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Letter from the Editor

In this issue of the *International Journal of Not-for-Profit Law*, two articles address the multifaceted topic of civil society in politically complex environments. David Moore of the International Center for Not-for-Profit Law takes a broad view, looking at how governments have tried to stifle civil society and how the constituents of civil society have responded, with emphasis on strategies that have helped reestablish some level of freedom of association. Ibrahim Saleh of the American University in Cairo then focuses on Arab civil society, including the role of the Arab media in sustaining it and the necessity for far-reaching legal and political reforms.

In our lead article, Katerina Hadzi-Miceva of the European Center for Not-for-Profit Law compares law and practice with regard to volunteering in particular European countries. Next, Anas Malik of Xavier University examines the Abdul Sattar Edhi Foundation in Pakistan, as a case study of how a charity can signal its trustworthiness and overall social value in a competitive market. Masudul K. Biswas of Ohio University then examines how nongovernmental organizations in Bangladesh interact with news media. Finally, David Robinson, a member of ICNL's Advisory Council and Director of the New Zealand Social and Civic Policy Institute, reviews *Charity Law and Social Inclusion: An International Study*, by Kerry O'Halloran.

As always, we are most grateful to our authors for sharing their expertise and experience.

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CIVIL SOCIETY IN COMPLEX ENVIRONMENTS

Safeguarding Civil Society
in Politically Complex Environments

David Moore[1]

Introduction

On January 17, 2006, Russia adopted a new federal law amending the legal framework governing non-governmental organizations (NGOs) and giving the government greater control over NGO activity. On February 20, 2006, the National Assembly of Sudan passed a draconian new bill which imposes restrictions on the work of NGOs operating in Sudan and grants discretionary power to the government over the operations of NGOs. On December 8, 2006, Peruvian President Alan Garcia signed into law amendments to Peru's Law Creating the Peruvian Agency for International Cooperation (APCI), which grant APCI the authority to "prioritize" NGO activity with "national development policy and the public interest" and to regulate the flow of foreign funding to human rights defenders and other Peruvian NGOs receiving international technical cooperation. On May 3, 2007, Uzbekistan published a new Law on Charity, which grants the Cabinet of Ministers the right to monitor and control the use of charitable donations from foreigners, international and foreign organizations.

These are not isolated events. They are part of a regulatory backlash against NGOs that has caused growing concern among commentators and practitioners throughout the world. In the past two years alone, more than twenty countries globally have introduced restrictive regulations aimed at undermining civil society. These countries join more than thirty others with existing laws, policies, and practices that stifle the work of civil society organizations.

In the former Soviet Union, this trend arguably springs from the perception that NGOs played a fundamental role in the recent revolutions in Georgia and Ukraine, and the fear that similar citizen action is a threat to the authoritarian regimes in other countries.[2] But the trend to constrain civil society is clearly global in nature; countries from Eritrea to Zimbabwe, Bangladesh to Nepal, Algeria to Iraq, Burma to Laos, and Cuba to Venezuela have enacted or proposed new laws and regulations which diminish

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[2] In *The Backlash Against Democracy Promotion* (Foreign Affairs, March/April 2006), Thomas Carothers asks the legitimate question of autocratic leaders: "Are they genuinely afraid that relatively modest Western democracy-training programs and financial aid for often weak civic and political groups will undermine their hold on power, or is this fear just a convenient justification for repressive measures they would take anyway?"

the legal space in which civil society can operate. In terms of their relation with civil society, these countries can be described as politically challenging or complex environments.

The stated rationale for laws and regulations which inhibit NGO activity varies from country to country, and is sometimes cast in terms of counter-terrorism, national security, or curbing NGO abuse. Even where the goals themselves are legitimate, the means used to achieve them are often disproportionate as well as unjustifiably harsh and overreaching. In politically challenging environments, governments perceive civil society as a threat and use the law as a sword to diminish the space in which it operates, and to undermine the strength of NGOs. These politically challenging environments tend to exhibit one or more of the following characteristics:

- The country operates a 'closed' or command economy (e.g., China, Cuba) or is governed by leaders with autocratic tendencies (e.g., Belarus, Turkmenistan, Uzbekistan);

- There is political dissension in the country or a neighboring country that is perceived as threatening the current government regime or incumbent party (e.g., Russian, Sudan, Zambia);

- There are concerns about religious fundamentalism (e.g., Egypt, Uzbekistan);

- Similar legislation or practices have been enacted or introduced in neighboring regimes (e.g., the former Soviet Union and the Middle East);

- The country has a history of human rights abuses (e.g. Belarus, Zimbabwe);

- The country is concerned about "foreign influence" (e.g., Russia, Venezuela).

Governmental restrictions on private initiative are nothing new. Authoritarian governments have often sought to limit the space for nongovernmental activity.[3] The current backlash against civil society is especially troubling, however, coming as it does on the heels of what has been called a global associational revolution.[4]

In recent years, we have been witness not only to the tenacity of civil society to survive in oppressive environments, but more dramatically to the transformational power of civil society. From Slovakia to Serbia to Georgia to Ukraine, civil society groups have played a pivotal role in confronting authoritarian regimes.

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[3] The International Center for Not-for-Profit Law has identified the common legal barriers to civil society and NGO activity that emerge in various politically challenging climates. See *Civil Society Under Threat: Common Legal Barriers and Potential Responses*, USAID 2005 NGO Sustainability Index.

[4] *An Associational Revolution*, Lester M. Salamon, Director of the Center for Civil Society Studies at Johns Hopkins University, the Courier, June 2001 ("In reality, we seem to be in the midst of a 'global associational revolution'—a massive upsurge of organized private voluntary activity, of structured citizen action outside the boundaries of the market and the state. It may well prove to be as momentous a feature of the late 20th century as the rise of the nation-state was in the late 19th century."), available online (www.unesco.org/courier/2001_06/uk/doss28.htm).

Despite these successes, there remains the question of how civil society groups can survive, much less be a force for transformational change, within the straitjackets of legal space to which they are confined in so many other countries. While of course there is no fixed formula or clear recipe to safeguard civil society, there are a range of strategies and tools on which civil society groups can draw when operating within the most politically challenging environments.

Overview of Article

In this article, the International Center for Not-for-Profit Law[5] (ICNL) seeks to identify available strategies and tools to protect civil society and freedom of association in politically complex environments. It should be emphasized that the article is limited to desk research (that is, what has been made available online by organizations engaged in protecting human rights and fundamental freedoms in difficult environments around the world), and does not rely on field research. The strategies and tools discussed in this article are certainly not an exhaustive list; they are rather illustrative and intended to provoke consideration of what would be most effective in particular contexts where civil society and the freedom of association are at risk. Moreover, this article remains a working draft, and we welcome examples of additional strategies and tactics.

The strategies, tools, and mechanisms available to protect civil society fall under the following categories:

- Protective alliances and networks;

- Raising public awareness;

- Advocacy campaigning;

- Direct public action;

- International diplomacy;

- Domestic litigation;

- National and international human rights mechanisms;

- Legal triage;

- Going underground.

We recognize that the boundaries between categories may not always be clear and bright. Certain tools and tactics could certainly fall into more than one category; put another way, several of the categories are overlapping.

More importantly, not every strategy will be appropriate for any particular context, but each of them has been used at various times and may offer meaningful options for those struggling to protect and defend civil society and the right to freedom of association.

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[5] The International Center for Not-for-Profit Law (ICNL) is an organization dedicated to the promotion of the freedom of association, civil society, and citizen participation worldwide (www.icnl.org).

Protective Alliances and Networks

> *"Change comes through partnership."*[6]

The importance of networking and alliances cannot be overstated. NGOs and lawyers may draw incalculable strength from networks. Networking provides the benefit, of course, of information sharing and increased access to expertise. There is also the inspirational value from knowing that the struggle to protect human rights is not a solitary one. Moreover, networks and alliances may provide protection to organizations and individuals struggling in repressive environments.

National networks, whether formal or informal, institutionalized or temporary, play an invaluable supporting role. Informal networking within the NGO community through regular meetings and email communication may be sufficient to facilitate information and strategy sharing. In other contexts, national umbrella groups may facilitate this process. In Afghanistan, for example, several umbrella groups have served in recent years to inform the NGO community of issues ranging from security to NGO legal issues, and to collect NGO input on issues of concern to provide the government. Temporary coalitions are also effective tools, as they allow for the pooling of resources, sharing of information, enhanced profile, and a broadened constituency base, among other advantages.

International networks offer the significant added value of cross-border sharing of information and expertise, as well as international leverage. For example, CIVICUS: World Alliance for Citizen Participation is an international alliance of members in about a hundred countries working to strengthen civil society around the world, especially where freedom of association is being threatened.[7] CIVICUS works through its global membership base and associated networks to mobilize responses to threatening government action by organizing statements of protest, letter writing campaigns, media campaigns, public demonstrations, and fact-finding missions. In another example, the International Women's Rights Action Watch (IWRAW) has developed a database of more than 5,000 organizations around the world to focus on compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[8]

Regional and international networking is often supported through regional and international meetings. In November 2005, ICNL hosted the Global Forum on Civil Society Law, in which some 150 lawyers, academics, government officials, and NGO representatives gathered to discuss issues pertaining to freedom of association and civil society law.[9] Such gatherings provide a forum for bridge building between countries, the strengthening of existing networks and the formation of new ones.

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[6] *When the Boycott Began to Bite*, Christabel Gurney, History Today, London, June 1999 (article describing the boycott movement in South Africa).

[7] See http://www.civicus.org/new/default.asp.

[8] *Supporting non-governmental organizations in their use of international mechanisms to press government for change*, New Tactics in Human Rights, http://database.newtactics.org/NewTactics/CaseList.aspx.

[9] See more on the Global Forum at http://www.icnl.org/knowledge/news/2005/11-21.htm.

When operating in politically complex environments, networks can provide a measure of protection from violence and oppression. In Cambodia, for example, several legal aid and human rights organizations created a "joint task force" to provide representation through a united organizational front, which, using both media and international support, was able to handle politically sensitive cases more effectively.[10] During Peru's human rights crisis in the 1980s and early 1990s, 63 organizations formed the National Coalition for Human Rights, and became the preeminent voice for human rights in Peru, publishing an annual human rights report, advocating for political and legislative change, and protecting potential victims from both the state military and non-state armed groups. "The Coalition was created in at atmosphere of violence and extreme human rights abuses, demonstrating that it is possible to implement this coalition-building tactic in adverse situations."[11]

Peace Brigades International (PBI) has adopted an innovative approach by sending international observers to accompany human rights activists who are threatened by the government or paramilitary organizations in Latin America. "International accompaniment" was developed in the early 1980s to protect Guatemalan civil society activists; PBI operates similar programs in Mexico, Colombia, and Indonesia. The success of the approach depends not only on international volunteer observers, but also on an extensive network of concerned individuals and supporting organizations, which is ready to apply pressure in crisis situations.[12]

Where there is a risk of detention, torture and death, lawyers will sometimes choose to organize and operate from exile. The Burma Lawyers' Council (BLC) offers one present-day example of this strategy.[13] The BLC is based in Bangkok and consists of 25 lawyer-members. The lawyers, all exiles, work to educate the rest of the world about the legal situation in Burma. Similar networks of exiles are monitoring the human rights situation in countries such as Turkmenistan; for example, the Republic Party of Turkmenistan in exile prepared a draft resolution for the European Parliament in 2003.[14]

Raising Public Awareness

"Awareness precedes the assertion of rights."[15]

Raising awareness is the first step toward addressing threats to civil society. Through effective awareness raising, local groups and coalitions can secure support from the broader NGO community, from the general public, from other nations, and from international organizations, which can ultimately lead to domestic and/or international

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[10] *Promoting Justice,* Richard J. Wilson and Jennifer Rasmusen, 2001, International Human Rights Law Group, p. 91.

[11] *Building a coalition of all human rights organizations in a country to speak with one voice against abuses*, New Tactics in Human Rights, http://database.newtactics.org/NewTactics/CaseList.aspx.

[12] *Accompanying human rights activists to protect them from danger*, New Tactics in Human Rights, http://database.newtactics.org/NewTactics/CaseList.aspx.

[13] See http://www.freeburmacoalition.org/.

[14] See *Draft Resolution of Republican Party of Turkmenistan in exile*, Turkmenistan Project, http://www.eurasianet.org/turkmenistan.project/index.php?page=politics/republicanp&lang=eng.

[15] Indian activist, quoted in materials published by the Human Rights Connection.

pressure on the domestic government. The available techniques and approaches for raising public awareness are many and varied, and limited only by the imagination. Of course, the feasibility and effectiveness of any technique depends largely on the particular context. In the most politically challenging environments, raising public awareness of threats to civil society may expose those involved to arrest or organizations to termination. Nonetheless, we offer here a range of possibilities applied in various countries.

Popular Education

Awareness raising campaigns may seek to reach the general public or may target a narrower focus group. To reach a broad audience, common tactics include (1) the preparation and distribution of informational leaflets, brochures, and pamphlets, (2) the distribution of shirts, posters and stickers (such as the "Choose" T-shirts distributed in advance of the 2001 presidential elections in Belarus), (3) the use of popular artwork, such as caricatures, cartoons, and sketches to highlight issues, and possibly graffiti to communicate thoughtful statements, which, assuming these activities are legal, can also be an effective way of engaging youth (this tactic was also applied in the pre-election period in 2001 in Belarus).[16] Of course, the use of media, including the Internet (discussed below), is fundamental when targeting the general public. Demonstrations, as newsworthy items, can also have a tremendous impact on public awareness.

An innovative educational program is street theater – or "informance" plays – that is, performances meant to inform citizens on any number of issues, often connected with their rights. The Philippine Educational Theater Association (PETA) has a long history of conducting theater to raise awareness among communities in the Philippines.[17] Activists in Belarus have also conducted street theater, which, because usually intended to ridicule the President, has typically been shut down and led to the arrest of the participants.

Rights-Based Education

Fundamental to increased public awareness is providing education on human rights and legal rights to individuals living in repressive contexts. Numerous NGOs engage in this kind of activity, reaching out to schoolchildren, universities, minority groups, and citizens more broadly. The education programs may be referred to as "know-your-rights" campaigns or "street law" programs, among others.[18] These programs have been implemented in a wide range of contexts from Belarus to Uzbekistan. By focusing on national law, these programs are generally insulated from censure. The dissemination of easy-to-read, client-friendly educational materials has also proved critically important in raising public awareness beyond the scope of the program participants.

A potentially powerful long-term strategy to protect civil society is working for the integration of educational courses on rights issues as part of university curricula. For

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[16] See MJAFT! Campaign "Things YOU Can Do" Organizing Manual.

[17] *Using street theater to inform the public about social issues*, New Tactics in Human Rights http://database.newtactics.org/NewTactics/CaseList.aspx.

[18] As just one example, the American Bar Association, through its Central European and Eurasian Law Initiative (CEELI), has published "know your rights" brochures and "street law" course to educate average citizens on their rights and responsibilities.

example, more than fifteen courses on civil society or NGO law have been introduced in universities in countries throughout Central and Eastern Europe, in Ukraine, and in Central Asia.[19]

Training for Civil Society Activists

More targeted awareness raising programs may focus on legal training for civil society practitioners themselves. Training civil society activists on the existing legal framework and its implementation can guide civil society and NGO practitioners to navigate through the often complex and contradictory laws and regulations affecting their activity in politically challenging environments. Such targeted training has been used successfully to equip journalists with the skills and know-how to help them navigate the regulatory framework so as to avoid running into difficulties in the first place.[20] Preventative training will often prove more effective than post-arrest legal services.

Training courses often target human rights defenders. The Asian Forum for Human Rights and Development recognizes that the capacities of human rights defenders "need to be strengthened to enable them to effectively address continuing and emerging human rights issues."[21] Similarly, Freedom House Mexico recently concluded a workshop on "New Tactics in Mexico," which addressed the need for new tactics in human rights, looking at the issue of torture.[22]

Monitoring and Documentation

Raising awareness must, of course, reach beyond informing the public of its existing rights on paper and tackle the more difficult issue of how the state is actually violating the rights to freedom of association and expression, and thereby threatening civil society. Recognizing this, civil society activists and NGOs must collect reliable information through investigative missions and effective monitoring programs. Monitoring involves research, investigation, documentation, analysis, and reporting; it is an essential element of building a picture of the human rights situation in a region or country and to ensure that responses by the international community and other stakeholders are based on facts.

CIVICUS (introduced above) publishes Civil Society Watch, a monthly bulletin concerning civil society's rights to freedom of association, assembly, and expression around the world.[23] The goals of the program include (1) identifying, documenting, and publicizing situations in which the actions of government, business, or NGOs are endangering the free participation of civil society; and (2) monitoring, documenting, and promoting best practices that bring positive changes to these situations. Similarly, but with a specific focus on freedom of expression violations, the International Freedom of

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[19] See www.ngolaw.org.

[20] *Campaigning for Freedom of Expression: A Handbook for Advocates*, International Freedom of Expression Exchange (IFEX), p. 22.

[21] See www.forum-asia.org/activities/linkage/capacity/atss05/index.shtml.

[22] See www.freedomhouse.org. See also information on human rights training conducted by Zimbabwe Lawyers for Human Rights, www.zlhr.org.zw.

[23] See http://www.civicus.org/csw/news.asp?section=updates&title=news.asp.

Expression Exchange (IFEX) has established a network, which issues "action alerts" to expose media-freedom violations and to raise awareness throughout the IFEX network.[24] In the wake of the recently enacted changes to Russia's NGO laws, ICNL is working with local Russian partners to monitor the law's implementation and impact on NGOs. Of course, while the issuing of an alert or monitoring of implementation cannot guarantee protection for victims of violations, it does provide a necessary first step in that direction.

Ratings Mechanisms

As a specific form of monitoring, ratings mechanisms are often used to measure the compliance of countries with rights-based standards. Freedom House publishes *Freedom in the World*, an annual comparative assessment of the state of political rights and civil liberties in 192 countries and 14 related and disputed territories. In addition, *Nations in Transit: Democratization from Central Europe to Eurasia*, also published annually by Freedom House, is a comparative study measuring progress and setbacks in democratization in 27 countries from Central Europe to the Eurasian region of the former Soviet Union.[25] Transparency International issues an annual *Corruption Perceptions Index*, which ranks more than 150 countries by their perceived levels of corruption, as determined by expert assessments and opinion surveys.[26] Similarly, Reporters Without Borders publishes an annual *Worldwide Press Freedom Index*, which ranks 168 countries based on their protection of press freedoms.[27]

In addition to these well-established ratings mechanisms applied by international NGOs, the U.S. Agency for International Development (USAID) publishes an annual NGO Sustainability Index, which gauges the strength and viability of the NGO sectors in Central and Eastern Europe in 28 countries (plus Kosovo) in Europe and Eurasia.[28] Most recently, the U.N.'s new Human Rights Council created the Universal Periodic Review (UPR), which will seek to measure the human rights records of all U.N. Member States through a common mechanism.[29]

Use of Media

The effective use of all forms of media – newspapers, radio, and television, in addition to the Internet – can be a powerful tool to protect civil society and guard against abuses and rights violations. The media can help expose violations, educate the public, overcome isolation, reach out to victims and beneficiaries, and help mobilize communities. NGO activists therefore need to understand the nature of media and how to work with media.

Where the media is an accessible tool, press conferences are a well-established means to generate increased awareness of the issue at hand. Through a press conference,

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[24] *Campaigning for Freedom of Expression: A Handbook for Advocates*, International Freedom of Expression Exchange (IFEX), p. 19.

[25] See http://www.freedomhouse.org.

[26] See http://www.transparency.org.

[27] See http://www.rsf.org.

[28] See http://www.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex.

[29] See http://hrw.org/english/docs/2006/06/28/global14096.htm (June 29, 2006).

an organization can effectively communicate its message to a broader audience, and build or strengthen connections with media outlets and journalists. In addition, a celebrity endorsement can significantly increase media attention, thereby raising public awareness of the issue. Furthermore, one of the most effective communication tools is the story told by a survivor of human rights violations or by a human rights defender working on the frontline.[30]

In the many of the most politically complex environments, where mass media are owned, controlled, or heavily censored by the state, it is often necessary to use alternative forms of communication. International news services (Radio Free Europe / Radio Liberty, for example) serve as important tools for human rights defenders throughout a region, especially where broadcast in the local languages. Media attention may be generated by international organizations. "When Amnesty International adopted me as a prisoner of conscience, the newspapers started talking about me, I got better treatment in prison, and I was given a proper hearing in the courts."[31]

Use of Technologies

Internet technology provides a range of critically supportive tools to support NGOs and civil society activists in their efforts to protect civil society. Human rights groups use Internet technology to collect, organize, safeguard, and disseminate information about human rights violations. Unfortunately, this information is vulnerable to government confiscation, destruction, and neglect. To guard against this threat, database tools have been developed that improve the ability to manage information and to document abuses, allowing monitors to create back-up files on remote Internet servers so that the data cannot be lost even if the original PC is destroyed.[32]

The Association for Progressive Communications (APC) has established a global computer network for NGOs to help protect their work from governments and opposition groups, who may try to block access to a controversial website. The innovative solution is known as "mirroring," whereby the APC will send sensitive information from one NGO to another for posting; in this way, sensitive material is freely available on the Internet, but is not easily traced back to its source.[33]

Advocacy Campaigning

"Never doubt that a small group of thoughtful, committed people can change the world ... Indeed it's the only thing that ever has."[34]

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[30] See *Campaigning for Freedom of Expression: A Handbook for Advocates,* International Freedom of Expression Exchange (IFEX), pp. 106-110; *Amnesty International Campaigning Manual*, Amnesty International Publications, 2001, Chapter 9: "Media and Publicity."

