herzegovina itself.

The central thesis is that the interventions of international agencies have tended to reproduce particular forms of colonisation rather than partnership, in terms of their relationships with a range of local actors and agencies. This is rather an extreme position to take and, therefore, needs to be accompanied by a number of caveats. Most importantly, it is vital to disaggregate the two central categories, that of 'international agencies' and of 'local NGOs'. Both categories cover a very wide range of organisations in terms of size, objectives, principles, and practices. Within this wide range, there are examples of good practice which can be seen as closer to 'partnership' models. Nevertheless, overall, a more pessimistic picture remains. In addition, it is important to recognise that structures of colonisation are usually far from the intention of international agencies but are rather reproduced through a failure to recognise, or when recognised, to adequately compensate for, dominant structures of power.

Moreover, the effect is cumulative and a product of the vast number of agencies all seeking 'partnerships' so that, overall, notwithstanding the strategies of individual agencies, the element of competition in the system further reinforces this colonisation. This should not, however, be seen as a kind of pessimistic determinism; there are steps which could be taken, many of which have been recommended in recent studies, which would help to correct the unfavourable picture which is the current reality. At the end of each section in this text, an attempt is made to develop certain principles which could form the basis for a new partnership¹.

1.1 Colonisation

For the present purposes, 'colonisation' may be defined as 'an asymmetry based on an unequal distribution of symbolic and financial power between two categories of actors'², in this case between international agencies and local NGOs. This asymmetry, then, leads to outcomes which reinforce the dominance of international actors, their frameworks, assumptions, meanings and practices. As such, these outcomes may be inappropriate to the specific socio-political and socio-cultural context of a particular society, and implicitly or explicitly, patronising, demeaning and

¹ cf IBHI *Basic Tenets of Humanitarian Action in Emergency Situations*, IBHI: Sarajevo, 1998 for an excellent introduction to principles to be respected in an emergency context.

² Csepeli, G., Orkeny, A., and Scheppele, K. L., 'Acquired Immune Deficiency Syndrome in Social Science in Eastern Europe: the Colonisation of East European Social Science', *Replika*, pp. 111-124, 1996.

even insulting to local actors.

1.2. Partnership

In contrast, 'partnership' can be seen as 'an exchange among equals working towards a mutual goal'¹. This definition, perhaps, should be seen as more ideal than real, in the context of fundamental power imbalances, both financial and symbolic, and the fact that 'inequality never built capacity'². It may be better to see partnership in terms of aspiring to more equal relationships, the outcome of which is the development of local NGOs which are sustainable, diverse, and based on local agendas and priorities. 'Local' is also a complex construction, of course, given that societies, and their NGOs, are themselves marked by different kinds of inequalities and contain individuals who are themselves engaged in a range of international discourses.

II International Agencies In Bosnia-Herzegovina

2.1. Who Are The International Agencies?

As already stated, the term 'international agencies' covers a very wide range of organisations including, for our purposes:

1. Supranational Agencies which operate on a global level including the UN agencies (UNHCR, UNDP, UNICEF, and so on), the World Bank and the International Monetary Fund, and which have a presence in Bosnia-Herzegovina and which work with a range of counterparts in developing and funding programmes according to their specific mandates.

2. Regional Agencies such as the Council of Europe and the European Community, which are increasingly involved in humanitarian relief and development assistance on a global level, and operate a wide range of programmes in Bosnia-Herzegovina.

3. Bilateral Agencies such as USAID, SIDA (Swedish Development Assistance), DFID, and so on, which are governmental agencies offering assistance directly in Bosnia-Herzegovina in addition to contributing funding to supranational and regional bodies.

4. International Foundations and Trusts such as the Open Society Foundation which are, essentially, private initiatives, from the large-scale to the small-scale, which also channel funds, according to particular criteria, to organisations and groups in Bosnia-Herzegovina.

5. Larger International NGOs such as CARE International, Oxfam, and the International Rescue Committee which work in Bosnia-Herzegovina, and in other post-conflict and/or

¹ Clayton, A., Oakley, P., and Pratt, B., *UNDP Guidebook on Participation*, UNDP, CBD. 1997.