[31] *Amnesty International Campaigning Manual*, Amnesty International Publications, 2001, p. 159.

[32] *Creating a database tool that protects human rights information from confiscation*, New Tactics in Human Rights, http://database.newtactics.org/NewTactics/CaseList.aspx.

[33] *Helping non-governmental organizations connect and support one another through Internet networks*, New Tactics in Human Rights, http://database.newtactics.org/NewTactics/CaseList.aspx.

[34] Margaret Mead, anthropologist.

Advocacy campaigns contribute to and build on the foundation of increased public awareness. While the concept of advocacy campaigning is broad enough to embrace many of the tactics described in this article, we choose to identify it as a separate component here to highlight its importance. In addition, advocacy campaigning is a multilayered, nuanced issue of its own, with volumes upon volumes having been written on the subject. Here we highlight only a few issues.

Advocacy for Law Reform

Even in politically complex environments, civil society groups can work to improve regressive legislation. While this strategy may appear farfetched, there are a number of countries where it has worked successfully, including Albania (during the period of martial law imposed by Berisha), Slovakia (under Prime Minister Meciar), and Russia. Such law reform campaigns are most likely to succeed where there is true local ownership of the initiative, where international assistance providers have credibility in the eyes of key stakeholders, and where reformists make efforts to respond constructively to government concerns.

Lobbying to promote reform can assume a variety of forms, including in-person meetings with government officials or parliamentarians, discussions with government officials and parliamentarians at conferences or seminars, study tour trips organized for officials, as well as letters and petitions directed to policymakers.

In 2005-2006, NGOs organized against repressive draft legislation in both Kazakhstan and Russia by issuing public statements to a wide range of stakeholders, by holding meetings, and by generating media attention. The domestic campaigns also helped alert and engage other nations and international NGOs to publicly apply pressure to the domestic government to reconsider the repressive draft legislation. In both countries, the advocacy actions led to change.

Letter Writing

Letter writing is a simple and potentially powerful way to communicate a message and support advocacy campaigning. Letters can target local officials, military officials, or others with direct responsibility for human rights violations; newspapers and media outlets to encourage them to increase coverage of particular issues and/or countries; supporters in the effort to raise money; embassies as a means to target governments; NGOs to provide them with moral support and encouragement; and prisoners and relatives to boost their morale.

To widen the impact, letter-writing campaigns can engage volunteers and public booths, as well as the Internet and email list-serves. In this way, letter writing can become a mass petition. With sufficient signatures, a petition can put substantial pressure on public officials and agencies.

Former deputy prime minister of Malaysia Anwar Ibrahim was released in September 2004, after having been convicted and sentenced to nine years for what were perceived to be political reasons. He later spoke about the affect of Amnesty International's letter-writing campaign on the Malaysian authorities: "Write more and

you'll affect them more. From my experience in government and in prison I can tell you that these letters work."[35]

Cyber-Activism[36]

The Internet offers multiple tools to enhance advocacy campaigns. Creating websites and email list-serves are among the most common. In addition, weblogs (or blogs) are easy-to-build personal websites that allow an individual to post information about any topic at any time. The great advantage of the blog is its immediacy; anyone with access to the World Wide Web can receive information the moment it is posted. Blogs are excellent tools for spreading information about an organization, issue, or campaign. A blog can also serve as a clearinghouse for people within a region. This is particularly critical in countries with severe censorship, such as Burma or Iran. Information can be sent from the repressive country to a blog located in a more protected environment before being published online. Hundreds of bloggers in Iran are finding ways to share information and increase attention on censorship issues.[37]

The website www.Meetup.com allows people with similar interests to arrange personal meetings in almost every country. Individuals can join existing groups that may have formed around a given topic (e.g., freedom of association, freedom of speech, open society). Since 2002, more than a million people have joined Meetup groups in more than 40 countries.

Web-based petitions allow advocates to reach greater numbers of people more quickly. Free online petition tools include www.ipetitions.com, www.petitionthem.com, and www.petitionspot.com.

Finally, text messaging (SMS) is an increasingly common form of communication via mobile phones. Amnesty International Netherlands has developed an innovative use for this technology. In 2001, as part of its campaign against torture, the Netherlands section incorporated text messaging into its Urgent Actions and invited thousands of mobile phone users to sign up as "SMS activists." These activists were notified in a text message whenever a detained individual was in danger of being tortured. In November 2001, more than 6,000 activists responded to an appeal to support jailed Uzbek poet Yusuf Dzhumaev; he was released on December 29.[38]

Mass Mobilization

Mobilizing groups and citizens to demonstrate for human rights and other issues is among the most powerful strategies available to protect civil society. This has been amply shown in several countries in recent years, but it is not always clear that these

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[35] See http://www.amnestyusa.org/urgent/success.do.

[36] In this section, ICNL makes reference to certain websites as illustrative examples of available resources, but is not endorsing any particular website or resource.

[37] *Campaigning for Freedom of Expression: A Handbook for Advocates*, International Freedom of Expression Exchange (IFEX), pp. 37-39.

[38] *Campaigning for Freedom of Expression: A Handbook for Advocates*, International Freedom of Expression Exchange (IFEX), p. 39.

demonstrations are usually the result of planning, preparation, and hard work rather than simply spontaneous outbursts.

The MJAFT! Campaign was an Albania-wide advocacy campaign launched in March 2003 aiming to be the largest awareness raising and advocacy campaign in Albania and to reach up to three million people. The goal of the campaign was "to generate a social earthquake in Albania, to shake off citizen apathy, and increase public demand on solutions to a decent life."[39] To support the organization of local campaigns in Albania, MJAFT! prepared a "Things YOU Can Do" organizing manual, with ideas and tools to help in organizing and advocacy efforts. The manual contains useful guides, such as a *strategy chart* to assist groups with planning and conducting an advocacy campaign, a *recruitment plan* to help in developing an organization's base, a description of *common tactics* and techniques, and a *working with media* timeline.

"Enough" or "kifaya" in Arabic is the official slogan of the Egyptian Movement for Change, which has helped organize public demonstrations in Cairo opposing Hosni Mubarak's reelection. Indeed, February 2005 demonstrations appeared to be the largest anti-Mubarak demonstration ever.[40] Students in Chile organized protests, which drew a million students and teachers and called for educational reform in Chile.[41] CIVICUS and Amnesty International, working with local groups and citizens, organized a unique demonstration of regional solidarity with the people of Zimbabwe on March 12, 2005. The campaign was intended to call attention to the threatened rights of freedom of assembly and expression in Zimbabwe and mobilized civil society groups and individuals in Mozambique, South Africa, and Zambia.[42]

Direct Public Action

"It is not power that corrupts but fear. Fear of losing power corrupts those who wield it and fear of the scourge of power corrupts those who are subject to it."[43]

In this section, we step beyond the more traditional strategies and tools described above into approaches designed to apply direct pressure to governments and human rights violators, or to provide direct relief to the victims of violations. The utility of any direct public action, as always, depends on the context. What follows are specific examples of direct public actions.

Protest Actions: Strikes

Protest actions, such as strikes, are among the most visible of direct public actions. We of course recognize that strikes may be difficult to conduct in politically repressive countries and directly expose participants to arrest and imprisonment. Indeed,

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[39] See http://www.mjaft.org/en/rreth_mjaft.htm and MJAFT! Campaign "Things YOU Can Do" organizing manual.

[40] *Enough is not enough*, Al-Ahram Weekly, http://weekly.ahram.org.eg/print/2005/731/eg10.htm; see also Washington Post editorial, http://www.washingtonpost.com/wp-dyn/articles/A35379-2005Mar14.html.

[41] *Chilean students end mass protest*, News Limited, June 10, 2006.

[42] See http://www.civicus.org/new/content/ZimbabweSolidarityRally.htm.

[43] Aung San Suu Kyi, "Freedom from Fear" speech.

in many such contexts, striking may be illegal. But in the right place and time, it has proved a revolutionary tactic.

In Poland, in 1980, Gdansk became the center of resistance to government decrees and led to a growing wave of strikes. In mid-August 1980 an Interfactory Strike Committee was established to coordinate the rapidly spreading strikes. Soon afterwards it presented the Polish government with a list of demands based largely on workers' rights. Accords were reached between the government and the Gdansk strikers on August 30. Then on September 22, *Solidarity* was formally established.[44]

Boycotts

Perhaps the best-known example of successful boycotting comes from South Africa's Anti-Apartheid Movement (AAM). It was in 1958 that representatives of the African National Congress (ANC) first appealed for an international boycott of South African goods: "The economic boycott is going to be one of the major political weapons in the country."[45] The purposes of the boycott were described as (1) a protest against apartheid and (2) a gesture of solidarity with the oppressed people of southern Africa.[46]

The boycott movement grew out the repression of other forms of political activity and direct action previously adopted by opposition groups. Prior to the call for a boycott, the ANC had joined with other opposition parties to fight apartheid through various forms of passive resistance, including mass stay-at-homes. But by the end of the 1950s, the government had prohibited these forms of direct action and arrested or exiled most of the ANC leaders.

To support the boycott movement, the ANC and other opposition leaders worked over the following decades to raise awareness and to campaign in support of the international boycott. The importance and need for outside support of the boycott was clearly understood: "When our local purchasing power is combined with that of sympathetic organizations overseas we wield a devastating weapon."[47] Among other supporting awareness-raising tools, leaflets describing the life for the majority black population under apartheid were distributed internationally. Meetings were organized to give platforms to exiled liberation movement leaders. Contacts were established with similar groups in other countries and direct presentations were made to other governments. A newsletter (Anti-Apartheid News) was published and widely distributed. These efforts, which extended over decades, paid off. The essential importance of the boycott strategy was "to end all forms of collaboration with the apartheid regime and to impose total international sanctions against it."[48]

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[44] See http://countrystudies.us/poland/81.htm and http://www.britannica.com/nobel/micro/555_63.html.

[45] *When the Boycott Began to Bite*, Christabel Gurney, History Today, London, June 1999.

[46] *The Anti-Apartheid Movement, 1959-1979*, a paper presented by the Anti-Apartheid Movement at a conference on "Southern Africa in the 1980s," London, June 26, 1979, http://www.anc.org/za/ancdocs/history/aam/survey.html.

[47] *When the Boycott Began to Bite*, Christabel Gurney, History Today, London, June 1999.

[48] *The Anti-Apartheid Movement, 1959-1979*, a paper presented by the Anti-Apartheid Movement at a conference on "Southern Africa in the 1980s," London, June 26, 1979.

<u>*Engagement*</u>

The lesson of boycotting in South Africa may or may not be suitable in other contexts.

> There is no one-size-fits-all policy model. Burma under military rule is not apartheid South Africa. What worked in Tutu's South Africa – or Havel's Czech Republic – may not work in Daw Suu's Burma.[49]

The Free Burma Coalition (FBC) is a Burmese-led political initiative to support the Burmese people's aspirations and struggle for democracy and human rights. The FBC formerly supported an Anti-Apartheid like approach by pushing boycotts, pro-sanctions advocacy, and Burma awareness promotion. They have since abandoned this approach and now support efforts to interact and engage with the country – through travel and tourism, educational and cultural exchange, development activities aimed to support people's livelihoods, institutional and capacity building, and humanitarian assistance.[50]

Similar debates surround the question of how to support civil society and change within Iran. These debates of course go beyond the question of the existence and/or strengthening of civil society and often focus on macro-political relations between the world's free nations and the repressive regime. Suggested engagement strategies with Iran include, for example, scholarships for students, exchange programs, and increased air travel between countries. David Ignatius of the *Washington Post*, arguing for connectivity with Iran, notes what he calls "the obvious lesson of the past 40 years, which is that isolation has usually failed (as in the cases of Cuba and North Korea), while connectivity has usually succeeded (as in the cases of the Soviet Union and China)."[51] On the other side of the debate, Charles Krauthammer calls this strategy "pernicious folly," arguing that it would "short-circuit the process, that, after years of dithering, is about to yield its first fruits: sanctions that Tehran fears."[52]

We do not pretend to suggest what strategy is appropriate for Burma, Iran, or any other country. The point is, however, that civil society groups working within repressive regimes need to be aware of all available strategies (isolation through boycotts versus connectivity through engagement, for example) and decide for themselves which to push for in engaging with the local community and international community.

<u>*Direct Support to Victims of Violations*</u>

Direct public action need not always be confrontational or targeted toward the offending government. Alternatively, some civil society groups act directly to support victims of violations.

The South Africa Development Community (SADC) developed a strategy document – "SADC Journalists Under Fire" – proposing a variety of direct actions to support journalists and media workers that are frequently under pressure. "When a

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[49] *Isolating Burma will not help Aung San Suu Kyi*, Zarni, The Independent, UK, June 18, 2005.

[50] See http://www.freeburmacoalition.org/.

[51] *It's Time to Engage with Iran*, David Ignatius, Washington Post, May 26, 2006.

[52] *Say No to Tehran's Gambit*, Charles Krauthammer, Washington Post, May 26, 2006.

journalist is arrested, it's a very dramatic event. Journalists and their families need to know that someone is standing ready to support them."[53] The program of direct support includes such actions as the following:

- Visiting journalists in jail;

- Providing medical support through emergency funds;

- Providing trauma counseling;

- Mobilizing journalists to attend court cases to display solidarity;

- Providing rapid legal support to detained journalists;

- Providing financial support to families in which a jailed journalist is the sole breadwinner; and

- Identifying safe places in case journalists need to go into exile and funding to support journalists in exile.

The Center for Human Rights and Development (CHRD), an NGO based in Sri Lanka, facilitates the release of political prisoners by widely disseminating stories of the political prisoners and their relatives. CHRD meets with political detainees and with members of the victims' families, and subsequently prepares documentation with details of the arrest, detention, and family background of the prisoner, as well as the cost of the detention and torture suffered by the prisoner. The widespread distribution of such information has led directly to hearings in fourteen landmark cases. In addition, CHRD provides family members and witnesses with transportation to and from court and safe lodging during the hearing.[54]

Innovative Mechanisms

Citizen Initiative for Constant Light mobilized thirty million people in Turkey to turn off and on their lights to demand that the government act against corruption. Citizens throughout Turkey began turning off their lights at 9:00 p.m. every night until members of a crime syndicate were brought to justice. The key challenge for this initiative was spreading the word to the citizenry; Citizen Initiative relied on press releases, media support, and an alliance of grassroots organizations that would alert their members. The lights-out demonstration began on February 1, 1997, in Istanbul and other cities and continued every night until February 15, when an estimated thirty million households participated in the largest public protest against corruption in Turkish history.[55]

Similarly, Slovak citizens under the Meciar regime lit candles in household windows as a symbolic protest against his regime. Belarusian activists have adopted the

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[53] *Campaigning for Freedom of Expression: A Handbook for Advocates,* International Freedom of Expression Exchange (IFEX), pp. 19-23.

[54] *Sharing stories of political prisoners and their relatives to pressure for their release*, New Tactics in Human Rights, http://database.newtactics.org/NewTactics/CaseList.aspx.

[55] *Mobilizing citizens to turn off their lights everyday to protest government corruption*, New Tactics in Human Rights, http://database.newtactics.org/NewTactics/CaseList.aspx.

same tactic to express their dissatisfaction with the Lukashenka regime. Such mass citizen actions can have tremendous symbolic importance.

Using a more directly confrontational tactic, the Initiative for Freedom of Expression used a civil disobedience approach in Turkey that involved voluntarily selecting to republish state-banned materials to ridicule restrictions on freedom of expression. The technique was implemented to make so many people participate in the crime that the action would no longer be deemed criminal. Through republication, those who became signatories and published the works again participated in the "crime." More than 80,000 were involved in carrying out the tactic.[56]

International Diplomacy

"International exposure of violations and pressure on violators are effective means to bring about change."[57]

Diplomatic efforts can be critical to communicating concerns at the higher echelons of government. Leaders of other nations and international organizations can initiate discussions with a government to dissuade it from introducing repressive regulatory measures, providing the government with sufficient space to change course publicly. In a recent example, US Secretary of State Condoleezza Rice urged Russia to revise restrictive draft legislation, remarking on the critical link between democracy and the freedom of association. Multilateral diplomatic efforts have also born fruit in advancing NGO law reform in Albania (World Bank), in Kazakhstan (the OSCE), and in Russia (the G8). As noted by Paula Schriefer, Freedom House's Director of Programs, in testimony to the House International Relations Committee's Subcommittee on the Middle East and Central Asia on the state of freedom in Central Asia, "Pressure by the U.S. government and the presence of international organizations has helped to improve human rights and fundamental freedoms of association and speech in Kyrgyzstan and Kazakhstan."[58]

On May 24, 2006, the Carter Center and Human Rights First cosponsored the Human Rights Defenders Policy Forum. Among other issues, the Forum addressed the issue of what policymakers can do concretely to demonstrate a clear and consistent commitment to human rights issues. Participating human rights defenders developed recommendations to democratic states and inter-governmental organizations, which are summarized here[59]:

- Demonstrate consistency in promoting human rights and freedoms in each region;

- Work together to confront the deterioration of human rights;

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[56] *Re-publishing state-banned materials to ridicule restrictions on freedom of expression*, New Tactics in Human Rights, http://database.newtactics.org/NewTactics/CaseList.aspx.

[57] CIVICUS, Civil Society Watch, www.civicus.org/csw/news.

[58] *Freedom House Director of Programs Testifies on Freedom in Central Asia*, Freedom House Press Release Detail, April 26, 2006, http://www.freedomhouse.org.

[59] 2006 Human Rights Defender Policy Forum, Common Trends and Recommendations, May 24, 2006, http://www.humanrightsfirst.org/defenders/forum/trends-2006.htm.

- Do not abandon new democracies just because an election has occurred, but rather continue to support democratic development over the long term;

- Focus support on promoting independent media outlets;

- Ensure that indigenous or disadvantaged groups are included in all democratic processes;

- Demonstrate strong solidarity with all human rights defenders to increase their visibility;

- Reaffirm their own commitment to human rights standards and reinforce international mechanisms designed to protect human rights;

- Exert prompt and effective pressure on governments attempting to restrict NGO activities; and

- Use targeted diplomatic and economic sanctions against individual public officials responsible for human rights abuse.

Domestic Litigation

"Justice is not available on a platter, but has to be fought for."[60]

Domestic litigation offers a potentially powerful tool to challenge rights violations, to expose the repressive nature of the governing system, and/or to generate public attention and awareness.

Litigation can be used to directly challenge constraining legislation. This was demonstrated successfully in Kazakhstan in 2005 when a direct challenge to the Constitutional Council resulted in a finding that the restrictive laws enacted by Parliament were not constitutional. Alternatively, human rights lawyers in many countries "use impact or test litigation as a primary strategy for attempting to achieve social change through legal means."[61]

Regardless of the legal strategy, the utility of litigation depends in large measure on the competence, independence, and impartiality of the judiciary. "The integrity of the result in judicial proceedings is only as valuable as the integrity and credibility of the government to enforce such results."[62]

Where courts are controlled by repressive regimes, litigation strategies may be of more limited utility and even place litigating organizations at risk; organizations pursuing cases must therefore develop innovative approaches and consider how to reduce organizational risk. For example, in Cambodia, to challenge the practice of land grabbing by local government officials, the Cambodian Defenders Project used a dual approach by working with local NGOs to encourage citizen protests against land seizures and by

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[60] Chandra Kangasabi, Secretary General, Hakam, Malaysia (as quoted in *Promoting Justice*, ii).

[61] *Promoting Justice*, Richard J. Wilson and Jennifer Rasmusen, 2001, International Human Rights Law Group, p. 60.

[62] *Promoting Justice*, p. 64.

implementing a legal strategy that allowed cases to be heard in appellate courts, where judges were potentially more neutral and less subject to intimidation.[63]

There may be occasions when litigation makes sense even where a courtroom success is highly unlikely. First, domestic litigation may constitute a necessary step as a means of exhausting domestic remedies before petitioning international tribunals (considered below). Second, by exposing obviously unjust court decisions to the media, lawyers and NGOs can mobilize broad-based community support. Moreover, litigation can serve broader political goals; for example, in Chile, during the Pinochet regime, the Vicariate of Solidarity filed thousands of petitions for the release of detained or disappeared persons, with the goal of exposing the compromised nature of the Chilean judiciary.[64]

These examples highlight the importance of supportive strategies, such as the use of NGO networks, media campaigns, international pressure, popular support, legislative reform, and education. Litigation can be more effective when combined with legislative advocacy.

Another litigation tool that may be available in French-based civil law systems is the possibility of private prosecution, whereby certain classes of victims may have standing to bring criminal charges against their abusers, or where the case is in the public interest. NGOs should be alert to opportunities to bring actions where they can demonstrate a direct interest in the case.[65]

National and International Human Rights Mechanisms

"Freedom of association has been recognized as an international right for 50 years – in Article 20 of the Universal Declaration of Human Rights of 1948, in Article 11 of the European Convention on Human Rights ('ECHR'), which entered into force in 1953, and in Article 22 of the International Convention on Civil and Political Rights ('ICCPR'), which entered into force in 1976."[66]

A)   National Mechanisms

Many countries have established a governmental entity with responsibility to monitor, if not enforce, human rights law. These entities include ombudsmen, human rights commissions, truth commissions, and judicial regulatory bodies. The range of powers varies widely among these entities; regardless, these entities provide an important tool for human rights NGOs and lawyers.

Ombudsmen are officials appointed to receive complaints from private individuals about the government. The Ombudsman system was first introduced in Sweden and has taken root in Europe, but has also been introduced more recently in other parts of the world. Indeed, even in authoritarian countries, such as Pakistan and Iran, the

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[63] See *Promoting Justice*, p. 68.

[64] See *Promoting Justice*, p. 65-66.

[65] See *Promoting Justice*, p. 71.

[66] *European Court of Human Rights Holds Right to Form Associations is Fundamental Human Right*, ICNL, International Journal for Not-for-Profit Law (IJNL), Volume 1, Issue 1, September 1998.

Ombudsman, "as a powerful organization with independent personnel and budgetary assurances guaranteed under the constitution, function[s] to safeguard the citizens from corruption and human rights abuses."[67] China too has authorized organizations with Ombudsman-like authority, namely the power to investigate and act as a check against the irregularities of public servants.[68] Of course, the effectiveness of the Ombudsman will vary from country to country.

The South African Truth and Reconciliation Commission offers one of the best-known examples of a national human rights monitoring mechanism. The Commission was given extensive powers, including the powers to subpoena, to litigate to enforce civil and human rights, to hold public hearings, and to pressure government ministries. South Africa is not alone; roughly twenty other countries have relied on some form of this process. In addition, some countries, including Sierra Leone, East Timor, and Cambodia, are considering the establishment of newer "hybrid" courts combining local and international criminal law.[69]

B)   International Human Rights Mechanisms

The right to freedom of association is protected by numerous international covenants and treaties. Multiple international human rights mechanisms, some with global reach (UN commissions) and some with regional jurisdiction, have been created to ensure compliance with these international instruments. Each offers a potentially significant complementary tool for the work of NGOs and lawyers at the national level. Even where the mechanisms cannot issue legally binding decisions that force states to comply, the political and moral force of the decisions has proved significant in influencing state behavior. Below, we provide an illustrative list of the various mechanisms and a brief description of each.

The leading UN human rights mechanisms include the following:

The Human Rights Committee[70] was set up under the International Covenant on Civil and Political Rights (ICCPR) to ensure that state parties respect human rights as defined in the ICCPR. Consisting of eighteen persons, who convene three times a year, the Committee is authorized to accept individual complaints and to investigate alleged violations of the human rights set out in the ICCPR brought by victims of violations or their representatives. Where the Committee believes a violation has occurred (or is about to occur), it can take action, which could include (1) requesting interim measures by the state, (2) declaring that the state has violated the ICCPR, or (3) calling upon the state to end the violation of the ICCPR. While the state is not legally bound to comply with the

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[67] Uniqueness and Cooperation of Asian Ombudsman, Dr. Lee Wun-Hyoung, Chief Ombudsman, Korea, http://www.ombudsman.go.kr/pub_root/korean/filedata/pds/Eng/6th_AOA_Conference.

[68] Uniqueness and Cooperation of Asian Ombudsman, Dr. Lee Wun-Hyoung.

[69] See *Promoting Justice*, p. 84.

[70] The Human Rights Committee should not be confused with the more high-profile Commission on Human Rights, a Charter-based mechanism, or its replacement, the Human Rights Council. Whereas the Commission on Human Rights was a political forum where states debated all human rights concerns (since June 2006, replaced by the Council in that function), the Human Rights Committee is a treaty-based mechanism pertaining only to the ICCPR.

Committee's requests, the Committee decisions do carry political and moral force. Of course, this political and moral force may be insufficient to influence the behavior of more repressive states. Furthermore, the Committee review and decision-making process is a slow one, lasting from two to four years.[71]

The Special Representative of the UN Secretary General on Human Rights Defenders was established in 2000 by the Commission on Human Rights to support the implementation of the 1998 Declaration on Human Rights Defenders (Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms). The mandate of the Special Representative is to gather information on the situation of human rights defenders, to enter into dialogue with Governments and other key stakeholders, and to make recommendations to improve the protection of defenders. The Special Representative also works to promote the rights set forth in the major international human rights instruments, including the Universal Declaration and the ICCPR.[72] Complaints concerning violations of the rights of human rights defenders can be sent by victims of violations, their representatives, or by NGOs.

The 1503 Procedure is based on the resolution of the UN Commission on Human Rights, adopted in 1970, which established a mechanism for complaints about "situations which appear to reveal a consistent pattern of gross and reliably attested violations of human rights." In 2000, the mechanism was substantially revised by another resolution, 2000/3. It should be noted that the 1503 procedure is confidential, until the final stages of an examination, and that the procedure examines the human rights situation in countries rather than examining individual cases. Complaints are sent in writing to the Office of the High Commissioner for Human Rights in Geneva. Between 20,000 and 25,000 complaints are received each year, and the review procedure is slow and cumbersome.[73]

Regional human rights mechanisms include the following:

The Inter-American Commission on Human Rights (IACHR) is an autonomous organ of the Organization of American States (OAS). Alongside the *Inter-American Court of Human Rights*, the Commission works for the promotion and protection of human rights. Since 1965, the IACHR has been expressly authorized to examine complaints or petitions regarding specific cases of human rights violations (violations of the Charter of the OAS and the American Convention on Human Rights).[74]

Similarly, the *African Commission on Human and Peoples' Rights (ACHPR)* is a supranational body tasked with promoting and protecting human rights and collective (peoples') rights throughout the African continent, based on the African Charter on Human and People's Rights. Established in 1986, the Commission is authorized to

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[71] The Human Rights Committee, http://www.frontlinedefenders.org/manual/en/hrc_m.htm.

[72] The Human Rights Committee, http://www.frontlinedefenders.org/manual/en/hrc_m.htm. See also Office of the United Nations High Commissioner for Human Rights, http://www.ohchr.org/english/issues/defenders/index.htm.

[73] The Human Rights Committee, http://www.frontlinedefenders.org/manual/en/hrc_m.htm.

[74] The Human Rights Committee, http://www.frontlinedefenders.org/manual/en/hrc_m.htm. See also Inter-American Commission on Human Rights, http://www.cidh.org/what.htm.

examine individual complaints and ensure that countries are meeting their legal obligations under the African Charter.[75]

The European Court on Human Rights, based in Strasbourg, was created to hear complaints against states party to the European Convention on Human Rights and Fundamental Freedoms, and empowered to issue judgments that are legally binding on states.[76] Notably, the Court has made several seminal decisions establishing the scope of the right to freedom of association in the European context.[77] In these cases, the aggrieved parties (having been denied registration or terminated) obtained judgments against their government, which more clearly defined the meaning and scope of freedom of association. Moreover, given the fact that the language enshrining the freedom of association in the European Convention and in the ICCPR is virtually identical, the European Court decisions arguably have persuasive authority outside the European context.

Legal Triage

"A group of lawyers within the Bar Association decided to address this problem from two points – victims willing to press charges and lawyers willing to accept their cases."[78]

In the most repressive climates, many of the strategies outlined above may not be realistic or viable. In such circumstances, providing legal support services to NGO practitioners and representatives may be one of the few remaining options. As has been demonstrated in Uzbekistan, however, this type of legal assistance carries its own risks; the American Bar Association's Central European and Eurasian Law Initiative (ABA-CEELI) was shut down in Uzbekistan on the grounds of having provided legal services to unregistered organizations.[79] At the same time, however, there are success stories.

The Media Lawyers Network, facilitated by the Media Institute of South Africa (MISA) in Zimbabwe, has established a network of lawyers to provide legal defense to journalists. MISA-Zimbabwe ensures that when a journalist is arrested or detained, a lawyer is available within an hour in almost any part of the country. In addition, MISA-Zimbabwe has set up a legal defense fund, which pays lawyers for their services and provides money for the release of journalists. Similar legal defense networks are also operating in Zambia and Botswana.[80]

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[75] The Human Rights Committee, http://www.frontlinedefenders.org/manual/en/hrc_m.htm. See also African Commission on Human and People's Rights, http://en.wikipedia.org/wiki/African_Commission_on_Human_and_Peoples'_Rights.

[76] The Human Rights Committee, http://www.frontlinedefenders.org/manual/en/hrc_m.htm. See also European Court of Human Rights, http://www.en.wikipedia.org/wiki/European_Court_of_Human_Rights.

[77] See case decisions on http://www.icnl.org/knowledge/pubs/index.htm.

[78] *Engaging Free Professional Legal Services for Victims, New Tactics in Human Rights,* http://www.newtactics.org/main.php/WK212.

[79] See Radio Free Europe / Radio Liberty (RFE/RL) Newsline report, May 24, 2006.

[80] *Campaigning for Freedom of Expression: A Handbook for Advocates*, International Freedom of Expression Exchange (IFEX), p. 21.

Similarly, a collective of attorneys in the Izmir Bar Association (Turkey) organized its members to provide free services to victims of police torture. The project was developed by a group of four or five attorneys, and initially included 45 attorneys willing to prosecute torturers. The group has grown to include 234 people providing services to human rights cases.[81] In the more challenging context of Chile during the Pinochet dictatorship, the Vicariate of Solidarity provided legal defense services, and used the Catholic Church as a base of operations and a protective umbrella.[82]

In Malaysia, the Bar Council was confronted with the challenge of representing protesters in mass demonstrations, where the government ordered that trials proceed in one continuous hearing, without a break. In response, the Bar Council adopted an innovative approach, devising a system of representation in shifts, with lawyers working on cases for two or three days in a row before being relieved by a new lawyer.[83]

Going Underground

"The light of Solidarity illuminates all of us."[84]

When all else fails and civil society groups are denied legal space – whether through denial of registration, termination, suspension of activities, prohibition, harassment, imprisonment, or some other cause – groups of determined, committed, and brave individuals have managed to survive over time in the most trying circumstances. We make brief reference to a few inspirational examples.

Polish Solidarity was established as an independent labor union in Poland in 1980 and soon changed into an umbrella organization attracting a broad range of political and social groups united in opposition to the communist regime. The roots of Solidarity can be traced back to 1976, when a group of dissident intellectuals founded a Workers' Defense Committee ("KOR" in Polish). KOR used several of the strategic tools described above; it supported families of imprisoned workers, offered legal and medical aid, and disseminated news through an underground network. In addition, it published a Charter of Workers' Rights; later, in August 1980, the Gdansk Interfactory Strike Committee presented the Polish Government with a list of demands largely based on the Charter. Some fifteen months after being formally established, Solidarity was declared illegal, and

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[81] *Providing free legal services to victims of police torture*, New Tactics in Human Rights http://database.newtactics.org/NewTactics/CaseList.aspx. Potential barriers to providing legal assistance in many countries are rules requiring legal assistance to be compensated. In such circumstances, it may be necessary to work with the legal profession to allow for pro bono legal services. Brazil's Instituto Pro Bono has worked to support such an effort in Brazil since 2001.

[82] See *Promoting Justice*, pp. 65-66. Of course, in less repressive contexts, we also find impressive examples. In Thailand, the Thongbai Thongpao Foundation (TTF) brings legal assistance to rural people, and trains them on basic human rights and laws, as a part of a "Law to the Villages" program. Participants in the training receive photo identity cards that list citizen rights (as criminal suspects) and contain the signature and contact details of their personal lawyer. Mere possession of the card can empower individuals.

[83] See *Promoting Justice*, p. 69.

[84] A. Touraine, J. Strzelecki, F. Dubet, M. Wiewiórka , „Solidarność". Analiza ruchu społecznego 1980-1981, Paris 1982, p.81.

its leaders arrested. Despite its legal dissolution, Solidarity continued to operate as an underground organization.[85]

Charter 77 was an informal civic initiative in Czechoslovakia from 1977 to 1992. The movement drew its name from a document entitled "Charter 77," which was circulated within Czechoslovakia in January 1977. The document criticized the government for failing to implement human rights provisions contained in a range of other documents, including the Czechoslovak Constitution, the Final Act of the 1975 Conference on Security and Cooperation in Europe, and UN covenants. Some 243 Czechoslovak citizens signed the document originally; by the mid-1980s the number of signatories had grown to 1,200 people.[86]

Significantly, the Charter 77 document emphasized that Charter 77 is not an organization, has no statutes or permanent organs, and "does not form the basis for any oppositional political activity."[87] This statement was a calculated means of staying within the bounds of Czechoslovak law, which made organized opposition illegal.

Nonetheless, the Czechoslovak government reacted harshly, dismissing some from work, denying educational opportunities to their children, suspending drivers' licenses, forcing some into exile, and detaining and imprisoning others. Vaclav Havel, along with five others, was tried for subversion and sentenced to prison terms of up to five years. Despite unrelenting discrimination, however, the group continued to issue reports of human rights violations by the government.

The success of the Charter 77 movement has inspired other groups, including Charter 97, which is a citizens' human rights organization, calling for democracy in Belarus.[88]

Discussion Groups in Syria. Indisputably, civil society in Syria has little breathing space. Somewhat reminiscent of the informal Charter 77 approach, Syrian students have opted to work outside of established political parties and to meet in discussion groups. These groups are not formally organized; they have no charter or official platform. Instead, they convene groups of opposition-minded individuals, disillusioned with other options. "The discussion groups are invaluable because they focus on the problems that afflict regular Syrians on a daily basis – in other words, the afflictions that can bring Syrians onto the streets."[89] This is perhaps a small beginning, but from such small beginnings, significant change can flow.

Conclusion

The current regulatory backlash against civil society groups in politically challenging environments is subject to increasing attention and concern around the

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[85] See http://countrystudies.us/poland/81.htm and http://www.britannica.com/nobel/micro/555_63.html.

[86] See Charter 77, http://en.wikipedia.org/wiki/Charter_77.

[87] See Charter 77, http://en.wikipedia.org/wiki/Charter_77.

[88] See Charter 97, http://en.wikipedia.org/wiki/Charter_97.

[89] Protecting Civil Society in Syria, Joe Pace, SyriaComment.com, February 22, 2006.

world.[90] Freedom of association and civil society will almost certainly remain under threat in politically complex environments. In this context, NGOs and other civil society organizations – because they act as alternative power centers, regardless of their mission – will often be perceived as potentially threatening to authoritarian regimes. Moreover, even in the most progressive countries, there is always some risk of backsliding on commitments to freedom of expression and association.

Where confronted with barriers and constraints, civil society groups will seek to identify the most appropriate response. They will search for the most effective tools and strategies available to help ensure that they can continue to address their missions meaningfully, and indeed, can continue to survive.

This article has presented an overview of at least some of the available strategies and tools to protect civil society and freedom of association in politically complex environments. As stressed in the introduction, this article is a working draft, and we welcome feedback both on those strategies highlighted here and on examples of additional strategies not included. Our intent has been to provoke discussion and consideration of the most effective tools for civil society in politically complex environments, and we look forward to ongoing dialogue on the issue.

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[90] As but one example, the U.S. State Department released ten *Guiding Principles on Non-Governmental Organizations* on December 14, 2006. These principles are intended to be an important tool for the U.S. and other governments in measuring governmental treatment of NGOs.

CIVIL SOCIETY IN COMPLEX ENVIRONMENTS

Arab Civil Society:
A Cat on a Hot Tin Roof

Ibrahim Saleh[91]

The Arab world is currently struggling to maintain cultural integrity and religious identity in the face of globalization. This critical phase is magnified by a split between the public agenda and the media agenda. This article offers a comparative tool for assessing the Arab world in terms of civil liberties, rule of law, anticorruption and transparency, and accountability and public voice. Most important, it outlines the dichotomy between patron states and discontented publics.

The Arab world is not monolithic. Although most Arabs share a common geography, religion, language, broad culture, and history, the Arab world is made up of different states, governments and peoples, and ethnic groups. To be sure, the Arab world has a dominant culture that distinguishes it from, say, the West; however, it also has subcultures. Although most inhabitants adhere to Islam, believers in Judaism, Christianity and other religions also live in the Arab world.

The self-image of Arabs is in tension. The romantic, sentimental attachment to idealized beauty of Arab culture increasingly confronts a rebellion against the rigidity of the classic aesthetic. In this new spirit of cultural revolt, both conservatives and liberals focus solely on their own perspectives.

News media have become entangled in the struggle, to their own detriment. Rather than counteracting state efforts to keep the public ignorant, the Arab media distort news coverage in ways that advance government agendas and, in turn, reinforce hawkish extremism instead of fostering tolerance.

Arab media, further, have emerged and developed alongside growing poverty, illness, and illiteracy, all of which tend to create a public subject to manipulation and unprepared for intelligent debate. A rising "group think" in the regional disparities within and between countries has further fueled fears of economic marginalization.

The problems of the Arab media result from several factors: a weak economic base, with high costs of production and printing; heavy political patronage; cultural fragmentation; geographic concentration; and low credibility and prestige. In addition, Arab media laws and regulations are unclear, which has contributed to the media's

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subjugation to dictatorial government as well as their low standing outside the Arab world.

Yet grounds for hope remain. With the media's help, ignorance and silence may give way to discontent and demands for emancipation and political freedoms.

Introduction

Some veteran political activists and media personnel have expressed concern over the future of political and civil liberties in the Arab world. They believe that the region faces a genuine crisis in light of the recent crushing of political dissent, which raised two interrelated queries: What is the public agenda? And what are the interrelated future scenarios in the region?

The backdrop, of course, is the fact that most of the media are quasi-governmental and under autocratic leaders. Governments continue to use the media for cosmetic rather than authentic development. This contributes to the massive gap between heads of states' rhetorical commitments to democracy and freedom, on the one hand, and the reality of their often whimsical pursuit of personal gain, on the other. Consequently, many people in the Arab world are more concerned than ever about the policy directions of their governments.

Four basic problems in the Arab world have widened the gaps between Arab governments and their people.

First, endorsements of freedom and liberty are rarely reflected in national liberation, development, dignity, justice, and other basic human needs.

Second, this superficial approach to freedom and democracy reinforces those who believe that leaders in the Arab world are aiming to keep their autocracies by pleasing the West, especially the United States. This happens at a time when most Arab people reject the idea that the United States has any special status empowering it to promote freedom or any other value around the world.

The third prevalent criticism of Arab governments is their subjugation of major regional issues such as the invasion of Iraq, Islamophobia, and the Arab-Israeli conflict. This flagrant gap between the rhetoric of liberty and important sociopolitical and economic issues perpetuates double standards. It is likely to remain the single biggest reason for deep Arab skepticism of government promises of autonomous rule, and it contributes to the fade-out of Arab Nationalism notions that were widespread in the 1960s.

The fourth reason for widespread doubt about Arab governments' pledges concerns the official simplistic analysis that "resentment and tyranny" in the Arab region are the causes of the 9/11 terrorism, and that the perpetrators were motivated by hatred for developing secular systems in the Arab world. Hence, policies adopted by the Arab governments are seen not as mechanisms to help the recipients, but as self-serving instruments of America's defense. This notion magnifies the impact of the venerable Orientalism versus Occidentalism tension, reflected in the controversies over cartoons depicting Prophet Mohamed and in Pope Benedict XVI's speech quoting a 14th-century emperor as calling Islam "evil and inhuman."

The concept of civil society flourished in Western social science as the Cold War ended, when comparative social scientists applied the concept to explain the ongoing wave of democratic transitions across the world. The civil society thesis suggests that under authoritarian rule, an energetic associational life comprising independent, voluntary organizations distinct from the state can trigger a democratic transition by challenging the leaders and forcing them to accept liberal reforms.

Western observers have embraced civil society as the precondition for democratic transition in the Arab states with the presumption that continuous pressure on their authoritarian governments will collapse the Arab autocracy. However, two obstacles stand in the way of any real civil society. First is the absence of a clear definition of what organizations qualify for inclusion in Arab civil society. Consequently, evaluations of the "strength" or "weakness" of Arab civil society depend simply on which groups political analysts choose to include. Second, the thesis presumes that autocratic regimes' strong control and physical capacity to repress can be overcome by the collective force of civil society's demands, where economic inequities plague the society and the state lacks political legitimacy.

Associational activity has vastly increased in Arab authoritarian regimes, similar to its increases in other autocracies before democratization. The chronic failures of rulers to meet popular economic and political demands carved a public space in which new groups could "attract a following, develop a bureaucratic form, and formulate policy alternatives" (Entelis, 1999). Citizens were "drawn into political life to an unprecedented degree" as activists stirred waves of rage (Bellin, 1994), while complacent elites reeled from social unrest, amplified by sluggish economic growth and draining fiscal endowments (Henry and Springborg, 2001). In that regard, any sustained process of Arab democratization became impossible without an effective civil society, a sphere in which civic leaders could pool and direct their resources to defy the state (Kubba, 2001). In terms of both the total number of CSOs and their "density," or quantity of organizations per 100,000 inhabitants, Egypt, Morocco, Algeria, Lebanon, and the Palestinian territories possess the largest and most active civil societies, and the oil-rich Gulf countries the most enervated. The other Arab countries fall in between.

Civil society often eludes specific definition. It has become a buzz word in Arab discourse; public officials use the term "to promote their projects of mobilization and 'modernization'; Islamists use it to angle for a legal share of public space; and independent activists and intellectuals use it to expand the boundaries of individual liberty" (Bellin, 1990). Most Western political scientists and liberal Arab research institutes, such as the Ibn Khaldun Center for Development Studies in Cairo, define civil society as "the place where a mélange of groups, associations, clubs, guilds, syndicates, federations, unions, parties, and groups come together to provide a buffer between state and citizen" (Norton, 1993). In that context, civil society must be secular in ideology, civil in behavior, legally recognized, and supportive of democratic reform (*islah*).