² Manji, F., 'Collaboration with the South', quoted in Eade, D., *Capacity-Building: an approach to people-centred development*, p. 9, Oxfam: Oxford, 1997.

developing societies, on a range of projects and which may also distribute grants to local organisations.

6. Smaller, more Solidaristic International Organisations such as Quaker Peace and Service which are much more oriented to long-term support to local organisations based on shared visions and principles but which also may offer funding possibilities.

2.2. Intermediaries and the 'Multi-mandated' INGO

In reality, the situation is very much more confusing, with no clear division between 'donor agencies' and 'implementing agencies' but, rather, all agencies operating as both donors and implementers and, in reality, a large number of agencies acting as 'intermediaries' between the original source of money, and a local organisation which ultimately receives part of it. There are increasing 'chains' of intermediaries which might be inefficient and, certainly, raises complex questions of power, accountability and control. Whilst not typical, a situation where a large bilateral agency provides money, through a UN agency as administrator, to an International NGO as prime grant holder, who then finds, or creates, a large 'partner' local NGO which disburses funds to smaller local NGOs, appears increasingly common and challenges many theoretical and practical assumptions about aid and development.

Many of the larger International NGOs have become 'multi-mandated'¹, using their comparative advantage from the emergency relief phase, when they provided immediate and short-term survival assistance to the victims of violent conflict, to engage in a range of development tasks including 'support for local NGOs'. This seems, in many ways, to be less of a principled commitment than a concern to maximise income in the midst of changing realities and donor priorities. Few such agencies have really studied the complex issues of how to support local NGOs nor of whether their assumptions are appropriate to the Bosnia-Herzegovina context, and seem much more oriented to competing for large development contracts than articulating a coherent and explicit social vision.

In terms of theory and practice, the above section suggests two important issues which need to be addressed in Bosnia-Herzegovina:

- *It is important to go beyond merely listing different international agencies involved in providing assistance to local NGOs and, instead, to study the realities of chains of funding. Wherever possible, these chains should be simplified and shortened to maximise benefits for the local NGO sector.*
- *There is a need for International NGOs involved in providing assistance to local NGOs to articulate clearly the reason for their involvement in this work, and to promote a critical scrutiny of whether, indeed, they are the best agencies to offer such support.*

2.3. 'Mass International Community' Presence: some unintended consequences

What is apparent instantly to anyone living or working in one of the major cities in Bosnia-

¹ Duffield, M., *The Symphony of the Damned: racial discourse, complex political emergencies and humanitarian aid*. University of Birmingham, School of Public Policy, Occasional Paper, 2, 1996.

Herzegovina is the way in which the physical and social fabric, changed so much by the conflict, is also changed by the presence of large numbers of international agencies, reflected in the large numbers of white Jeeps, and proliferation of signs in the English language outside the offices of these agencies and on signs in particular locations announcing a particular reconstruction project. Usually, this 'invasion' is discussed anecdotally or seen as a diversion from real issues in development assistance. However in a number of ways, just by existing in such large numbers, international agencies and their staff produce a number of unintended consequences which need merit serious attention.

A massive foreign presence can lead to major sectoral price increases, particularly in rental prices for office and private accommodation, and to a distortion in the economy towards an urban-based service sector, in which particular kinds of retail outlets, restaurants, and so on, grow up to cater for the influx of international agencies. In Sarajevo, the fact that renting a city centre apartment to a member of staff of such an agency can easily provide an income two or three times an average salary, has produced a new displaced population and the phenomenon of several generations living together in cramped conditions on the outskirts of the city.

In fact, a real decline in living standards for local people, a product of war which needs a long time-scale to be corrected, is therefore, compounded by the price inflation, and the symbolic effects, caused by large numbers of international staff whose salaries are extraordinarily high by local standards and even in the context of normal Western salaries. It is not uncommon for a worker in a middle management position with a larger supranational agency to be earning in excess of 6000 USD per month, to which is often added a number of daily allowances reflecting the 'hardship' of living in Bosnia-Herzegovina.