Two factors may help explain the failure of Arab civil society to date. First, civil society has not mobilized a critical mass of supporters throughout society. For example, although NGOs can limit the depredations of authoritarian rule by publicizing abuses such as torture of political dissidents, they cannot directly challenge the state without popular support, which is limited by the fact that most are single-issue oriented (Nasr,

2005). At the same time, NGOs suffer from widespread apathy among members. In Egypt, for example, board elections for trade unions seldom elicit more than 10 to 15 percent voter turnout. Second, the controversy over Islamists' role in democratic reform reflects the difficulty of measuring the effectiveness of Arab civil society. If only secular democrats count, then the civic sector appears weak and fragmented, unable to extract weighty reforms from autocratic leaders (Alterman, 2004). By contrast, if Islamists are included in civil society, the "Arab street" appears passionate and popular, as measured by Islamists' membership and resources, and on numerous fronts seems on the brink of mounting a frontal assault on the authoritarian state (Asef Bayat, 2003).

Theoretical Perspectives

This dichotomy between the governments and publics in the Arab world has perpetuated a great deal of falsehood, or "egalitarian fiction," which forces racial-ethnic groups into what might be termed "collective fraud." The causes are media distortions, untruths, evasions, and biases. In 1988, psychologist-lawyer Mark Snyderman and political scientist Stanley Rothman provided strong evidence that the general public receives a highly distorted view of opinions from mainstream news media. It is thus presumed that a high proportion of Arab media experts misrepresents their beliefs, or keeps silent in the face of public falsehoods. Such journalistic practices exemplify the process of "living within a lie," where ordinary citizens get complicit in their own tyranny through "group think," which leads ultimately to "ideological pseudo-reality."

In the Arab context, government mainstream media paved the way for "group think," a term devised in the 1970s by the American psychologist Irving Janis describing a process by which a group can make bad or irrational decisions characterized by uncritical acceptance of a prevailing point of view. In a group-think situation, each member attempts to conform his or her opinion to what appears to be the consensus of the group. As a result, the group may agree upon a course of action that each member individually would consider unwise (the risky shift).

Group think is a severe problem in Arab society because it turns the general public into unquestioning followers of local rituals, and thereby reduces communication with outsiders. News media, disregarding basic professional ethics, reinforce this group think and bring about a new phase of the "grapes of wrath," where mobs use force against dissenters. At the same time, the public's dependence on the state paradoxically creates periodic "crises" that may take an acute form, such as moral panic or alarm over security. A longer-term, diffused crisis over identity may be operating as well. The patron states manipulated media, and still do, on the pretext of avoiding a reversion to what is portrayed as the anarchy and violence of the early days, a veritable "state of nature."

This notion of synthetic "moral panic" in the Arab world originated with Jock Young (1971) and was taken up by Stan Cohen (1973), who spoke of the deliberate "manufacture of news" in his book *Folk Devils and Moral Panics*. The process depicts certain events or groups as threats to societal values and interests through stylized and stereotypical coverage in the mass media. From the moral barricades, editors, Muslim religious leaders, politicians, experts, and other right-thinking people pronounce their diagnoses and solutions. Society copes or adjusts, and the condition disappears, at least for the time being.

Discussion

The "Arab street" has become an extension of another infamous concept, the "Arab mind," which also simplified the culture and collective conduct of an entire people into a violent abstraction. It is another example of Orientalist imagination, reminiscent of colonial representation of the "other," which has been internalized by some Arabs. By no simple oversight, the "Arab street" is seldom regarded as a representation of public opinion and collective sentiment, or as a potential arena for civil society, like its Western counterpart. Instead, it is perceived primarily as an irrational physical entity, brute force expressed in riots and mob violence.

The "Arab street" in this view is represented by violent imagery when it is poised to imperil interests or disrupt strategies. Such perceptions reflect Western group think, the "civilizing" mission of the West, indifference to authentic Arab public opinion, unequivocal support for Israel, opposition to the Palestinian Authority, and determination to continue waging war on Iraq.

But street politics in general, and the Arab street in particular, are more complex. The Arab street is not mere brute force. Rather, it is primarily an expression of public sentiment, but one whose modes and means of articulation have significantly changed. Street politics is the modern platform of contention *par excellence*. The street is the chief locus of politics for ordinary people, those who are absent from positions of power. Simultaneously social and spatial, constant and current, a place of both the acquaintance and the stranger, the visible and the vocal, the street represents a complex entity that forms, expresses, and spreads outlooks in a unique fashion.

When traditional social contracts are violated, Arab publics have reacted swiftly. The 1980s saw numerous urban protests over the spiraling cost of living. In August 1983, the Moroccan government reduced consumer subsidies by 20 percent, triggering urban unrest in the north and elsewhere. Similar protests took place in Tunis in 1984 and in Khartoum in 1982 and 1985. In summer 1987, the rival factions in the Lebanese civil war joined forces to stage an extensive street protest against a drop in the value of the Lebanese currency. Algeria was struck by cost-of-living riots in the fall of 1988, and Jordanians staged nationwide protests in 1989 over economic hardship and the plight of Palestinians, forcing the late King Hussein to introduce cautious measures of political liberalization. He lifted subsidies in 1996, which provoked a new wave of street protests and led the king to restrict freedom of expression and assembly (Andoni and Schwedler, 1996).

In Egypt in 1986, low-ranking army officers took to the streets to protest the Mubarak regime's decision to extend military service. The unrest quickly spread to other sectors of society. While the lower and middle classes formed the core of urban protests, college students often joined in.

But student movements have had their own contentious agendas. In Egypt, the 1970s marked the heyday of a student activism dominated by leftist agendas. Outraged opposition to the Camp David peace treaty and economic austerity brought thousands of students onto urban streets. Earlier years had seen students organizing conferences, strikes, sit-ins, and street marches, and producing newspapers for the walls, the "freest of publications" (Abdalla, 1985).

In 1991, students in Egypt, Algeria, Morocco, Jordan, Yemen, and Sudan demonstrated to express anger against both the Iraqi invasion of Kuwait and the American-led war to drive Iraq out of Kuwait. Since 1986, Palestinian students have been among the most frequent participants in actions of the *intifada*, often undeterred by the Israeli army's policies of arresting and shooting students and closing Palestinian universities.

In the Arab world, consequently, the street is where collective dissent is expressed. In the street, one finds not only marginalized elements – the poor and unemployed – but also people with some institutional power, including students, workers, state employees, shopkeepers, and middle-class women, large families in the Arab world depend on the women *(maraa almayla)*. The spatial element in street politics distinguishes it from strikes or sit-ins, because street protests can expand beyond the initial group. A street march can be joined by strangers with their own grievances. It is this potential for street protests to spread, and not simply the disruption or uncertainty they cause, that threatens authorities, who pervasively control public spaces with police, traffic regulations, and other rules. One result is spatial division. Students at Cairo University, for example, often stage protest marches inside the campus. However, the moment they come out into the street, where the Israeli embassy is located, riot police immediately and massively encircle the demonstrators, push them away from public view, and keep the protest from spreading. Indeed, this heavily guarded street, now renamed after Muhammad al-Durra, the boy killed in Israeli "crossfire" in the early stages of the second *intifada*, points to the fact that the metaphorical street is not deserted so much as it is controlled.

Conclusion

Part of the blame must fall on Arabs themselves. Publics in different parts of the Arab world are confused and illiterate. The challenge is to educate them to seek their rights civilly and to face their obligations responsibly. Nonetheless, the bulk of blame rightly falls on governments, motivated by suspiciousness with a dimension of xenophobia, which have oppressed their citizens, stoked a culture of fear, and shirked the duties of transparency.

The ordinary Arab feels that there must be "something wrong" with them. Arab governments exploit the confusion to block any serious attempts at change through their economic power, shifting rhetoric, and incomprehensible terms such as "mushrooming terrorists." During the first years of the transition from colonization to independence, there were increases in the number of civil society groups and widespread demands for democratization, but the Arab countries were later deprived of meaningful civil society. Wars for independence were soon replaced by a multitude of local conflicts. And the new system benefited from ever-cheaper communication technologies that increased local interdependence and interconnectedness, which had the paradoxical effect of fueling the public's dependence on government. For example, the Arab public still prefers to pay high taxes and to have the government take care of social services and subsidize almost every aspect of life.

Besides, so many people are still suspicious of change, even of change that moves the nation toward democracy. In a way, most of the Arab public is inactive, a sort of

idleness that correlates with highly pronounced general mistrust. One should not paint too dim a picture, because people have sometimes proved capable of initiating tremendous social change. For example, the liberalization of the media came about after offshore media financed by businessmen attempted to overcome the political patronage in their countries. Today, many civil movements such as Kefaya (Enough) in Egypt are courageously fighting government corruption. But voices critical of such movements are also becoming louder. It often appears that the Third Sector is nothing more than a marginal, discontented proletariat, a world unto itself, largely detached from the rest of society.

Part of the problem is that Arabs are usually not rooted in membership and communal solidarity, but rather belong to small, scattered structures not following modern management norms. This raises many questions about the groups' legitimacy, accountability, and cultural relevance. Those questions in turn often impede cooperation from business as well as government.

The Arab public is more observant now, knowing of government payoffs in the past, but an inability to grapple with critical issues remains, which observers often relate to a fear of confrontation. In the socioeconomic context, people are wary of confrontation and its likelihood of success, given the Arab governments' failure even to attempt to be accountable.

The current gap between Arab governments and publics results in large part from the laws restricting free expression, which have allowed Arab governments to close many newspapers and imprison many journalists. In that regard, the Egyptian emergency law fostered the misperception that criticism of organizations, institutions, and officials is unlawful and improper. Not long ago, the Cairo Misdemeanor Court imprisoned the editor-in-chief of *Al Dostour* (Constitution), Ibrahim Essa, and the journalist Sahar Zaki, along with a citizen from Warak accused of insulting Egyptian president Husni Mubarak. The executive editor-in-chief of *Sout Al Omma*, Wael Al Ibrashy, was referred to the criminal court, and many lawsuits have been filed against *Al Fajr*, headed by Adel Hamouda.

In most Arab countries, legal, administrative, and security penalties hinder freedom of press. In spite of the cosmetic annulment of some laws, many administrative obstacles keep journalists from getting official information, which hinders honest journalism and unfortunately leads some journalists to publish false information, which can lead to criminal penalties.

For economic and political reasons, the Arab world is increasingly important to the West. Certainly its growing international stance will foster the already steadfast and deep friendship between Arab world and the West. However, international politics, media, and research do not necessarily affect the beliefs of the common people. The views of people on the streets of Cairo, Beirut, Khartoum, and Damascus, as well as such rural areas of Rabat and Tanta, can differ greatly from the views of the Arab leaders in their extravagant palaces. This is a problem. The beliefs of citizens can impede development, foreign investment, and bilateral export-import programs.

Arab leaders and publics have starkly different self-perceptions and world views. The lack of civil liberties, justified by the threats of fundamentalism and terrorism – in

reality of course not at all relevant – has left many citizens weary and apathetic, disinclined to fight for accountable government and democratic rights.

Is this the same for all Arabs? Do they all have the same perceptions, and if so, how should they respond? Generally, government stability provides a solid foundation for expanding trade and investment, preventing terrorism, and promulgating a general image-building campaign. Outsiders often hold preconceptions about political unrest, mistreatment of women and foreigners, and Islam in general. As a result, Arab media, politicians, and the liberal elite should reevaluate most of the current news discourse.

The Arab countries are at crossroads in four thematic senses:

First, experts emphasize the need for balancing the media playing field, especially in the context of election campaigns. At present, incumbents often dominate and prevent the press from providing meaningful information to the public. Moreover, media freedom should be increased, whether through less restrictive laws and practices, less government interference, or better protections for journalists who cover controversial issues.

Second, the rule of law should be strengthened. For one thing, torture should be reduced through improved police training and professionalism in the Arab world. In addition, authorities should enforce financial disclosure laws that prevent conflicts of interest among public officials. Most Arab countries have such laws on the books; however, the agencies in charge of enforcing them often lack the strength or independence to prosecute individuals who breach them.

Third, governments in many cases fail to address critical reform priorities. Because of the leaders' own conflicts of interests, they do not devote sufficient attention and political will to these issues.

Fourth, the gap between Arab governments and their publics must be reduced and ultimately ended. Sound institutions and democratic governance, however, do not develop overnight. With good governance increasingly viewed as a key factor in encouraging growth, policymakers must move steadily toward a system that is accountable to its citizens.

Transparency and accountability are essential for significant progress to occur. States can improve their relationships with their citizenry only by protecting basic rights and providing good governance. Through such measures, Arab states can join the community of stable, free, and democratic nations. Their leaders should be encouraged to do so.

Recommendations

More specifically, five steps must be taken to strengthen the Arab social contract:

First, reform of laws is necessary but not sufficient. Societal perceptions must change too. Reform efforts stand a better chance when backed by broad sectors of society, even in dysfunctional political systems that aggregate power in a narrow elite.

Second, human rights must be protected and stereotypes eliminated. Alongside the lack of basic rights, broad societal biases keep women from holding certain leadership positions in government and society.

Third, governments must reconceive their relationships with the citizenry. Old notions of control from above still prevail. They must given way to democratic debate, in which all members of society engage as equals.

Fourth, political reform may be a precondition for protecting human rights. Arab publics are deeply skeptical about their governments' ability to implement new laws. Several observers believe that broad political reform must come first.

Finally, people must be made aware of the importance of human rights. Especially those with less education and those in rural areas tend to equate rights with licentiousness and a degradation of moral values. For them, freedom holds negative connotations. If democracy is to take root, these misconceptions – like so many others – must be eliminated.

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ARTICLE

A Comparative Analysis of European Legal Systems and Practices Regarding Volunteering

Katerina Hadzi-Miceva[1]

I.   INTRODUCTION

Volunteering is an essential part of every contemporary society. Through volunteering, citizens significantly contribute to the social and economic development of their communities. In addition, they expand the influence and capacity of civil society organizations (CSOs) and at the same time develop their own skills. These contributions have been repeatedly recognized through various initiatives aimed to promote volunteering internationally and throughout Europe.[2]

In addition, there is an increased awareness among governments and CSOs about the importance of the legal framework to volunteering. Therefore, some European countries have launched legislative reform initiatives to create an environment that fosters volunteering.

This article will look at the rationale for regulating volunteering and provide an overview of the principles that should underpin any framework for volunteer initiatives. In addition, it will discuss the legal issues that affect volunteering, highlight recommendations developed by international experts, and provide examples of how certain country specific laws have defined and regulated volunteer activities. Through the research analysis, the article will aim to help national governments and policymakers considering local reforms to adopt optimal policies, which can enable and maximize the full potential of volunteering.

II.   VOLUNTEERING AND THE LAW

The legal framework is only part of the social and institutional contexts that shape volunteering in a country. The level of volunteering also depends on such factors as the

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[2] Among others, United Nations International Year of Volunteering (2001), International Volunteer Day (December 5), European Workshop on Volunteer Action (VoluntEurope), National Conference on Volunteering – Croatia, 2005 Volunteer Year – UK. Council of Europe: Recommendation of the Committee of Ministers of Member States on the Promotion of Voluntary Service (1994), Recommendation Improving the Status and Role of Volunteers as a Contribution by the Parliamentary Assembly to the IYV 2001.

economic and political situation, the stage of development of the third sector and its image, the culture of volunteering, and the labor markets. The legal framework becomes important when it creates obstacles and impedes volunteering, as the experience of countries in Europe show. Therefore, the countries of Central and Eastern Europe (CEE) in particular have moved beyond publicly recognizing volunteering to creating a legal environment that will promote volunteering. Several European countries have already adopted legal provisions governing volunteerism, including the Czech Republic, Hungary, Italy, Latvia, Luxemburg, Poland, Portugal, Romania, and Spain. Other countries, including Croatia and Bosnia and Herzegovina, are drafting such legislation.[3]

Also recognizing the importance of the legal framework, international organizations are encouraging states to regulate and promote volunteering. For example, the *Resolution Adopted by the General Assembly of the UN: 56/38* recommends that states create

> [e]nabling fiscal, legislative and other frameworks, including for community-based organizations and not-for-profit organizations engaged in volunteering [though the following means:]
>
> (i)   Introduce enabling legislation. The goal is to encourage or inspire citizens to volunteer but allow the choice to rest with the individual or organization; it can also facilitate employee volunteering. It can provide tax incentives and subsidies for organizations, as well as coverage and protection against risks, in a way fitting the particular society;
>
> (ii) Facilitate partnership-building around volunteer-based activities of civil society, including arrangements for joint planning, implementation and monitoring. This could incorporate employee volunteer activities of the private sector.[4]

The Council of Europe also recommends that states define voluntary service at national level, emphasizing its educational aspects and its importance to society.[5] Through a 2001 recommendation, further, the Council of Europe's General Assembly asks the Committee of Ministers to call on member states to seek to "identify and eliminate, in their laws and practice, any obstacles which directly or indirectly prevent people from engaging in voluntary action, and to reduce tax pressure which penalises voluntary action" and "give voluntary workers legal status and adequate social protection, while respecting their independence, and removing financial obstacles to volunteering."[6]

Several preliminary questions must be asked regarding the relationship between the legal framework and volunteering. Why, for instance, should volunteering be

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[3] For in-depth analysis of country specific legal systems and legal reform initiatives see www.icnl.org and www.ecnl.org

[4] http://www.unv.org/fileadmin/docdb/pdf/2007/N0147881.pdf, 4.

[5] Council of Europe Recommendation No.R (94)4 of the Committee of Ministers of Member States on the Promotion of Voluntary Service (1994).

[6] Council of Europe, "Improving the Status and Role of Volunteers as a Contribution by the Parliamentary Assembly to the International Year of Volunteers 2001" (draft), Doc. 8917, December 22, 2000, http://www.seeyn.org/files/4/6_Voluntarism_and_public_institutions.pdf, 203-205.

regulated, and to what extent? Does volunteering need to be regulated through a separate law? There is no perfect answer to these questions, but the experiences of countries that have undertaken reforms can provide helpful guidance.

1. Why should volunteering be promoted and regulated?

There are many benefits that volunteering brings to the society at large and civil society organizations specifically. The most important ones can be summarized as follows:

Volunteering increases citizen participation in social life, helps build local networks, and creates a sense of responsibility for resolving community problems. Recent research in the UK acknowledges that volunteering may "boost community happiness" and give greater life satisfaction.[7]

Volunteering is an indispensable part of civil society initiatives. According to one study, volunteers represent some 43% of civil society workers in 35 surveyed countries.[8] In Poland alone, 87% of CSOs depend on volunteers.[9]

Further, if the contribution in time by volunteers is calculated, based on average salaries for the fields in which the volunteers are engaged, it exceeds cash donations. A study of 24 countries finds that on average, the financial value of volunteering represents 65% of the nonprofit philanthropic income, whereas cash donations represent 35%.[10]

Volunteering contributes an estimated 8% to the average nation's gross domestic product, and may reach 14% in some nations.[11] In the UK in 2003, volunteers contributed some £42.6bn to the economy.[12]

Volunteering also aids the volunteers themselves. Those who are young or unemployed can develop or refine skills and gain confidence and self-esteem, which in turn helps prepare them for employment. Volunteering enables the elderly to remain engaged, contribute to the common good, and feel their skills are still valuable. This can

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[7] "Volunteering 'boosts community happiness,'" *The Guardian*, September 20, 2004, http://society.guardian.co.uk/volunteering/story/0,8150,1308716,00.html.

[8] Lester M. Salamon, S. Wojciech Sokolowski, and Regina List, *Global Civil Society: An Overview,* John Hopkins Comparative Nonprofit Sector Project (2003), http://www.jhu.edu/~ccss/publications/pdf/globalciv.pdf, 15.

[9] Taryn Nelson, "A Comparative Look at National Volunteerism Legislation," The Inter-American Initiative for Social Capital, Ethics and Development, Inter-American Development Bank, June 2005.

[10] Lester M. Salamon and Wojciech Sokolowski, "Volunteering in Cross-National Perspective: Evidence from 24 Countries," Working Papers of the Johns Hopkins Comparative Nonprofit Sector Project, no. 40 (2001), http://www.jhu.edu/~ccss/publications/pdf/cnpwp401.pdf, 8, fig. 1.

[11] "Study of the extent and role of volunteering – 1997," National Centre for Volunteering, cited in Council of Europe, "Improving the Status and Role of Volunteers as a Contribution by the Parliamentary Assembly to the International Year of Volunteers 2001," Doc. 8917, December 22, 2000, http://www.seeyn.org/files/4/6_Voluntarism_and_public_institutions.pdf, 207.

[12] "Volunteering 'boosts community happiness,'" *The Guardian*, September 20, 2004, http://society.guardian.co.uk/volunteering/story/0,8150,1308716,00.html.

help keep their morale high as well as contribute toward intergenerational cooperation and solidarity.

2. How do laws affect volunteering?

Country-specific analyses show that unfavorable legal frameworks can pose serious obstacles to volunteering, as many of national laws either impede volunteering or fail to support it. This is especially true for those CEE countries where volunteering is not an intrinsic part of the culture. By contrast, in countries where the tradition of volunteering is high, such as the United Kingdom and Germany, volunteering and volunteers are implicitly protected and integrated into various pieces of the laws.

The legal framework issues become especially important for those volunteer arrangements that require an engagement on a daily bases for a longer period of time. Long-term volunteers are affected by a variety of laws, such as labor laws, tax laws, and liability laws, both directly and indirectly. Possible problems include the misapplication of labor laws, the taxation of volunteer time, the loss of unemployment benefits, liability issues, and volunteers performing under dangerous conditions and being unaware of their rights and obligations. In Croatia, some organizations have even had difficulties registering "providing volunteer services" among their statutory activities – due to the lack of legal definition, the registration authorities were not clear what "volunteer services" would mean.

Primarily, national legislation should define and regulate volunteering in order to recognize it, to provide a framework for various volunteer arrangements, and to clearly distinguish it from the employment relationship. The absence of a legal definition of "volunteer" and the lack of recognized features of a "volunteer agreement" may result in the treatment of volunteers as paid employees. Consequently, any payment may be considered "compensation" and CSOs may be treated as running afoul of the labor law and the requirements to pay minimum wage. For example, in Latvia, CSOs were not able to reimburse volunteers' expenses, as that would have required signing a labor contract, which in turn would subject the volunteers to employment laws and minimum wage rules.[13] In Croatia and Macedonia, state inspectorates can temporarily prohibit work if employment was not commenced in compliance with the law (e.g., the parties did not sign an employment agreement).

Further, the lack of legal status might also result in loss of unemployment benefits. In the Czech Republic, labor officers have eliminated unemployment benefits to unemployed individuals acting as volunteers, because these efforts have been deemed illegal work, although the volunteers receive no payments or in-kind benefits.[14] During the drafting of the law on volunteering, a Croatian ministry opined that if unemployed individuals want to volunteer, then the unemployment benefits should be suspended for the time of their volunteer engagement.

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[13] Raymond Stephens, "Latvian Volunteerism: In Search of a Favorable Environment," *SEAL*, Autumn 2001.

[14] Vojtech Tutr, "A draft Law for Czech Volunteers," *SEAL*, Autumn 2001.

Another significant obstacle to volunteering is the tax treatment of reimbursement of expenses. International experts[15] agree that volunteers should have a right to be reimbursed for all reasonable expenses incurred in the course of volunteering. However, in some countries (e.g., Switzerland, Belgium, Macedonia), reimbursement of expenses to volunteers is taxed; only reimbursement to employees is exempted. This is a serious obstacle to recruiting and mobilizing volunteers. Similarly in Estonia, if a CSO wishes to cover the volunteer's costs, it must do so through a labor contract or some civil contract, and all payments are subject to taxation.[16]

In sum, legal recognition of volunteering is important because it ensures that volunteers are protected in the course of providing services and that they are distinguished from employees. The law should aim to replace the impediments to volunteering with incentives.

3. How much regulation is necessary?

Though important, regulating volunteering is not easy. Lessons from countries around the region include the following.

First, it is important to recognize that volunteering can take many forms, from spontaneous, ad-hoc neighborhood initiatives to organized, formal, and even contract-based engagement on a regular and ongoing basis. In addition, volunteers can act in groups, or within the framework of international programs, or on their own initiative, or at the invitation of others. Consequently, it may be difficult and even dangerous to regulate all conceivable forms of volunteering. Experts agree that legislators should "ensure that laws with specific purposes do not restrict opportunities for the enhancement of an enabling volunteer environment."[17] Otherwise the whole concept will be distorted.

Therefore, governments and CSOs should set clear policy goals and objectives that they want to achieve through regulating volunteering, and ensure that the regulation of one form of volunteering does not prohibit the existence of other forms, especially informal or ad-hoc volunteering initiatives.

Second, the legal framework should facilitate rather than control volunteering. The law should ensure that volunteering is protected and promoted and that the legal requirements do not discourage volunteering. Excessive regulations may impede spontaneous initiatives, burden small CSOs, and dampen the volunteer spirit.

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[15] In 2002, the International Center for Not-for-Profit Law, www.icnl.org, convened international experts to conduct a comprehensive assessment of the legal issues affecting volunteering in Europe. Legal Issues Affecting Volunteers and Volunteering in Europe, Warsaw, Poland January 23-26, 2002. The gathering resulted in *Recommendations and Conclusions on Legal Issues Affecting Volunteers*. The Recommendations were adapted for use in legislation in the Czech Republic, the first country in the CEE region to adopt a law or regulation in this field, as well as Croatia, Bosnia and Hungary.

[16] Association of Voluntary Service Organizations and European Volunteer Centre, "Country Report on the Legal Status of Volunteers in Estonia" (2005), http://www.avso.org/activities/countryreports/Estonia.pdf.

[17] Inter-Parliamentary Union, International Federation of Red Cross and Red Crescent Societies, and UN Volunteers, "A Volunteerism and Legislation: A Guidance Note."

Third, every country should decide whether and how to regulate volunteering based on its social, cultural, and economic conditions. At the outset, governments, in partnership with CSOs and other stakeholders, must comprehensively analyze their legal systems and identify how local laws affect volunteering, so as to determine how legal revisions can best serve local needs. If the legal framework inhibits volunteering, than the next step is deciding how to remove the obstacles: through a separate law (e.g., Hungary), an integrated component of another law (e.g., Latvia, Poland), or amendments to current legislation.

Finally, draft laws should be developed through close cooperation among governments, CSOs, experts, and other stakeholders. Multi-stakeholder participation will ensure that the legislative initiative meaningfully addresses real needs of the volunteer community.

III. EXISTING LEGAL FRAMEWORKS AND SCOPE OF REGULATION

There is no uniform way of regulating volunteering, primarily because the nature of voluntary initiatives varies, but also because countries pursue different goals through the legislation. This is an important consideration when analyzing varying approaches. The goals determine the scope of regulation, the specific form of volunteering it regulates, and the benefits, incentives, and protections that apply to that form. Accordingly, the laws adopted so far throughout Europe differ widely in terms of their goals and objectives, the types of volunteering they address, and the extent to which they regulate the relationship between volunteer and organization.

Czech Republic

The Volunteer Services Act (2002) defines only some forms of voluntary activity and specifies the conditions under which the Czech State will support them. The law envisions a distinct system, and only those volunteers who work within it can receive direct government support and protection. Under this law the state accredits certain organizations (called "delegating organizations"), on the basis of which the organizations can select and train volunteers in certain areas, sign contracts with them, and assign them to "receiving organizations." State authorities, organizational units of the State, and authorities and administrative bodies of territorial self-governing units may use volunteer services within the purposes stipulated in the Act, in which case they will have the status of receiving organizations. Unfortunately, thousands of volunteers who work in different organizations or outside the framework of such organized activities are not recognized or protected by the law.

Hungary

The Law on Public Interest Volunteer Activities (2005) also takes a relatively narrow regulatory approach. The law regulates the provision of "public interest voluntary activities" under the umbrella of certain types of legal entities or "host organizations," such as public benefit organizations, governmental institutions, and public or private service providers in the social, health, educational, cultural, and minority fields. The law explicitly stipulates that it leaves intact volunteering in other types of organizations or fields of activities. However, this also implies that the extensive benefits and protections conferred through this law do not extend to other types of volunteering. Because over

half of registered CSOs do not have public benefit status, this law does not cover the majority of CSOs and their volunteers. In addition, the law requires those organizations that work with volunteers to register with the competent Ministry; and it outlines a detailed and bureaucratic procedure of registration as well as conditions under which registration might be refused. An organization must keep a registry of all volunteers, and maintain the data for five years after the volunteer relationship ends. These requirements seem to place unduly high administrative burdens on volunteering. The Hungarian law is perhaps unique in regulating the volunteering relationship in such detail.

Italy

The General Policy Law on Volunteerism (1991) prescribes the principles and criteria that regulate the relationship between public agencies and volunteer organizations.[18] The different regions and autonomous provinces must follow these principles. The regional authorities have basically established similar regulations following the national law.[19] The law does not directly focus on the individual as a volunteer, but rather essentially addresses volunteering by defining volunteer activities and governing the work of volunteer organizations and their relationship with the national and local governments. The law extends certain protection and rights to volunteers by imposing duties on the volunteer organizations, including a duty to insure members against illness and third-party liability, and it distinguishes volunteering from employment relationships.

Latvia

Volunteering in Latvia is regulated under the Law on Associations and Foundations (2003). Article 8 establishes the right of associations and foundations to engage volunteers in order to achieve their statutory objectives, defines volunteering, and prescribes general rules regarding contract, liability, and reimbursement of expenses.

Luxemburg[20]

The Law on Youth Voluntary Service (1999) aims to promote social engagement of young people through activities of general interest that may be for their own benefit, including educationally, and the benefit of others. In order to fall under this law, a non-profit organization must receive accreditation from the Ministry of Youth. The duration of the volunteering is limited to between six and twelve months, which can be shortened or lengthened only with permission of the Ministry. Other types of volunteer activities are not regulated.

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[18] The law defines volunteer organizations as those formed freely, to carry out activities defined by law, which predominantly or significantly use personal, voluntary, and unpaid services of members.

[19] Association of Voluntary Service Organizations and European Volunteer Centre, "Country Report on the Legal Status of Volunteers in Italy" (2003), http://www.avso.org/activities/countryreports/Italy.pdf.

[20] Association of Voluntary Service Organizations and European Volunteer Centre, "Country Report on the Legal Status of Volunteers in Luxembourg" (2005), http://www.avso.org/activities/countryreports/Luxembourg.pdf.

Poland

The Law on Public Benefit Activity and Volunteerism (2003) regulates volunteering for non-profit entities, non-governmental organizations, associations of units of local government, public administration bodies, and other legal entities subject to this law within the scope of their public benefit activities. The law also applies to those Polish volunteers who perform services for international organizations. Volunteers for organizations that lack public benefit status fall outside of this law.

Portugal

The Volunteer Act 71/1998 regulates volunteer activities for projects and programs developed to benefit individuals, families, and the community. Promoting organizations are non-profit public or private entities that have satisfied the criteria to recruit volunteers and coordinate their activities. In addition, the volunteer activity must be of social and community benefit in the fields of civic life, social action, health, education, science and culture, heritage and environment protection, consumer protection, cooperation for development, employment and professional training, social reintegration, civil protection, development of associative life and social economy, promotion of volunteering and social solidarity, and similar fields. The law also establishes the principles of volunteering, enumerates the rights and duties of volunteers, and regulates their relationship with the promoting organizations.

Romania

The Law on Volunteerism (2001 and amendments of 2002) promotes volunteering by Romanian citizens and foreigners organized by public and private registered non-profit entities; as well as the participation of youth in international volunteer programs, as implemented by decentralized structures in close cooperation with the national authorities involved in youth-related matters. Volunteer activities must always be performed under a written contract, which burdens short term or ad-hoc volunteering. The Romanian law separately addresses volunteering under the community action program "Youth."

Spain

The Spanish Act on Voluntary Work (1996) provides that volunteering be performed within the framework of a concrete project or program developed by public or private non-profit organizations. The activities need to be of general interest in social welfare, civic affairs, education, culture, science, sports, health care, economic development, environmental protection, or the promotion of civil society and volunteerism.[21] Various Autonomous Communities have developed their own regulations on volunteering; therefore, this law applies only to national or cross-regional programs and volunteers in areas that fall under the exclusive jurisdiction of the State.[22]

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[21] Miguel Angel Cabra de Luna, "The Regulation and Development of Voluntary Work in Spain," *SEAL*, Autumn 2001.

[22] Association of Voluntary Service Organizations and European Volunteer Centre, "Country Report on the Legal Status of Volunteers in Spain" (n.d.), http://www.avso.org/activities/countryreports/Spain.pdf.

IV.   LEGAL ISSUES AFFECTING VOLUNTEERING

Discussion of the legal issues that affect volunteering will be guided by the recommendations adopted by international experts and by experience from working with various policy-makers in CEE on developing legal framework for volunteering. When country-specific laws are discussed, it is important to consider them in light of their general context and goals, as described in section III.

1.   Legal status and definition of volunteering

Few international treaties or documents provide guidance on a legal definition of volunteering. The Communication from the European Commission to the Council23 recognizes that traditions and practices of voluntary activities vary, which should be regarded when regulating volunteering. It defines volunteering as all volunteer engagements with the following characteristics: "open to all, unpaid, undertaken by own free will, educational (non-formal learning aspect) and added social value." In addition, it defines voluntary service as "part of voluntary activities and characterized by the following additional aspects: fixed period; clear objectives, contents, tasks, structure and framework; appropriate support and legal and social protection."

The *Convention on the Promotion of a Transnational Long-term Voluntary Service for Young People*[24] regulates volunteering by individuals from another country. It defines a volunteer as a "person legally residing in one Party who is legally present in the territory of another Party for a continuous period of time, not less than three months and not longer than twelve months, to perform full-time voluntary service activities." The Convention also emphasizes the basic features of the volunteer relationship by providing that the volunteer is not remunerated and has freely decided to volunteer. In addition, the volunteer activity cannot replace compulsory national service or remunerated employment.

The *Guidance Note* developed by the Red Cross offers two definitions that could guide legislators:

- "Volunteerism is the group of activities carried out by individuals, associations or legal entities, for the common good, by free choice and without intention for financial gain, outside the framework of any employment, mercantile or civil service relationship," or

- "A volunteer is an individual who, by free choice, offers his or her time, work and skills, occasionally or on a regular basis, without expectation of compensation, other than reimbursement of reasonable expenses and subsistence allowance necessary for the accomplishment of his or her assignments as a volunteer, for the public benefit, individually or within the framework of informal or officially

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[23] Communication from the Commission to the Council, follow-up to the "White Paper on a New Impetus for European Youth – Proposed Common Objectives for Voluntary Activities Among Young People in Response to the Council Resolution of 27 June 2002 Regarding the Framework of European Cooperation in the Youth Field," COM/2004/0337, http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:52004DC0337:EN:HTML.

[24] Convention on the Promotion of a Transnational Long-term Voluntary Service for Young People (2000), http://conventions.coe.int/Treaty/EN/Treaties/Html/175.htm.

registered non-governmental non-profit organizations or public entities, at the national and trans-national levels".[25]

Country-specific laws generally define volunteering as activities performed by individuals, based on their free will, for the benefit of another and without compensation. Some of the laws also distinguish volunteering from employment. For example, the Romanian law stipulates that the volunteer activities are "other than labor relationships and the relationship arising between employer and remunerated employees." The Italian law provides that the role of a volunteer is incompatible with every kind of employer-employee relationship in which income is received from the organization. The Hungarian law introduces an amendment to Act LXXV of 1996 on the Supervision of Labor to distinguish volunteering from employment, based on the volunteer contract. The Portuguese law establishes the principle of the complementary character of volunteering, which presupposes that volunteers should not substitute for human resources necessary to pursue the organizations' activities.

> The Romanian law further distinguishes employment from volunteering and ensures that the concept is not misused:
>
> "1. The conclusion of volunteer contracts in view of avoiding the conclusion of an individual labor, or as applicable, piece-work or other onerous contract is hereby forbidden;
>
> "2. Any contract concluded in infringement of the present law by the legal entities mentioned herein above, under art. 1, for the purpose of avoiding the conclusion of a labor, piece-work or other onerous contract, shall be legally null and void;
>
> "3. Participation in volunteer activities shall not be for military service or other, alternative, service substituting military service, and cannot represent the equivalent of a remunerated job...."

From the above-mentioned definitions it is important to highlight the following features of volunteering:

i. *Who is a volunteer?*

- The volunteer is an individual, a natural person. Volunteers may act in groups, or through an organized venture such as an association. However, the group, association, or the legal entity itself should not be regarded as a "volunteer."[26]

- The volunteer can be a citizen or a foreigner who volunteers in that country.[27]

- Any person can be a volunteer. The report by the Social, Health and Family Affairs Committee concludes that member states of the Council of Europe should

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[25] Inter-Parliamentary Union, International Federation of Red Cross and Red Crescent Societies, and UN Volunteers, "A Volunteerism and Legislation: A Guidance Note."

[26] Legal Issues Affecting Volunteers and Volunteering in Europe, Warsaw, Poland January 23-26, 2002.

[27] See, for example, Council Directive 2004/114/EC on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training, or voluntary service

adopt policies that "encourage, by various measures, involvement in voluntary service by everyone, including disadvantaged minorities in traditionally excluded groups: unemployed persons, migrants and the disabled or elderly."[28] However, some countries limit who can volunteer. Most commonly, countries prescribe age limits to volunteer engagements, mainly to protect volunteers but to reflect the type of volunteer relationship that the particular law regulates. According to the Czech law, a volunteer can be a natural person over 15 if volunteer services are performed on the territory of the Czech Republic, or over 18 if the services are performed abroad.

In Hungary the law addresses volunteering not only by minors but also by people with limited legal capacity. Thus, a person with limited legal capacity and a minor above 10 years of age can perform volunteer activities, subject to the following additional protections:

"(1) A person under 18 years of age, or an adult with limited legal capacity may pursue public interest volunteer activities that correspond to his/her age, physical, mental and moral development and abilities, and do not constitute a risk to his/her health, development and performance of school attendance obligations.

"(2) A volunteer under 16 years of age, or an adult volunteer with limited legal capacity may not pursue public interest volunteer activities abroad.

"(3) A volunteer under 18 years of age may not pursue public interest volunteer activities between 8 pm and 6 am."

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ii. *Type of activities*

Volunteer activity should be considered a contribution in-kind (i.e., time or services) and not goods, cash, or other valuable assets. Further, volunteers should be allowed to provide any service permitted by law. Some countries stipulate that certain services cannot be provided below a fixed minimum rate (e.g., legal counsel, medical services). When legislators aim to regulate volunteering, they should keep in mind the potential benefits of *all* possible kinds of volunteer activity. International experts agree that "it is of paramount importance that a framework-law on volunteerism provide the most comprehensive and flexible definitions possible for volunteers and voluntary activity."[29]

Almost all laws recognize that volunteering should be conducted for the benefit of the public, but some laws, such as Portugal's, also specifically define the publicly beneficial fields of activities (see section III). Similarly, the Romanian law defines as publicly beneficial the following activities: social work, social care, human rights protection, health and health care, cultural, educational, tuition, scientific, humanitarian, religious, philanthropic, sports, environment, and social and community activities.

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[28] Council of Europe, "Improving the Status and Role of Volunteers as a Contribution by the Parliamentary Assembly to the International Year of Volunteers 2001" (draft), Doc. 8917, December 22, 2000, http://www.seeyn.org/files/4/6_Voluntarism_and_public_institutions.pdf, 210.

[29] Inter-Parliamentary Union, International Federation of Red Cross and Red Crescent Societies, and UN Volunteers, "A Volunteerism and Legislation: A Guidance Note."

iii.   *Recipient of volunteer services*

Generally, volunteers provide services to benefit another individual who is not related to them, or to benefit a larger community, an organization, a legal entity, a public body, or even the common interest (e.g., the protection of the environment). For example, the Romanian law provides that the beneficiary of volunteer activities can be a natural or legal entity and highlights that the host organization may be benefit from the volunteer activities.

The Spanish law excludes voluntary actions performed outside public or private non-profit organizations, such as for family reasons or by virtue of friendship or neighborliness.[30] Similarly, the Romanian law stipulates that "self sufficient and sporadic volunteer activities, except for those performed within the framework of the relationships with the legal entities, attributed to family, friendship or neighborhood relationships shall not constitute a voluntary activity, and therefore, fall outside the scope of this law."[31]

iv.   *By free choice*

"Free choice" means (1) personal liberty of any individual to decide whether to volunteer, and (2) the extent to which one is willing to engage in voluntary activity without having been compelled or coerced by authorities or by law. Whether a specific activity qualifies as volunteering should be determined by assessing whether the individual would face consequences for refusing to perform the activity, which are likely to influence the decision to volunteer.

This element of "free choice" distinguishes volunteering from other types of activities that in some situations might also be called "volunteering." For example, some countries around the region have labeled civilian service or apprenticeship as volunteering. Civilian service is the alternative to compulsory military service, and the apprenticeship is a type of vocational training required by certain professions before taking the professional exams (e.g., legal, medical). Other countries question whether these fall under the traditional definition of volunteering. The factor that prompts this debate is the fact that the civilian service and sometimes the apprenticeship are performed without remuneration.

Generally, apprenticeship and alternative military service should not be considered volunteering, even though the service is uncompensated. If "free choice" means a liberty to decide whether and how much one wants to volunteer, then any penalty or disadvantage for not performing a service suggests a deprivation of free choice. The apprentices and alternative military service are driven by obligation, whether imposed by the state, an educational institution, or a professional chamber. Such a requirement makes it hard to consider them volunteering. The infringement of free choice overrides the lack of remuneration. Freedom of choice also implies that a volunteer may terminate his engagement at any time, or under the conditions specified in a contract or

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[30] Miguel Angel Cabra de Luna, "The Regulation and Development of Voluntary Work in Spain," *SEAL*, Autumn 2001.

[31] Association of Voluntary Service Organizations and European Volunteer Centre, "Country Report on the Legal Status of Volunteers in Romania" (2005), http://www.avso.org/activities/countryreports/Romania.pdf.

other form of agreement with the hosting organization. Civil servants and apprentices who do not fulfill the required tasks face consequences.