The need for international staff in such large numbers is, itself, of course, a contentious issue. Whilst it may well be true that, in the phase of emergency relief, and in the immediate post-war context marked by 'neither war nor peace' in Bosnia-Herzegovina, there is a need for international staff if only in terms of safety and freedom of movement, this need should have declined over time. However, in fact, in the context of the Dayton peace agreement and the strong monitoring role to be played by relatively new international actors such as the Office of the High Representative (OHR) and the Organisation for Security and Co-operation in Europe (OSCE), ever more international staff are being recruited, often relatively inexperienced outside of voluntary work with a range of agencies in the region. Beyond a small circle of expert staff, it is debatable whether such high salaries, representing resources which could be diverted to the local NGO sector or to other priorities, are efficient or necessary.

In addition, international agencies contribute to distortions in the local labour market through their need to recruit local people to work at different levels of the organisation, thereby diverting scarce domestic skills from the public sector, the private sector, and from an emerging non governmental sector. Indeed, as drivers and interpreters can earn over 700 USD per month working with some of the bigger International agencies, Bosnia's reputation of 'having some of the best qualified drivers and interpreters in the world' continues to grow. As we shall examine below in terms of the pattern of grants, the fact that international agencies often locate in the major urban centres tends to distort linkages between larger and smaller urban centres and between urban and rural centres.

From this section, therefore, we can derive a further principle:

- *The salary structures of both international and local staff working in international agencies*

in Bosnia-Herzegovina should be scrutinised in terms of rationality, efficiency, and economic and social implications. International agencies, wherever possible, should agree to pay their staff according to local rates, with adjustments only where it is necessary to recruit people with particular definable skills and talents. International staff should only be recruited where it is demonstrable that local staff could not perform such work.

III Promoting Civil Society

The concept of local NGOs in contemporary Bosnia-Herzegovina needs to address five different types of organisations which can be seen to have different origins, visions, and to be involved in very different practices.

1. 'Old System' NGOs are those associations whose origins lie in the socialist self-management system which encouraged associations of interest to form, including women's organisations, youth associations, pensioners associations, and so on. Many of these organisations continue to be important and, indeed, have to a greater or lesser extent, transformed their ideals to reflect new realities.

2. 'Service Delivery' NGOs were founded during or in the aftermath of the war to deliver a range of services to vulnerable groups which would otherwise not have been provided or, in more 'normal' times, may have been provided by the public sector. These organisations can be quite large and may work on a wide range of activities but, usually, they are concentrated in one area of the country. Moreover, they are most usually founded by, and have as leading members, members of the urban professional middle class. Some were directly formed by International NGOs, or as a result of obtaining a large 'subcontract' from an agency such as UNHCR, although some have articulated a wider vision and had an important social impact.

3. Civil-Political NGOs articulate forms of alternative politics not enfranchised in the formal political sphere. Some of these organisations have key members who were active in civil initiatives during the 1980s, but all were formed to respond to challenge the assumptions upon which the main nationalist oriented parties operated during and after the war and, in particular, to challenge the assumption of the dominance of the 'national-ethnic' principle as enshrined within the Dayton constitution.

4. Ethnicised NGOs, in contrast, have close links, either formally or in terms of ideology, with exclusionary projects at the formal political level. Again, these have mostly been formed during the war and represent the interests of one group in the conflict. Not all NGOs whose membership is restricted to one ethnic group should, however, be included in this category - some cultural associations are important in providing a source of self-esteem for one ethnic-national group but also promote tolerance and non-exclusionary interactions.

5. Local Associations may have a history pre-dating the socialist period, and reflect a wide range of concerns at the local level, including sport and leisure concerns, often termed CBOs

(Community-based organisations), collectively such associations are a crucial source of 'social capital' and of the reconstruction of the social fabric¹.