Along this line, the Spanish Act provides that volunteering should be done freely in altruism and solidarity, not out of personal obligation or legal duty. The Hungarian Act provides that an activity does not qualify as public interest volunteering if it is performed to benefit the volunteer or a close relative, if it is required by law, if it is required by a court or other authorities, or if the parties have agreed upon a different legal relationship. The law further defines the details of such non-volunteer agreements in separate articles. The Communication from the European Commission to the Council[32] also emphasizes that civilian service is not a voluntary activity. The Czech law, too, stipulates that the performance of military service or alternative civil service falls outside volunteer services.

v. *Without compensation*

Because volunteering is understood as a donation of time and effort, volunteer services should be performed without compensation. The Polish law even states that "the value of services provided by volunteers does not constitute a donation to a beneficiary under the regulations of the Civil Code and tax regulations." The Italian law stipulates that the volunteer may not be paid in any way, including by the beneficiary. The Hungarian law provides that any financial gain by the volunteer or a close relative as a result of the volunteering will be considered remuneration. The Portuguese law recognizes gratuitousness among the key principles governing volunteering. This principle essentially means that volunteers cannot be paid or receive grants or donations while volunteering.

Although the volunteering itself cannot be compensated, the volunteer can be reimbursed for expenses that arise while volunteering. The reimbursement of reasonable expenses related to the provision of services (e.g. travel, accommodation, food) that are agreed upon in advance should be permitted when the volunteer requests it. All laws provide that volunteers can be reimbursed for expenses incurred in course of service.

The dividing line between compensation and reimbursement of expenses is very fine. Therefore, laws should clarify that reimbursement is made only for actual expenses incurred. If volunteers are paid a fixed rate, even if it is lower than market value for the service, problems can arise with labor laws. Such payments may be indistinguishable from compensation and give rise to taxation, welfare benefits, and minimum wage issues.[33]

Complicating the picture, some legislators have debated whether to create incentives for volunteering. Experts agree that as long as such rewards are neither agreed

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[32] Communication from the Commission to the Council, follow-up to the "White Paper on a New Impetus for European Youth – Proposed Common Objectives for Voluntary Activities Among Young People in Response to the Council Resolution of 27 June 2002 Regarding the Framework of European Cooperation in the Youth Field," COM/2004/0337, http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:52004DC0337:EN:HTML.

[33] Debra Morris, "Volunteering – The Long Arm of the Law," *International Journal of Not-for-Profit Law*, vol. 2, no. 4, www.icnl.org/journal/vol2iss4/ar_morris1.htm.

upon nor expected under the circumstances, they should be allowed without affecting the legal status of a volunteer.[34] The Romanian law provides that volunteers have the right to receive honorary titles, medals, and bonuses, subject to the conditions stipulated by the law. The Hungarian law allows volunteers to receive a bonus, provided that the annual amount of such allowance does not exceed 20% of the prevailing mandatory monthly minimum wage. Generally, however, organizations should avoid offering financial gifts, as they might be considered payments. This is important not only to distinguish volunteers from employees, but also to respect the true nature of volunteering, which is motivated by good will and not by any expectation of financial gain. If one volunteer receives compensation, this can raise expectations among peers and in the society as a whole. Such practices can lead to stricter scrutiny by labor inspectors, who want to ensure that volunteering does not misuse labor or evade tax obligations.

2. Volunteer agreement

Volunteers and organizations should be free to regulate the specifics of their relationship. The legal framework should allow them to define their relationship through formal agreements, and it should provide general principles to guide them in this process. However, laws should not aim to regulate the content of such agreements in detail, because volunteering takes various forms and occurs under various circumstances. In addition, the recognition of volunteer agreements can help distinguish volunteering from employment. This is especially useful where authorities tend to misinterpret volunteering as unpaid labor. It should be emphasized, though, that the option of an agreement on volunteering should not preclude volunteers from providing services without any explicit agreement.[35] The latter is true especially for short-term volunteer engagements.

The country specific laws, especially of the CEE region are keen to regulate the details of a volunteer agreement. Volunteering under the law in Romania is of contractual nature, and the written form is mandatory. According to the Czech law a volunteer renders volunteer services on the basis of a contract concluded with a delegating organization which must have a written form in case of a long-term volunteer service or in case of a short-term volunteer service abroad.

Hungarian law provides only general guidance as to what a volunteer contract should contain: the nature and place of the activity, the length of time assigned for the work, the rest and allowances provided to the volunteer, and the results of terminating the contract. In addition, it states that the contract must be in writing in certain cases, including when volunteering is performed for at least ten days (for volunteers under 18 or adults with a restricted legal capacity, the limit is two days); when the volunteer is provided allowances; when the volunteer is engaged in construction requiring a building permit; when the activity is performed abroad; when the right of either party to immediate termination is restricted; when the volunteer requests it; or when other laws require it.

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[34] Legal Issues Affecting Volunteers and Volunteering in Europe, Warsaw, Poland, January 23-26, 2002.

[35] Legal Issues Affecting Volunteers and Volunteering in Europe, Warsaw, Poland, January 23-26, 2002.

According to the Polish law, volunteer services are performed in the scope, range, and time specified in an agreement, which should also contain a provision for its dissolution. Upon the request of a volunteer, the beneficiary is obliged to provide a written contract and issue written confirmation about the volunteer's services.

The Portuguese law states that the relationship between a volunteer and the organization should be guided by a volunteer program that defines the scope and sites of activities; the criteria for participating in them; duration and forms of termination; internal systems of information and guidance; regular assessments of the results; development of training activities; risk coverage and liability issues; procedures for dispute resolution; and volunteer identification and certification.

Some laws also set forth the general conditions under which a volunteer engagement can be terminated (e.g., Portugal, Hungary), while others leave this to be defined in the contract (e.g., Poland).

3.   Rights and obligations

The legal framework should either define the rights and obligations created by the volunteering relationship, or require that such rights and obligations be regulated by agreement. The type of rights and level of regulation will depend on the nature of the volunteering.

i.   *Rights of volunteers*

All laws should guarantee the minimum rights to volunteers, such as the right to be informed about the volunteer arrangement, the right to receive reimbursement of expenses, the right to work in a safe environment, and the right to retain unemployment benefits. In addition, the legal system may prescribe other rights and obligations related to social benefits, in order to create incentives for volunteering or to incorporate volunteers in the state-funded social security systems. In practice, these additional benefits would correspond to the state's general objectives. It should be noted that greater rights could ultimately result in greater accountability and reporting requirements.

■   *Disclosure requirement*

Each volunteer must be informed about the rights, obligations, and specifics of the volunteer engagement before it begins, to promote an informed decision. The disclosure requirement is important, as it ensures (1) that the volunteer is engaged in activities he or she expected or that motivated the volunteering; (2) that volunteers understand their rights and the circumstances that define them; and (3) that they are informed of any possible dangers that might arise from the activity. Disclosure helps minimize potential misunderstandings that might occur (e.g., volunteers expecting trainings, organizations expecting full-time commitments). It also ensures that the volunteers know what to expect regarding their tasks (e.g., whether they will be doing work related to their skills in the field or performing administrative tasks in the office). If assignments do not meet the expectations of volunteers, the result can be a loss of enthusiasm and ultimately of volunteers. In addition, this requirement helps clarify the financial arrangements, especially regarding the reimbursement of reasonable expenses (see below). The disclosure requirement can be part of written contract or can be communicated to the volunteer before commencing the activity. When there is no written contract,

international experts recommend that the information be either handed to the volunteer or posted in a visible place.[36]

Several laws require organizations to inform volunteers. The Polish law imposes an obligation to inform volunteers about rights and responsibilities and to provide subsequent access to such information. Similarly, the Hungarian law obliges the organizations to tell volunteers about the activity and any opportunities to acquire skills and knowledge. Under the Czech law, the voluntary contract must stipulate the preparatory training offered by the organization and any risks connected with rendering the services.

- ▪ *Reimbursement of expenses*

The law should give volunteers the right to request reimbursement for expenses incurred in relation to providing their services. In addition, such reimbursement should be tax-exempt. This exemption could be restricted to the level of reasonable expenses, as gauged by the extent and intensity of the services.[37] Further, while the law should grant this right to volunteers, it should also allow them to waive reimbursement, as a way of financially supporting the organization.

Some laws provide general guidance on which costs qualify for reimbursement, while others detail those expenses. For example, the Portuguese Act provides that volunteers should be reimbursed for any sums spent in the exercise of activities if duly justified, within the limits eventually established by the respective entity. Similarly, the Italian law provides that volunteers may be reimbursed for expenses that have resulted from the activity, within the limits set by the organization. The Latvian law also provides that volunteers may be reimbursed for expenses incurred during volunteering, if such a provision appears in the articles of association or board decisions of the association or foundation.

According to the Polish law, the organizations are obliged to cover travel expenses and per diems related to performance of the activities, according to the rules applying to employees as defined in respective regulations. The organizations may cover other costs incurred by a volunteer that are related to the services provided to the beneficiary, according to regulations described in separate provisions that apply to employers. Further, the law allows volunteers to exempt the organization entirely or partially from the obligation to reimburse expenses; however, this must be done through a written form. The Hungarian law also enumerates costs not regarded as reimbursement, such as work clothing; protective equipment or material; transportation; accommodation or food provided to the volunteer or their reimbursement; payment to the volunteer for the use of a personal vehicle to benefit the organization; vaccination, screening examination, and other disease-prevention services; cost of training; and food, care, and training of the volunteer's animal. The law also details the conditions upon which volunteers may be issued a per diem. For example, the law provides that individuals who

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[36] Legal Issues Affecting Volunteers and Volunteering in Europe, Warsaw, Poland January 23-26, 2002.

[37] Legal Issues Affecting Volunteers and Volunteering in Europe, Warsaw, Poland January 23-26, 2002.

volunteer with more than one organization may receive per diem from only one organization at a time, and the volunteer must notify the other the organizations of such arrangements.

▪ *Social benefits, Insurance, Safety at Work*

Social benefits, such as health insurance, retirement, and accident insurance are within the scope of labor relationships, as they are directly related to the salaries or other forms of remuneration that individuals receive. Volunteering does not entail remuneration and therefore it is usually not covered by these systems. The social benefits are not an issue with occasional, short-term volunteering or volunteering by employed people or students. Countries, however, could consider extending social benefits to those volunteers who provide services for a longer term and full-time. Generally, the legislation should provide an option for the organizations to offer private social security benefits at their own cost, and those benefits should not be subject to taxation. In addition, these benefits should not be considered remuneration and should not affect the status of volunteers.[38] The Hungarian law stipulates that life, health, accident, and liability insurance will not be considered remuneration.

Depending on the aim of the law and type of volunteering, countries could even consider including volunteers in the state-funded social security systems, which could be restricted and conditioned to volunteering for specific publicly beneficial purposes.

Country laws should ensure that unemployed individuals do not lose their benefits by volunteering. As noted above, this is important because volunteering can help unemployed people build their skills and prepare to respond to the needs of the labor market. Volunteering also enables them to gain more confidence and enthusiasm about their abilities.

Finally, volunteers should also be protected in terms of the conditions under which they provide their services. They should be subjected to same safety standards as employees, and organizations should ensure that the conditions are not hazardous to health and the possibilities of accidents are minimized. When volunteering might expose volunteers to dangerous conditions, they should be explicitly informed about this beforehand.

The law in Portugal stipulates that volunteers have the right to be integrated into the volunteering social insurance regime, in case they are not under a compulsory social security regime; to receive compensation, subsidies, pensions, and other benefits defined by law, in the event of accident or disease developed while volunteering; and to work in hygienic and safe conditions. The Polish law entitles the volunteer to healthcare benefits based on the regulations concerning common health insurance and to compensation in the event of an accident. Further, the law obliges the organization to provide accident insurance to those volunteers who provide services for not less than thirty days. In addition, the beneficiary must tell the volunteer about any health and safety risks connected with the services provided and about the rules for protection; and, based on the

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[38] For more on the relationship between social benefits and compensation, see Legal Issues Affecting Volunteers and Volunteering in Europe, Warsaw, Poland January 23-26, 2002.

rules applying to employees in separate regulations, provide safe and hygienic circumstances, including relevant medical examinations, personal protection, and training in workplace safety and hygiene. The law also gives the volunteer the right to exempt the beneficiary from these obligations; however, such exemption must be done by written notice. In Hungary, organizations can sign insurance contracts, and they must provide safe conditions; volunteers can refuse to undertake an activity that constitutes a direct threat to life, health, or physical integrity. Casualty, health, and other risk insurance are among the minimum rights that volunteer contract in Romania should contain. The Italian law requires organizations to insure their members while carrying out volunteering activities against accidents and illness. In cases of long-term volunteering in the Czech Republic, the contracts may stipulate that volunteers should register for pension insurance if they meet the legal requirements, and that the organization shall pay for at least minimum pension insurance if the services are performed at least twenty hours per week on average.

- Other rights

Some laws also prescribe other rights to volunteers, which recognize that volunteers can and should benefit from the engagement. This is especially important for youth who can develop skills and get trained for jobs. For example, the Portuguese law provides that volunteers should have access to initial and ongoing training, so as to improve the provision of volunteer services, and to be heard on matters affecting the development of volunteering. The Romanian law also prescribes the volunteer's right to participate actively in developing and performing the program and the right to be assigned to activities in accordance with his or her professional training. The Polish law also allows the beneficiary organization to cover training costs for volunteers.

Several laws, such as the Czech and Romanian, also ensure that volunteers have the rights of equal opportunity and treatment in providing services. The Hungarian law further contains rules regarding data protection, by prescribing that the organization may not disclose information concerning the volunteer to third parties, unless required by law.

ii. Obligations

In addition to rights, volunteers have certain obligations. The voluntary nature of the relationship does not absolve them of all duties. This is especially relevant in the cases of formal, long-term volunteer relationships, as it helps ensure the provision of the services with due diligence. To this end, the Portuguese act makes volunteers responsible for undertaking the activities they agreed to do, given the expectations raised in recipients. Generally, laws need not explicitly regulate all duties and obligations of volunteering and can leave the particulars to be regulated in the volunteer contract. Depending on the specific type of volunteering, laws may enumerate minimum obligations or provide a general framework.

In Hungary, volunteers are obliged to perform their activities in person and obey relevant legal rules, professional and ethical requirements, and the instructions of the host organization. They must protect any personal data, trade secrets, or other confidential information acquired while performing the activity. In Romania, volunteers are obliged to perform the assigned tasks; to keep information confidential; to participate in the lectures organized, initiated, or proposed by the organization; and to protect the goods they use.

> The Portuguese law stipulates, "Volunteers shall have the following duties: to observe the rules of professional ethics governing the activity they exercise, namely the respect for the private life of all beneficiaries; to observe the norms which regulate the functioning of the entity they collaborate with; to act in a diligent, impartial and solidary way; to participate in training programs aimed at developing capacities related to their activity; to provide for the best use of material resources and goods, equipment and devices put at their disposal; to collaborate with the organizations' staff; to refrain from acting as representatives of the organization unless they have received such authorization; to guarantee that they will perform their activities in accordance with the program agreed upon and to duly use their identification as volunteers in the exercise of their activity."

4. Liability

The issue of liability is also important, because the legal framework can protect not only third parties from intentional or unintentional damage but also volunteers from damages or injuries they may cause. Generally, liability in instances of volunteering should fall under the scope of the civil law (contracts, torts) liability. As a matter of good practice, the organizations should subscribe volunteers to insurance liability policies and possibly cover any forms of negligence committed by volunteers.[39]

The Hungarian law contains detailed provisions regarding liability. Specifically, volunteers must tell the organization if the activity they were instructed to perform might cause damage. Volunteers who provide such notification are not liable for resultant damages. Host organizations are required to secure liability insurance to compensate for damages that occur while providing services, and they may use a volunteer only if the liability insurance also covers damages caused by the volunteer. Host organizations are liable for damages to a third party, however, if the damage was caused by the "imputable conduct of the volunteer"; the organization may in turn demand damages from the volunteer unless otherwise stipulated in the volunteer contract and is not obliged to pay compensation. Host organizations can be exempt from liability only if they can prove that the damage resulted from an unavoidable outside event or exclusively from the unavoidable conduct of the volunteer. Finally, volunteers' close relatives may seek compensation for damages due to a volunteer's death.

In Romania, liability issues arising from volunteer relationship are subject to the Civil Code. In Latvia, an association or foundation is liable for harm caused during volunteering if the harm is the organization's fault or if the organization has assumed such responsibility. The Portuguese law requires that the volunteer agreement outline the liability coverage concerning harm to the volunteer and harm caused by the volunteer to third parties, taking into consideration the applicable norms on civil liability. The Italian law also requires organizations to insure volunteers against third-party liability related to the performance of their activities. The Czech law obliges the delegating organization to

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[39] See Legal Issues Affecting Volunteers and Volunteering in Europe, Warsaw, Poland January 23-26, 2002; and Inter-Parliamentary Union, International Federation of Red Cross and Red Crescent Societies, and UN Volunteers, "Volunteerism and Legislation: A Guidance Note."

insure against material damage or medical harm suffered by the volunteer, whether caused by the volunteer or by a third party. Further, the volunteer is responsible only for intentionally caused harm.

5. Incentives

Some laws create incentives to encourage wider volunteer engagement. In Portugal, volunteers may benefit from a special regime in using public transportation, as specified in applicable legislation. In the Czech Republic, the state may subsidize an organization's costs for insurance, including pension insurance for a volunteer working on a long-term basis for at least 20 hours a week on average; record-keeping on volunteers; preparing to render volunteer services; and organizing the performance of the services. The Romanian law obliges local authorities to support those carrying out volunteer assignments, with priority given to activities that benefit underprivileged youth.

In addition, laws should generally support employee-volunteering schemes, which are increasingly elements of the overall social responsibility of corporations. Provisions should prevent any legal uncertainties that might discourage employers from allowing employees to volunteer. Experts recommend that employees' time spent volunteering during working hours should be considered as "hours worked" under labor laws. In such cases, the employer should be bound by minimum wage, overtime, and related provisions that protect employees.[40]

6. International volunteering

National legal frameworks should aim to foster volunteering by their own citizens abroad as well as expand the legal protection to foreign volunteers serving in their countries. In fact, the international treaties mentioned earlier have primarily been adopted to promote this type of cross-national volunteering, recognizing its value in promoting solidarity and collaboration and contributing to the education of young people.[41]

Generally, reimbursement of the costs related to volunteering abroad (travel, accommodation, daily allowance) should not be taxable in the country of origin or in the host country. [42] Under the Hungarian law, for example, per diem paid to Hungarians volunteering abroad, or to foreigners volunteering in Hungary, is not considered remuneration, provided that the allowance does not exceed 20% of the prevailing mandatory minimum wage.

Some countries may extend additional benefits, depending on the type of volunteering they promote. For example, the Czech law guarantees medical insurance to volunteers, depending on the nature of the services rendered and the local conditions. In addition, volunteers have the right to housing free of health risks if they provide services outside of their residences.

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[40] Inter-Parliamentary Union, International Federation of Red Cross and Red Crescent Societies, and UN Volunteers, "A Volunteerism and Legislation: A Guidance Note."

[41] See, for example, the Council of Europe, Recommendation of the Committee of Ministers of Member States on the Promotion of Voluntary Service (1994).

[42] Legal Issues Affecting Volunteers and Volunteering in Europe, Warsaw, Poland January 23-26, 2002.

> The Hungarian law covers Hungarian citizens volunteering abroad, when such volunteering is organized by the host organizations in Hungary. It also provides that:
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> "A citizen of a state which is not a state party of the Agreement on the European Economic Area (except for persons recognized as refugees or persons in a refugee-like situation, immigrants or permanent residents, and direct line relatives or spouses of citizens of a state party of the Agreement on the European Economic Area) may pursue public interest volunteer activity if:
>
> "a) the host organization has concluded a liability insurance covering damages caused by the volunteer;
>
> "b) meals, accommodation and return transportation of volunteer is provided for; and
>
> "c) the volunteer is eligible to healthcare services or has an insurance covering the costs of healthcare services."

Another impediment to recruiting foreign volunteers is the visa. Where volunteering lacks legal status, these volunteers cannot obtain visas reflecting their purposes for visiting the country. Usually, they have tourist visas, which are of limited duration and do not provide a legal basis for the rights that such volunteers should be entitled to. Therefore, countries should enable foreigners to provide volunteer services through a special visa regime. For example, the Romanian law gives foreign volunteers the right to a residence permit for the duration of their volunteer activities.

CONCLUSION

The analysis here suggests that countries should revise laws or enact separate legislation in order to promote volunteerism, protect volunteers, and remove legal impediments. The legal regulations should:

- Distinguish volunteering from other types of legally recognized or regulated relationships;

- Clarify that volunteer services should be performed without compensation, as volunteering is understood as a donation of time and effort;

- Entitle volunteers to reimbursement of expenses, with such reimbursements exempt from taxation;

- Determine the rights and duties of volunteers;

- Protect volunteers while they are performing voluntary activity;

- Guarantee that volunteering will not affect one's right to unemployment benefits;

- Introduce rules to protect third parties against any damage incurred due to volunteering;

- Provide optional benefits to volunteers; and

- Enable international volunteering.

In regulating volunteering, governments must set clear policies and goals, which will help determine the type of volunteering they want to regulate. Local traditions of volunteering must also be considered. Otherwise, laws might discourage spontaneous initiatives, burden on small organizations, and have a deterrent effect on the general culture of volunteering by giving advantages to one form of volunteering over others. Before launching a legal reform, a country must also comprehensively analyze their legal systems. In order to ensure that the legislative initiatives address real needs of the volunteer community, governments should make certain that all stakeholders are properly consulted and their comments are regarded in the draft provisions.

Finally, all governments should recognize volunteering as an initiative of citizens, based on their free will, to take action in the community in order to alleviate problems and contribute to the achievement of social and humanitarian goals. This activism should be appreciated, cultivated, and facilitated through state policies, so that formal and informal volunteer initiatives alike can flourish and help create a better society for all.

ARTICLE

Strategic Reputational Signaling in Competitive Charity Markets

Anas Malik[1]

INTRODUCTION

What happens to people unable to provide adequately for themselves when government does not step in with support? Do they starve, beg, steal, or migrate?

Nonprofit social welfare organizations partly fill this social need. In weak states where instability and corruption can be rife, such organizations can produce significant results. Some have clear attachments to a political party or movement: consider the social service activities of the Muslim Brotherhood in Egypt, HAMAS in the West Bank and Gaza Strip, and Hezbollah in south Lebanon. Each organization invested in social services such as health care, developed roots in the broader population, and reaped political rewards including increased allegiance, a positive public image, and more potential recruits. But not all social service organizations have such direct ties to a political movement.

This article examines the case of the Abdul Sattar Edhi Foundation and considers its implications for social services in developing countries. The article partly chronicles visits to several Edhi offices and facilities, informal interviews, and examination of documents. I argue that the Edhi case demonstrates the strategic, adaptive, and sophisticated efforts that organizations make to obtain donations and thereby sustain and enhance their activities. A comparison between Edhi outreach efforts in different environments shows subtle but revealing differences in emphasis.

Using original evidence, I argue that such differences are not accidental, cultural, psychological, or sociological in origin. Rather, they are strategically sophisticated responses to different transaction cost environments. Where factual information is unreliable and difficult to get, a reputation-based outreach strategy is prudent. Where information is easily verified, subject to public accountability, and reliable, a record-based outreach strategy makes more sense. An important unintended consequence is that reputational outreach can bring long-term organizational instability, a particularly critical problem if the founding entrepreneur exits the scene. This unintended consequence poses a strategic dilemma for organization managers and their supporters.

The broadest way to frame the rival hypotheses underlying my study begins with the theoretical debates over what better explains "Oriental" social outcomes – "irrational" or "nonrational" cultural, psychological, or sociological factors – versus "rational"

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strategic choices by organizational decision-makers pursuing survival, resources, and power. The literature has tended to emphasize nonrational factors over rational ones. By holding nonrational factors constant and considering a change in environmental incentives, one can assess the strategic choice element in organizational behavior. An important implication for policymakers and development analysts is that sophisticated and appropriately designed efforts to adjust such incentives can produce socially desirable outcomes, such as increasing organizational stability and predictability.

The article starts with a theoretical look at weak states and their typically high transaction cost environments. A market analogy is used to illustrate the strategic implications for social organizations as they compete for donor support. After describing the main hypothesis, a case description and specific evidence relevant to the theoretical argument are elaborated. The findings are then summarized and discussed, and their implications for the theoretical literature and for organizational managers are assessed.

THEORY

Tactical and strategic considerations matter, because it is highly unlikely that successful organizations arise and sustain themselves without viable strategies and learning. This section draws on several literatures that locate the context for rational action. High transactions costs, an inadequate rule of law, and challenges for leadership are particularly prevalent in "weak states." Building and sustaining a functioning organization in such a context is the broad theoretical focus below.

Weak States, Strong Societies

In weak states, local strongmen can dominate politics. Joel Migdal describes this as the "weak state, strong society" phenomenon typical of developing countries. The current policy literature refers frequently to "failed states," countries in which the governing apparatus has fallen significantly short of meeting its presumed basic obligations, such as providing law and order and the necessities for survival. References to failed states are usually references to states that are highly and chronically weak.

Market analogy

It is helpful to draw an analogy with the market as portrayed in transaction cost economics, which overlaps with the "New Institutionalism" in political science. That literature provides theoretical concepts and vocabulary useful for understanding the strategic environment and tactical considerations facing social actors in exchange relationships.

The models of neoclassical economics describe free market behaviors under the simplifying assumptions that information is perfect and transaction costs are zero. A new approach called "transaction cost economics" has recently arisen. With roots in Ronald Coase's "theory of the firm," and more recent work (e.g., North, 1990; Eggertsen, 2005, 1990), transaction costs economics spawned new thinking about growth, development, and risk. Information is an important component in transactions, and it includes knowledge about the market, predictability or uncertainty about the future, and guarantees that commitments will be met. The easier it is to get information, the more transactions are facilitated, which in turn can mean more productive bargains and exchanges.

But information in the real world is rarely perfect, and reliable, relevant information is generally costly. Accurate information is far more difficult to obtain in some situations than others. Insecurity about what one's potential partner in exchange may do, and worry that the other party may defect from the agreement and cause losses, make it more costly to reach an agreement. In such a context, signaling intentions and providing other reassurance becomes vital. The problem is how one demonstrates a credible commitment to fulfilling one's obligations in a bargain. As this is a fundamental issue in exchange relationships, the "credible commitments" problem has received wide attention in the New Institutionalist literature (e.g., Libecap, 1998).

Information problems are only a subset of transactions costs incurred in exchange relationships. Consider a person shopping for groceries. The exchanged goods (money for groceries) have a particular value, and above this amount are additional expenses. The person going to the store must pay with time, energy, and gasoline. He must engage in decision-making that requires information about shopping options. Depending on the shopper's zeal and care, advertising claims must be investigated to ascertain a product's quality. All these costs are additional to the price paid at checkout. Consider also the problem facing the grocery store. The owner must not only monitor customer traffic and prevent shoplifting, but also be on the lookout for counterfeit currency and bad checks. These, too, are additional costs incurred in the exchange process.

In grocery shopping, it is relatively straightforward to evaluate information. The transactions costs problem takes on different dimensions when delegating a task to a paid worker or buying a service, commonly known as a "principal-agent" relationship. The person seeking the service or delegating a task may be described as the "principal" and the hired worker as the "agent." The agent finds it rational to do as little work as possible in return for the same remuneration from the principal. The agent would ideally like to shirk all obligations and still get paid. The principal, by contrast, would like to extract maximum work from the agent for minimum pay. The core problem for the principal becomes reducing or eliminating shirking.

To guarantee that the agent actually does the assigned work, there must be monitoring and enforcement. The principal must be able to ascertain whether the agent is performing the agreed-upon service, and then reward or punish accordingly. Leaving aside ethics for the time being, it is rational for the agent to pursue self-interest regardless of whether it operates to the principal's detriment. When monitoring and enforcement are poor, the agent can get away with much more shirking. Because there is low information, and because reputation does matter, prospective agents commonly adopt signals to enhance their perceived trustworthiness.

The principal-agent problem falls in the collective action (CA) problems category. These problems make social exchange and cooperation more costly and difficult. One way to understand institutions is that they help overcome these problems. Where institutions are generally weak, transactions costs are higher, and exchange relationships in society and markets become more costly to facilitate.

Although we do not usually view charitable giving as a market activity, the analogy is nevertheless useful. In conditions with widely recognized humanitarian needs, and with people who wish to donate to humanitarian causes, a "market" emerges. Donors

and potential donors are the buyers. Humanitarian social welfare organizations are the sellers. They promise to provide the "goods," by using the donations appropriately. As in other markets, competition arises – sellers compete for buyers. Those sellers that cannot attract enough buyers end up exiting the market.

Organizational imperatives

Humanitarian organizations need resources in order to survive and fulfill their organizational goals and mandates. The resources may include material donations as well as volunteer services or labor. How to generate the resources needed for organizational success is a critical problem. Many organizations succeed by offering selective incentives to donors and participants- solidarity and belonging to members in exchange for fees or dues (the Jamaat Islami in Pakistan and the Muslim Brotherhood in Jordan follow such models). Those who do not contribute to the organization do not receive such "solidarity" rewards. Selective incentives can be bolstered by ideology. If people believe in the organization, they are more likely to give.

Personal reputation matters in low-institutionalized contexts. Where there is little faith in institutions, individual personalities need to provide the attraction. Personality looms large because there is little else to rely on – everyone knows that books can be cooked. Over-reliance on personal reputation, however, puts the organization at risk once the founder dies, because the leadership mantle and the organization itself are inextricably attached to the founder.

Investing in a leader's personal reputation to appeal for donations is similar to trying to exercise charismatic authority. Max Weber categorized authority in society as resting on legitimacy driven by a leader's charisma, tradition, or legal-rational rules and roles. The three sources are not equal.

> Charismatic authority, in Weber's view, is the most unstable form of legitimacy. Once charismatic leaders die, their ideas and supporters can die with them. To prevent this from happening, the charismatic leaders and successive generations of followers must institutionalize (or "routinize") the leaders' charisma by building institutions that will survive.... (Sodaro, 2004: 103).

Charismatic authority contrasts with legal-rational authority, characterized by "the belief in the legality of rules and in the right of those who occupy positions by virtue of those rules to issue commands" (Weber, 1968, quoted in Sodaro, 2004: 103).

Greater belief in legality and formal rules are likely to correlate closely to lower transactions costs. Such societies are generally more institutionalized. Organizational outreach to prospective donors in such societies emphasizes records, documentation, and facts over glorified personal reputation and integrity. By contrast, societies with greater transactions costs will generate more personality-based appeals to donors.

HYPOTHESES

This study's general hypothesis is the following.

The transactions costs environment will shape a charitable organization's marketing strategy.

This contains two corollary hypothetical expectations.

Where there is little faith in information, the charitable organization's marketing strategy will be based more strongly on adulating the leader as extraordinary rather than the "record."

Where people are used to reliable information and critically assessing it, the organization's marketing strategy will emphasize the "record" and minimize adulating the leader.

METHOD

Archive research, original fieldwork, and interviews are used to explore what happens in one case when a humanitarian, donation-seeking organization – the Edhi Foundation – addresses different audiences: an audience primarily inside Pakistan and an audience primarily in English-speaking "developed" countries.

Because I am interested in the impact of differences in transactions costs, it makes sense to eliminate or control for potential rival hypothetical causes. Two major rival hypothetical causes here are culture and education. This research design successfully controls for their influence if these major alternative explanations remain stable while the hypothesized influence (transactions environment) changes. If the evidence shows that the outreach strategy changes when the transactions costs differ but the educational and cultural environments remain similar, then a strong case for the hypotheses can be made.

THE CASE

Context: Pakistan

With a per capita GDP of $720 and rural poverty rates as high as 41%, Pakistan is a severely indebted, low-income developing country (World Bank, 2006). Pakistan is also a classic weak state: its extractive capacity is below what one would expect for countries endowed with similar resources (a measure developed by Snider, 1997). The governing apparatus is inefficient, stretched for resources, unable to monitor society effectively or to enforce laws appropriately, and unable to assess and collect taxes except from a tiny minority, probably reaching only 2% of the population. No unemployment benefits, sick pay, or other social safety nets are available to the full population.

Transactions costs environment

Corruption, graft, fraud, and failings in the "rule of law" are common problems in Pakistan and impediments to effective administration and successful development. According to a wry joke, Pakistan was voted number one on the most corrupt countries list – or voted number two but bribed the vote-counter. Transparency International, a global anti-corruption nongovernmental organization, has repeatedly ranked Pakistan among the 25 most corrupt countries (#11 in 2001 from 91 countries examined, and #23 in 2002 from 102 countries examined); in 1996, Pakistan did actually rank as the second most corrupt country (Transparency International, 2002).

A common argument is that there are four pillars in Pakistani society – the military, the bureaucracy, the civil society, and religion. Of these, one skeptical observer has suggested, all except the military have been discredited by corruption, infighting, and weakness. Consequently, it is common to find people who openly disparage social institutions and organizations, and rail against religion. Previously credible reputational

signals – religiosity, or appearing "sharif" or decent, for example – have been widely discredited. Misuse and corruption have contributed to this erosion.

The consequence is increased anarchy, because there are few reliable guidelines to shape exchange relationships, and because trust is often violated. *Jirgas* – semiformal decision-making councils, typically including clan elders – make decisions about appropriate punishments for crimes, and sidestep or ignore the formal legal requirements. Personalistic politics and charismatic leadership in Pakistan are generally popular. There are many "pirs" – social leaders who often claim religious legitimacy, sometimes acting to advise people on personal problems, and other times functioning as patrons who command loyal followings.

Reputational signals: religiosity

Outward religiosity as a reputational signal in Pakistan has eroded in value, particularly in urban areas. Religiosity is traditionally associated with highly ethical behavior, including honesty, sincerity, and genuine customer care in business. Conmen, fraudsters, and everyday cheaters, when they convincingly signal religiosity, can more easily victimize people. There is widespread cynicism about "fraudy mullahs" – allegedly hypocritical, corrupt individuals in religious garb. Appearing religious is a quick and appealing route to social legitimacy in Pakistan, because of the deeply ingrained respect for religion and the traditional respect for religious teachers and scholars. But today, anyone can adopt a religious "look." After listening to one "bayaan" or demonstrative announcement from the Tablighi Jamaat, a popular proselytizing movement, one can go out and proselytize. The generally increased popularity enjoyed by such movements has diluted the public's respect for religious figures. Such easy signaling has attracted many conmen. Beggars typically appeal to one's religiosity, and ask if the giver believes in God.

When a family hires a builder to construct a house, as frequently happens among the Pakistani upper middle class, many headaches commonly follow. The family, the principal in this case, must closely monitor and assess the builder's (agent's) activities. Construction in Pakistan is known as an industry where fraud is rampant, taking such forms as broken promises and substandard materials. Recognizing this, builders, in order to attract business, engage in reputation-building and signaling.

Reputational signals in a low-information, high-transaction costs environment come with an unwritten "buyer beware" rule, as illustrated by the following anecdote. The builder one family hired had all the religious trappings – a gray beard, modest dress, the forehead marked from repeated prostrations on hard mosque surfaces – and he made a point of racing for the mosque at every call to prayer. Surely someone so religious must be honest in business, as honesty is a highly prized religious virtue. Yet he allegedly ended up defrauding the family by a million rupees through overcharging for items and services. Such stories are frequently heard, and in fact the only social recrimination is for the family and its gullibility.

Environment for Nonprofit Welfare Organizations

There is a social service delivery vacuum. Even a short visit to Pakistan will convince one of the significant humanitarian needs in the country. Into that vacuum, a

man with extraordinary motivation, resilience, and practicality can make an enormous difference. But he must be prepared for many setbacks.

For donors (the principals) to the foundation (the agent), the critical question is whether they believe that the foundation will use the funds for the donor's intended purposes. In other words, is the foundation's stated commitment to humanitarian goals credible? This is particularly important for those Muslims who choose to give an annual donation to the needy as their religiously obligated *zakat* payment. In a strict interpretation, zakat requires ensuring that the funds reach the appropriate individuals. For those Muslims trying to fulfill this obligation, an organization with a credible commitment to using funds appropriately is invaluable – it saves the donor from having to find individual recipients for the *zakat* money. A similar though generally less rigorous principle applies to other charitable giving, known as *sadaqa*. Estimated figures for total *zakat* donations in a given year are not easy to compile, because individuals can fulfill this duty through many informal and formal ways. There is no doubt, however, that it is a significant amount.

The Edhi Foundation

The Edhi Foundation was created in 1957. Well before that, Abdul Sattar Edhi had started his humanitarian efforts, including a dispensary opened in 1951, where he famously lived simply and slept on a concrete bench outside the office.

These efforts came shortly after Pakistan's founding in 1947. In a weak state with a social service delivery vacuum, there was clearly a demand for welfare provision. Social welfare needs have continued and even increased with time; Pakistan's bureaucracies have certainly evolved, but its governing apparatus continues to be generally weak in reach and efficacy.

Abdul Sattar Edhi as social entrepreneur

Edhi started by taking care of his invalid mother, an act exemplifying filial piety and love, and then dedicated his life to taking care of others. His success grew such that the Edhi Foundation now runs what has been touted as the largest private ambulance service in the world. One only has to spend a day or two driving in Karachi before seeing an Edhi ambulance.

Originally from Bantva in Indian Gujarat, Edhi and his family relocated with several thousand other Memons to Pakistan during Partition in 1947. Many in the Indian subcontinent experienced brutality and atrocities; others feared them. Pakistan, the newly formed state, promised change and progress. But hope rapidly dissipated in refugee camps and competition for the Hindu evacuees' properties. Edhi witnessed his first violent crime, a stabbing murder in broad daylight amid crowds. In 1948, he watched with excitement as the Bantva Memons set up a charitable dispensary in Mithadar.

Even at that early stage, Edhi rebelled against the different treatment meted out to non-Memon supplicants – and, after expressing his frustration, was rebuffed and harassed by an elders' committee for his disobedience and disrespect. This gave him "insight into the working of the entire country" (Edhi, 2001: 47). Edhi publicly denounced the ceremonial public events attended by local bigwigs as propagandic, personal publicity, and sought in his own life to retain simplicity and authenticity. He had political

ambitions, but found that the normal processes – elections, party politics – were not for him. They involved distant, superficial efforts to introduce change from the top; real change, he came to believe, must start "from the very bottom" (Edhi, 2001: 188-189).

Edhi's success and prominence have given him opportunities to address the official elite. He expressed his political philosophy in a speech to the Pakistani National Assembly in 1984, where he declared that legitimate government must reduce unemployment through small loans, be self-reliant, protect human rights, rehabilitate the destitute, and reduce illiteracy (Edhi, 2001: 189). Elsewhere, he argued that in the absence of a Saudi-style execution policy for traffickers, criminalizing narcotics was counterproductive where drugs were easily available (Edhi, 2001: 180). Edhi's own strategy was cold turkey detoxification and gradual rehabilitation with dignity regained through self-help and labor, such as painting and carpentry.

Social change and transformation by example and dedication are great motivations for Edhi, and he has found a way to engage in this effort while sidestepping the elite-mass division that plagues everyday Pakistani politics. He frequently makes assertions that his foundation's work is Islamic, while decrying many existing policies and processes because they lack authentic roots in religion and principle. Edhi uses a religious vocabulary and believes in religiously grounded moral, social, and political precepts. Given the competition in the market for donors and donations, it is unsurprising that he and his organization have been criticized for lacking religious authenticity.

Thus, Edhi is an ambitious political entrepreneur and social movement architect, spurred by self-belief. His models as social reformers and revolutionaries include Islam's Prophet and his progressive companion, Abu Dhar Ghaffari; Gandhi and his Pushtun contemporary, Abdul Ghaffar Khan, with his well-known nonviolent social organization, the Khudai Khidmatgar; and Karl Marx, whose class analysis confirmed Edhi's distaste for powerful capitalists (Edhi, 2001: 34-35).

The Foundation's activities

A personal anecdote describes the Edhi Foundation's reputation. As a child, I encountered a mentally retarded cousin who was difficult to control. Later he ran away or wandered off from his home and was lost for years. Finally, his mother somehow received word that her son was in an Edhi facility. When his mother visited the facility, she found her son there, a young man now. Straightaway, he ran to her and hugged her. She pledged not to let him go again and took him home. However, he proved difficult to manage, so she returned him to the facility. Some time later, he died. In commenting on the experience, my relatives had only positive things to say about the "Edhi wallay" (Edhi's people), only expressing gratitude.

The Foundation's published accomplishments are impressive: over 100,000 unclaimed bodies buried; nearly 100,000 destitute or mentally handicapped rehabilitated to their homes; almost 200,000 missing children found; nearly 200,000 girls provided social counseling and persuaded to return to their families; 1.75 million injured or dead receiving free ambulance service after accidents, violence, or natural disasters; almost 9 million patients treated in free dispensaries; 8,500 abandoned babies rescued; millions of kilograms of rations and clothes given to the needy; activity in virtually every major Pakistani calamity and many international disasters; facilities including 500 ambulances,

300 relief centers, three air ambulances, 24 hospitals, and three drug rehabilitation centers; and many national and international recognitions and awards, including a Guinness World Record as the Biggest Volunteer Ambulance Organization (Baloch, Qazi, and Edhi Foundation, 2000).

But the Edhi Foundation needs resources – volunteer workers, supplies, and money. The Foundation receives five million rupees (roughly $100,000 USD, a large sum in Pakistan) in yearly nongovernment donations. On principle, as a way to eschew political entanglements, the Foundation does not accept funds from government agencies. The Edhi Foundation's famous claim is that even in disaster and violence-stricken areas, Edhi relief workers are given free passage and access, because the organization has the reputation for being solely humanitarian rather than partisan or political. This has been valuable in providing access during the Afghan guerrilla war and in preventing mobs from attacking and burning Edhi facilities or vehicles (as sometimes happens to those buildings associated with the government after a disaster).

Visiting Edhi facilities

My interactions with the Edhi Foundation's offices began with a visit to a women's center in Karachi. A relative and I went there to inquire about options for an acquaintance who was a battered wife, sometimes beaten so severely that she would disappear for days. It was a shameful, tragic situation – she was unwilling to go to her sisters or the police for fear of incurring further wrath from her husband. Besides, the social humiliation, lost face, and possible broken marriage are all unbearably high costs. It was easier for her to submit to the beatings.

We described the situation to the social worker at the Edhi shelter, including the fact that the husband begged her forgiveness and appeared to regret the beatings, but that he remained extremely jealous, suspicious, and controlling, and that he seemed to assume the worst about his wife. The social worker patiently heard us out, and then said flatly that the only solution was for the wife to leave her husband. She had seen many such cases, she said, and someone like this abusive husband does not "get better."

We looked around at the facility. It was a depressing institution, grimy, with peeling paint and iron bars across entrances. The workers would not give out their full names for fear that aggrieved spouses might retaliate; this was policy. I saw some children playing, using a driveway as a cricket ground.