3.1. Civil Society and Trust

'Civil society', that much abused concept which is used here as a set of social relations distinct from both the formal political sector and the private enterprise or for profit sector, can be seen as composed of all five types of associations and organisations in Bosnia-Herzegovina. However, in seeking to 'promote' or 'build' civil society, international agencies have rarely understood the very different interests of these different categories nor have they had any kind of sophisticated understanding of the impact of their interventions on relationships within civil society or within society as a whole. As often as not, funding from international agencies has contributed to mistrust within the sector, and in the wider society. Moreover, different initiatives have different objectives which, rather than complement each other, tend to be in competition. Support has become an end in itself and the number of organisations supported has become an index of the strength of civil society regardless of the sustainability of these organisations or their wider impact.

Consequently, in many ways, rather than challenging dominant assumptions at the level of formal politics, civil society in Bosnia-Herzegovina has tended to mirror mini-State thinking, with the creation of a meso-level NGO sector, heavily reliant on international support, too large to be a source of grassroots innovation, and too small to influence national or Entity level public policy². Many international support programmes for local NGOs, beginning with the USAID-funded, IRC-administered Umbrella Grant, tended to promote a Western, primarily US-centred, model of service-oriented NGOs, without any reference to whether this was desirable or sustainable in the Bosnia-Herzegovina context. In addition, UNHCR's promotion of local NGOs as 'implementing partners' has been seen as a means of securing inexpensive and essentially servile service delivery and to have, also, had little or no wider value in promoting a viable 'welfare mix'³. Other international agencies have been seen as reckless in their attempt to leave behind a local NGO created in their image, a kind of 'Frankie NGO'⁴, again with no attention to long term sustainability. All of these initiatives seem to be more colonisation than partnerships, and to reflect an imposition of external assumptions, not backed up by real feasibility studies, on a Bosnian reality. There has been little publicly-available scrutiny of these initiatives nor a rigorous debate about how donor inputs could be more effectively utilised.

A number of principles and recommendations, therefore, can be derived from this section:

¹ cf Engberg, U. and Stubbs, P., *Social Capital and Integrated Development*. GASPP and Plymouth International Studies Occasional Paper, forthcoming, 1998.

² Deacon, B. and Stubbs, P., 'International Actors and Social Policy development in Bosnia-Herzegovina', *Journal of European Social Policy* 8 (2): 99-115, 1998.

³ Smillie, I., *Service Delivery or Civil Society?* CARE Canada: Zagreb, 1996.

⁴ Stubbs, P. *Social Reconstruction and Social Development in Croatia and Slovenia*, Ch. 6: After Dayton: notes on social development and social reconstruction in Bosnia-Herzegovina. Leeds Metropolitan University, Occasional Papers in Social Studies, 7, 1997.

- *International agency support for local organisations within civil society should more clearly articulate the objectives of intervention and the kinds of organisations which it is intended to support.*
- *An evaluation, or comparative study, of some of the larger international support interventions should be conducted, utilising Bosnian experts, and the findings be open to public scrutiny.*

3.2. The Co-ordination Frenzy

In the midst of the mistrust and confusion produced by international agencies' support for local NGOs, a general consensus has emerged around the need for greater co-ordination within the NGO sector. However, this has led to a proliferation of agencies offering support, advice, information, and training, or acting as an umbrella or a co-ordinating agency. The co-ordinating sector has, in fact, become part of the problem rather than part of the solution. A case in point is the Danish NGO 'Dialogue Development' which won a large EU/PHARE contract to promote local NGO development but which has, in many ways, further contributed to mistrust within the sector.

The setting up of a Bosnia NGO Foundation, along the lines outlined, on the basis of experience in other countries, by Ian Smillie in his influential report based on a quick assessment of the NGO scene in 1996¹, does at least have the merit of establishing a longer-term trust fund from NGO development, and is seeking to transform itself from an externally-led agenda, to a Bosnian one. Similarly, the establishing of regional and national NGO Forums, based on the experience of the LEA-Link project which had the backing of powerful personalities in key international agencies, may also have a wider merit. Even so, co-ordination as such seems much more likely to be successful if it grows organically from a need to develop networks and promote links, rather than be imposed as a panacea. In some ways, a technical concern with 'capacity building' has replaced the need for a wider political debate about whether we can talk about 'an NGO sector' as such, in a society marked by competing national-State projects.

In terms of principles, then:

- *The value of co-ordination between local NGOs should be demonstrated rather than assumed, and an evaluation of different forms of co-ordination should be undertaken to explore the relative merit of more organic forms of networking.*

3.3. Challenging Projectisation?

Notwithstanding the diverse forms of international agency assistance to local NGOs, most schemes have reinforced an obsession with 'the project' at the expense, either, of the development of an organisation or of key individuals. In a sense, the dominant mode of assistance has reinforced 'projectisation' at all levels in which longer-term visions, wider objectives, much less any kind of coherent articulation of need, are subsumed within discrete

¹ Smillie, I., note 8.

'project proposals' which identify particular, narrow, objectives.

The effects of this have been disastrous, turning social movements and special interest groups alike into mini-bureaucracies, and denying the space for key civic figures, and relatively strong organisations, to really develop longer term thinking outside the need for yet another grant. No one involved in a local Bosnian NGO has any kind of job security, or a reasonable salary beyond a maximum of a twelve month period, and mostly the time scale is less than this. Widening the kinds of support available to, at one end, support an NGO elite and, at the other, to promote grassroots activity, may be preferable to a 'flattening' of the pyramid such as occurs at the moment.

As a principle then:

- *Agencies should explore the possibility of longer term support for individual NGO activists, combined with less of an emphasis on fulfilling particular rational project-specific criteria regardless of the purpose of the grant.*

IV Conclusion

The preceding paragraphs attempt to cover some of the issues in international agencies' relationships with local NGOs. They have, in many ways, only scratched the surface and much more work, led by Bosnian scholars and activists, is clearly needed. The importance of channeling international support more efficiently has been noted elsewhere in the context of work on social policy¹. This principle needs to be extended to wider issues of social development, and goes alongside the need to examine more closely financing possibilities within Bosnia-Herzegovina from different levels of government, from the private sector, and from individual philanthropy. Above all, the need for action research on local NGOs to be developed consistently by organisations within Bosnia-Herzegovina, and for donors to utilise this expertise far more than they have thus far, is a key lesson to be learned from some seven years of experience in the war and post-war context.

Two more principles, then, could be as follows:

- *Channeling international aid more efficiently should co-exist with an increasing attempt to explore Bosnian sources of financing for local NGOs.*
- *There is a need to establish action research centres, based on local rather than externally-imposed agendas, which can act as a resource for further work on the development of local NGOs in Bosnia-Herzegovina.*

¹ Papić, Ž., 'Centres for Social Work: their reform and co-operation with NGOs', in Stubbs, P. and Gregson, K., (eds) *Social Policy, Protection and Practice*. Svjetlost: Sarajevo, pp. 165-172. 1998

Annex 1

STATISTICAL ANALYSIS OF THE NGO INFORMATION AND SUPPORT CENTRE DATA BASE

I LEGAL FORM OF REGISTRATION:

Sample: 200 organisations

1. Humanitarian organisations	21%
2. Associations of citizens	61%
3. No data	17.5%

II SECTORS OF WORK

Sample: 200 organisations

1. Umbrella organisation / Assistance to non-governmental organisations	13%
2. Reconstruction / Repatriation	22%
3. Environment	16%
4. Youth, students, children	33.5%
5. Human rights	40%
6. Culture, sports and leisure time	28.5%
7. Ethnic minorities	6%
8. Health care	21%
9. Women	18.5%
10. Humanitarian aid (distribution, monitoring)	18.5%
11. Agriculture and farmers	6.5%
12. Social issues	33.5%
13. Demining / Mine awareness	3%
14. Media	6.5%
15. Political and social education / election monitoring	5.5%

III LEVEL OF WORK

Sample: 200 organisations

1. National organisation	20.5%
2. Regional organisation	33%
3. Local organisation	41.5%
4. Branch of national organisation	0.5%
5. No data	4.5%

IV LOCAL AFFILIATES

Sample: 200 organisations

29% of organisations have local affiliates.

V STRUCTURE OF ORGANISATION

Sample: 200 organisations

46.5% organisations – usually a system of establishing sections, departments, associations or commissions

53.5% – no data

VI DECISION-MAKING STRUCTURE

Sample: 200 organisations

97% organisations – decisions are usually made by the president, Assembly and Steering Board

3% – no data

VII DOCUMENTATION USED BY THE ORGANISATION

The organisations use the following documentation: brochures (from USAID, STAR, MEDICA, etc.), encyclopedias, books, newspapers, information from other organisations, reports – from the Government and Official Gazettes.

VIII SIZE OF MEMBERSHIP

Sample: 200 organisations

86% (172) organisations submitted data

Total number of members: 610,168

IX NUMBER OF VOLUNTEERS

Sample: 200 organisations

69% (138) organisations submitted data

Total number of volunteers: 5,256

X RESOURCES AT DISPOSAL

Sample: 200 organisations

16.5% of organisations do not have any physical resources at their disposal (for example, office, telephone, fax, car).

XI MATERIAL NEEDS

Sample: 200 organisations

1. Premises	16.5%
2. Telephone	21%
3. Fax machine	22%
4. Computer	17%
5. Car	30.5%
6. Photocopier	12%
7. Video recorder	2%
8. Scanner	1%
9. Furniture	8%
10. Office supplies	2.5%
11. E-mail	0.5%
12. Video camera	0.5%
13. Satellite dish	0.5%
14. Internet equipment	1.5%
15. Typewriter	3%
16. Overhead projector	0.5%
17. Fire extinguisher	0.5%
18. Alpine equipment	1%
19. Sports equipment	1%
20. Construction material	1%

XII EXPERTS

Sample: 200 organisations

65.5% of organisations do not have experts at their disposal

XIII PUBLICATIONS

1. "Ambrosia News" – UG "Ambrosia" art bulletin, leaflet – Bosnian, Slovenian and English languages
2. CIP – Directory – "NGO – Informer"
3. Report on the State of Human Rights
4. Mission Statement – General Brochure
5. Youth magazine "Mali college"
6. Comic review "Horoskop"
7. Youth Forum Declaration
8. Women's Forum Declaration
9. Newspaper of the Association of Hunters
10. Bulletin "Faxletter", "International Document in the Field of Rights"
11. Fair Trial
12. "Human Rights and the Police"
13. "Guide for NGOs"
14. "Cosmopolitan Charter on Bosnia-Herzegovina"
15. "Citizens Against Division"
16. "S.O.S. – Sarajevo"
17. "Book for Bosnia"
18. "Let Us Open Cities"
19. "After Dayton"
20. Magazine "Pogled žene"
21. "Literary Paper"
22. Magazine "99"
23. Paper "Stečak – Sarajevo"
24. Paper of the Banja Luka Bishopric
25. Magazine "Tim"
26. "Hrvatski glasnik" – Tuzla
27. Brochure "Fact Paper"
28. Paper "Bobovac" – Vareš
29. Paper "Usora" – Usora
30. Paper "Bedem" – Kreševo
31. Magazine "Ognjišta" – Zenica
32. Magazine "Radovi"
33. Magazine "Sineast"
34. Paper "Tehnika"
35. Edition "50 Years of NT BiH"

36. Booklet by the foundation "Education Builds Bosnia-Herzegovina" – Sarajevo
37. Literary paper "Život"
38. SKI-club "Romanija" paper
39. Student paper "Polet guru demokracije" – Mostar
40. Paper of the Association of Beekeepers
41. Bulletin "Flash"
42. Bulletin "Livanjska žena"
43. Paper "Sabur"
44. Youth paper "Svjetionik"

XIV ORGANISATIONAL STRENGTHS

Sample: 200 organisations

90.5% – most frequent strongpoints: enthusiasm, apolitical character and multiethnicity, massiveness

9.5% – no data

XV ORGANISATIONAL WEAKNESSES

Sample: 200 organisations

88.5% – most frequent weak points: lack of financial resources, lack of understanding on the part of the authorities and inadequate legal foundation

11.5% – no data