The staff suggested that I contact the central office headquarters in Mithadar. I went there, spoke with the staff, toured the facility, and collected promotional materials. The next step was a long phone conversation with Faisal Edhi (son of Abdul Sattar Edhi), and then a longer visit and field trip with the Edhis.

Edhi facilities are generally not extravagant but are functional and practical. The compound we visited outside Karachi looked clean and well-maintained, with even the large open space ringed by covered halls in which the retarded and psychologically disturbed reside. I met a young man who spoke fluent American English – apparently he had lived in the United States for a while with his uncle. I suspected that he had left a traumatic past – he was soft-spoken, shy, and retiring, and appeared glad to be staying at the Foundation's facility.

According to Faisal Edhi, the inmates are free to leave, and once in a while some do, but they end up returning on their own. There is usually no other place for them to go, and the city is rather bewildering and huge. I saw one slight, bearded man who had some visitors. He pleaded to be allowed to go home with them, and they kept promising to take him, but it was all a ruse to keep him quiet until they left. He was frantic, crying, threatening to bang his head on the ground and injure himself. He kept racing between staff members and asking for his papers. As his relatives made their getaway, the fellow wailed. Other interactions remain vividly in memory. There was a smiling young adult or possibly a teenager called "chooha" – mouse in Urdu – probably because he had a deformed, abnormally tiny head. He would dance to entertain the other inmates.

The Edhi Foundation also provides constructive and rehabilitative training programs – sewing and other light industry – to give technical vocations to Edhi inmates, and schooling for the children. There was a cheery reception for my visit to a large compound a short distance from Karachi – they are clearly used to visitors. The facility included a residential school for destitute children. Every classroom we would pass had students sitting in organized rows, who would say "salaam alaikum" in unison to me as I passed. There were children by the hundreds in the school. The facility itself is pleasant with greenery and play spaces.

Faisal Edhi showed me the slanting covered holes in school corridors and rooms, which allow ventilation and draw in drafts while blocking rain and direct sunlight, a natural "air-conditioning" that shows a low-cost method for maintaining a habitable temperature. And the facility appeared generally well-organized – individual donors had supported each classroom, and plaques commemorating the donors' gifts dotted the walls. Faisal Edhi was interested in developing the compound, and described plans to construct a swimming pool.

Bilqis Edhi**,** Abdul Sattar Edhi's wife, likewise contributes to the Foundation's work. She is placid and pleasant, with a quiet grandmotherly air. On my Sunday visit, I saw her arrive and bring fruit for the children at the school for the destitute. Evidently this is her routine on weekends. She is reputed to have been doing such work for nearly 40 years. Mr. and Mrs. Edhi's personal integrity appears unimpeachable.

Edhi Foundation's outreach through printed literature

There have been some public moves toward Abdul Sattar Edhi's "beatification."[2] One commentator described him as a "living saint" (Commenter on Siddiqui, 2005**)**. Such views have an authentic ring about them, and do not appear planted by strategic public relations agents. His image has credibility and does not appear manufactured. I had presumed that the organization behaved consistently in a homespun fashion. Consequently, I was surprised when I found that the promotional literature – some books I bought at the Foundation headquarters – were well-made by Pakistani standards, functioning as rather slick public relations products. One book, an overview titled *Breaking the Silence… Abdul Sattar Edhi,* was less informative than adulatory. This

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[2] "Beatification" here is not meant literally; unlike the Roman Catholic process elevating an individual's status, there is no comparable formal process in most Muslim contexts. The term is used to signify a more informal social elevation of an individual's reputation.

exemplifies building personal reputation to gain donor support, which was previously identified as a common strategy in developing countries.

The second book, containing much more detail, was Edhi's "autobiography." Tehmina Durrani, famous for writing a racy, scandal-tinged exposé called *My Feudal Lord*, recorded and ghost-wrote *Edhi: A Mirror to the Blind*. She clearly is on his side, an open admirer interested in conveying Edhi primarily according to his self-depiction. Most readers will be struck by his purposeful, committed, and Spartan life, and his perseverance through family tragedies.

Their promotional book's 50th anniversary edition is embossed throughout with a ribbon reading "50 years of Selfless Service" (Baloch, Qazi and Edhi Foundation, 2000). It is sprinkled throughout with portraits featuring Edhi feeding the hungry, nurturing the sick, and looking after children, and supplemented by such adulations as "a living legend… an example of devotion." Edhi is explicitly depicted as a great man, as seen in the opening poetic couplet, below his picture:

> Heights by great man reached and kept…
> were not attained by sudden flight…
> But they while their companions slept…
> were toiling upwards in the night….

(Baloch, Qazi, and Edhi Foundation, 2000). Thus Edhi is projected as great and tireless, an inspiration to believe in and follow. His book's opening page declares "Dedicated to the Service of Mankind" (Edhi and Durrani, 2001).

The net effect is to convince many people that the Foundation's stated commitments are credible. Here is what one visitor had to say:

> Upon leaving the premises after about 40 minutes, a lot of things came to mind. With ambulances, hospitals, emergency centers, housing, maternity homes and even helicopters plus a lot more (for those who cannot afford it) the Edhi Foundation certainly makes a strong case for legitimate donation gathering.
>
> Abdul Sattar Edhi must love his land and people and shows it with his deeds and not just words like many of us. He is often too frank and sometimes caustic. He may not sound saintly but his work speaks for itself. And for that he retains much respect.

(Siddiqui, 2005). The Edhi Foundation's expansion and continuing activities testify to an ability to build on past successes. Moreover, the Foundation has maintained formidable reputational resources, crucial in contexts where all information is suspect.

Edhi Foundation's outreach on the internet

Pakistanis generally do not have frequent internet access, especially compared to other countries. The Edhi Foundation's presence on the web reaches out primarily to an English-speaking international audience and that very small segment of Pakistani society that uses the internet to get information. It is arguably also the case that expatriate Pakistanis make up the main audience the Edhi Foundation seeks to reach in countries like the United States.

One can find "between the lines" on the Edhi Foundation webpage a self-conscious awareness that foreigners including expatriate Pakistanis make up the primary readership. The adulatory slogans describing Abdul Sattar Edhi have been stripped from the activity descriptions. While there are photographs, the pictures generally point to specific activities undertaken by Foundation workers. The sense that Abdul Sattar Edhi's person is larger than life or saintly has been replaced by a more fact- and record-oriented depiction.

This is not to say that worries about the reliability of charities do not exist in the United States. Alleged fraud, mismanagement, and misuse in "Islamic" charity collection have caused disenchantment with those charity organizations in the United States. The situation is somewhat particular to the United States: post-9-11 pressures have made it difficult to donate to Muslim because of the fear of guilt by association. The collective consequences have been to make legitimate organizations' outreach efforts more difficult.

The problem extends beyond the Muslim community and "Islamic" charities. In Hurricane Katrina's aftermath, Diane Rehm's National Public Radio show (September 7, 2005) discussed possible fraud or mismanagement in American charities. One panelist advised that reputation matters, so donors should give to the biggest charities – Red Cross, Salvation Army – which have the best-established internal and external audit features too. The United Way's scandal a few years ago shows that the United States is not invulnerable in the well-intentioned charity sector. Thus, fraud-related problems for donors certainly extend beyond the developing world. Critically, though, the "reputation" referred to in the United States is not the leader's personal integrity as much as the charity's reputation for transparency and accounting for how received donations were used.

Findings and Analysis

Table 1. Results Summary

Marketing strategy emphasis

		Record	*Extraordinary leader's reputation*
Transactions costs environment	*High faith in info, low transactions costs*	Web outreach, targeting mainly overseas audiences	Limited adulation for Edhi's personality on the web
	Low faith in info, high transactions costs	Secondary references to record in promotional literature	Promotional literature and other signaling inside Pakistan

The results are consistent with the hypothetical expectations. The Edhi Foundation functionaries are highly conscious of the need for effective outreach to generate the resources they need to continue functioning. Edhi Foundation leadership explicitly describe the need for publicity and opportunities. Strategic intent is a logical explanation for the Foundation's marketing strategy to potential donors. In the domestic Pakistani context, where there is relatively little faith in published data, information is unreliable, and fraud is prevalent, the Foundation emphasizes its founder and manager's unimpeachable dedication and character. In developed overseas contexts such as the United States (as well as the United Kingdom and Australia), where the audience is assumed to have more faith in information and published data, there is greater emphasis on the Foundation's record and comparatively less on the founder's personal reputation.

An important confounding variable might be culture. A possible counterargument is that cultural factors rather than strategic calculation account for this variation in marketing to different audiences; a Pakistani organization speaks to Pakistanis in one way and non-Pakistanis in another. The cultural explanation is an unlikely candidate for a rival hypothesis, however, because many who learn about the Edhi Foundation over the internet are themselves expatriate Pakistanis. The Edhi Foundation's activities in the United States have been tailored to the needs expressed by such an expatriate community, including such things as basic religious training, something not emphasized in Pakistan. This shows that they are aware of their primary audience in the United States – expatriate Pakistanis and recent immigrants. But such Pakistani-American communities carry much Pakistani culture into the new contexts, and do not represent a culturally different audience. Nevertheless, they are presumed to be more interested in transparent accounting of the Foundation's activities than in adulating Abdul Sattar Edhi's character.

Edhi's self-proclaimed goals are humanitarian. By all accounts he has worked selflessly and tirelessly for half a century, and forged an exceptionally large and effective social welfare organization. It would seem logical to point to the organization's successes and growth as a way to attract donations. Yet the literature provided by his Foundation in Pakistan is largely an adulatory portrait.

The puzzle is why there is such an investment in the Edhi personality. The literature distributed is plastered with his pictures, usually with an excessively flattering caption – "Edhi … father of the fatherless!" "Edhi … a common man with common people" (Baloch et. al., 2000). Why such open adulation? Could not the accomplishments stand on their own as testament? The propagandic sloganeering seems incongruous with the selfless service and humanitarian goals the Foundation espouses – it appears egotistically self-absorbed.

This apparent puzzle, personal glorification of someone whose actions are unselfish and who himself is by all accounts humble and even shy, could be discredited as vanity, humbug, and hypocrisy. In this view, Edhi claims to be selfless, but is in reality a self-promoting megalomaniac.

Alternatively, one may argue that eastern culture, or South Asian culture, or any other label demarcating a culture one views as "different," is less concerned with abstract facts and processes and more with charismatic individuals – describing history and the present as an ongoing interaction between "great men," heroes, and colorful movers and

shakers. Superficially examining the everyday language used by taxi drivers and vegetable sellers to describe events certainly fits this image – they routinely describe events as "Musharraf sahib did x" and "Osama did such and such." According to this view, "Edhi sahib did x" is more comprehensible than "the Edhi Foundation did x." Something might also have been lost in translation by the Edhi literature publisher, if directly translating from Urdu. But such vernacular tendencies are not sufficient reason to assume that they are culturally unable to think beyond such simplifications.

There is another interpretation. Creating a mini-personality cult can be a strategic choice to generate resources and support in an information-poor environment with little transparency and accountability. This choice, however, produces unintended and unwanted consequences, particularly threats to organizational survival beyond the founder. As a viable tactic for building civic capacity in the developing world, it carries far-reaching implications.

Where there are high transactions costs and low information, it is difficult to get reliable information about the organization's actual workings and successes and failures. Reputation is uncomplicated, easy to communicate, and fits well within the socio-cultural milieu – people are accustomed to pirs, saints, and charismatic figures who attract followings. Seen in this light, flowery slogans appear more comprehensible

Faisal Edhi asserted that both "political parties" and "social parties" run on publicity. Public relations are their lifeblood. From a "marketing to constituency" perspective, the organization has to convince donors and potential donors. The actual welfare recipients are rarely and only marginally the constituents or patrons. That is a useful way to think about the Edhi Foundation's strategy. It may be that satisfying the constituents requires demonstrating that the organization has in fact met welfare needs. But in the low information environment that Pakistan represents, reputation is the best low-cost decision-making shortcut. For most constituents, reputation is enough. Investing in reputation in such a situation is a rational choice.

It is in such a context that Edhi's reputational signaling should be understood. His saintliness must be elevated to stand out from the probable charlatans. There are other mechanisms too – visible activity in crisis periods, for example, and pairing adulatory words with references to tangible achievements. Major disasters are usually met with an Edhi volunteer contingent. Edhi ambulances, services, and facilites are widely distributed and clearly labeled, and passersby thus are reminded that the Edhi Foundation's work continues. Yet the continuing investment in Edhi's personal reputation, as seen in the promotional materials I received on my visit, all speak to the low-information, low-accountability, and low-transparency environment in Pakistan. Prospective donors cannot simply rely on the public record, because it is unclear and may have been manipulated or corrupted.

To argue that it is a rational investment in the Edhi Foundation's tactics for survival and well-being is not tantamount to claiming that this is a cynical, hypocritical, or insincere move. An ends vs. means distinction is appropriate here. The Edhi family, the Foundation's activists, and its other staff and officers are to all appearances highly dedicated individuals who are trying to better social conditions. Yet they are not so purely zealous as to be tactically shortsighted – pragmatism and sound strategy will better

fulfill their goals in the long run. Because resources are scarce and because there are always other uses to which they can be applied, it makes sense to select strategies that have lower net costs. This rationality assumption does not necessarily mean that all strategies are evaluated at all junctures. It does mean that when alternatives are understood, then strategic choice will be based on least expected net cost – i.e., expected benefits minus expected costs will be maximized.

That is one generalizable lesson the Edhi Foundation offers. Where transparency and accountability are rare, and the rule of law is weak, civic organizations face peculiar challenges. In such weakly institutionalized contexts, civic organizations cannot simply be highly transparent, rule-abiding entities. Instead, they must appeal to people for resources and other support, and they must operate within their functional environment. In practice, this means flexibility with rules and procedures, trial and error, and charismatic leadership. Where there is little faith in institutions, an august personality matters greatly. Abdul Sattar Edhi's contributions are thus legendary and near mythical. Hence the propagandic and near-saintlike depictions in Foundation literature.

I suspect that the criticism Edhi has received from other groups – especially political movements – is partly an effort to revitalize their own resource base by discrediting him and his organization. There are substantive issues too. Perhaps most important is how women are treated. Edhi believes he offers choice and meaningful rights for women. His conservative critics argue that his is a recipe for socially destabilizing, unconstrained mingling between the sexes, and also suggest that his services promote extramarital sex and unwanted pregnancies. Edhi has publicly opposed the Hudood Ordinance (an effort under General Zia ul Haque's regime to introduce an "Islamic" legal code). In his view, the law allowed too much room for manipulation, with rape victims unjustly imprisoned on adultery charges, and general impunity for men and the privileged (Edhi, 2001: 203).

Ego, culture, and education level as alternative influences

Ironically, Edhi initially denounced local bigwigs as propagandic, publicity-seeking high-flyers; he is now targeted by others, though rarely smeared as a publicity hound. High ideals without pragmatic entrepreneurship certainly could not have succeeded, but at what point do ideals became debased as vehicles for other purposes? Could someone make this accusation against Edhi? It seems unlikely, and all the more so because an ego-driven choice would not be restricted to the domestic-oriented print literature but would also extend to the organization's website.

Other explanations, such as Pakistani culture and the target audience's education level, also are not satisfactory. The audience inside Pakistan clearly is entrenched in Pakistani culture, but Pakistanis and Pakistani-origin individuals who are typically first-generation emigrants largely make up the international audience also, as explained above. Since culture is generally assumed to be stable, it is arguable that the audience culture in both contexts is similar and comparable. Furthermore, the promotional efforts targeting non-literate individuals (and there will be few such efforts, since most donors are likely to be literate) are not going to use written materials. Thus the audiences targeted by the outreach strategies described are culturally similar, literate, and educated to at least a minimal competence.

Other social service delivery organizations in developing Muslim-majority countries exist – those associated with Hezbollah in Lebanon, Hamas in the West Bank and Gaza Strip, the Muslim Brotherhood in Jordan and Egypt, and others – but nearly all are attached to a clearer political ideology. Edhi has generally secular and humanistic tendencies, but he does not articulate an elaborate political ideology, and tends to stick with aphorisms and generalities. Edhi's "four personal principles" – simple living, hard work, punctuality, and prudence – are among the few examples. The Edhi Foundation does not appear to fit the political recruitment/mobilization mold generally characterizing Islamist social movement organizations. It disavows political attachments in theory and has a reputation for being apolitical in practice.

IMPLICATIONS

The Edhi Foundation has to tread a delicate line, promoting Edhi's personality but also supplementing it wherever possible with facts, figures and tangible claims about the Foundation's achievements. Over-reliance on published factual information without investment in reputational signaling would be inefficient, since people based in Pakistan have little faith in their information environment. But reputational signaling alone would not work either, because corruption and fraud have eroded the value of such signals significantly. Both are therefore used simultaneously.

A succession crisis will likely require that this strategic mix be reevaluated. The potential for corruption is huge. The board head oversees funding and workers. It appears that aside from a trustee board headed by Faisal Edhi, the Foundation has not institutionalized the organization so that it can outlive its founder and continue to thrive. That results in part from the flexible attitude to rules often taken by Edhi himself. Once this central and unifying figure is gone, however, I suspect that things will be thrown into disarray and donations may drop. It is legitimate to ask whether the Edhi Foundation will persist for long without its charismatic founder and driver, Abdul Sattar Edhi.

These concerns are all legitimate, but secondary to the rational need to maintain this symbolic personality. Reputation counts for a great deal because it is a signal when other security guarantors, such as laws and records, are unreliable. Donors want to know their funds are put to good use. Battered wives and their allies need to know that the organization is a secure sanctuary. The Edhi name and the engaged leadership from his family signal that the organization is bona fide.

The transparency and accountability requirements that seem important for civil society organizations in developed countries matter less in places where there is weak rule of law. There, factors such as reputation and the leader's character and personality count for more. It is for this reason that the outreach literature so emphatically focuses on the near-saint-like qualities Abdul Sattar Edhi possesses. The Foundation's website argues that the developing world needs private organizations to step in and fill people's needs. Looking over the website and noting their ambitious plans, I feel that there is another lesson here too: a can-do spirit that relies on results, with one success leading to another. People want to donate to useful and noble causes, and the Edhi Foundation provides such an outlet.

Reputation certainly matters in developed contexts too, but most institutionalized organizations rarely stress the leader's saintliness. Most people who donate to the Red

Cross, the Salvation Army, and Goodwill do not even know their leaders' names. The thesis is not moot, however. The populist approach that won office for Huey Long in Louisiana, for instance, could in theory help an American charity succeed.

The next steps in investigating this study's hypothesis would consider other cases – increase the "n" and thereby more rigorously evaluate the hypothesis. One way to do this would be to find other donation-seeking organizations and compare their marketing strategies. This could be expanded to areas and audiences beyond Pakistan and Pakistanis.

One could argue that contexts in which religious rhetoric and symbolism permeate the public arena are also contexts in which faith in a person's reputation matters more, based on a claim that the religious individuals' social psychology differs from that of others. When religious appeals are excessively used to bolster legitimacy, though, the opposite may happen: all religiosity becomes suspect, and reputation for religiousness may lose all credibility as a guide to decision-making. Are religious audiences more susceptible to reputational signaling than nonreligious ones, or do religious environments promote reputational marketing strategies? Such questions could form related but separate research hypotheses.

Further research could also look at strong states in the developing world, and compare them to weak states. Do stronger states promote more record-based marketing strategies? Stronger states enjoy high political capacity, meaning that they are able to monitor and enforce rule-obedience within their own borders. There should be an inverse correlation between a state's political capacity and the perceived transactions costs faced by social actors in exchange relationships. The findings also generate a related transactions-based hypothesis regarding Max Weber's categorizations of social leadership (Weber, 1968). High transaction costs environments are likely to favor charismatic leadership. Therefore, we should expect that as state political capacity increases, the charismatic leaders and traditional authority figures decline in number and influence compared to rational-legal leaders.

CONCLUSION

The Edhi Foundation looks after orphans, the destitute, and those who are not able to look after themselves. The Foundation provides an invaluable service in a country where unequal growth, social dislocations, strife, and corruption have left many without a social safety net. This service is morally appealing and heartwarming. But the factual record and abstract appeals are not enough to raise resources.

Publicity based on Abdul Sattar Edhi's personal reputation and image is a significant plank in the outreach strategy. This may be a cynical move designed to mask internal corruptions or problems that would not withstand scrutiny. Or it may be a psychological need for recognition, seeing his name among the best-known in Pakistan, and running a Foundation with offices in several countries. But most likely, this is simply the tactically best strategy for maintaining the Foundation's needed resource inflow in the short to medium term: convince people that their money is going to a near-saintly figure who can be trusted (as shown by visible results) to use donations in a morally correct manner.

There may be a virtuous cycle sparked by gradual shifts toward record-based marketing. If a successful organization such as the Edhi Foundation adopts certain marketing standards (in truth-telling, transparency, record-based outreach, for example), then competitor organizations may feel compelled to follow suit. There is a problem in making this a reality, because the first organization to adopt it risks public criticism and disrepute. Imagine the Edhi Foundation adopting full disclosure and submitting to a thorough public accounting and audit, and then revealing the results, as a public company may do. Competitors and detractors may see this as a windfall – they could mine the information for ammunition against the Edhi Foundation, particularly if problem areas or abuses turn up. Rather than revamping the cultural context, the Edhi Foundation might instead lose some of its public support. In other words, it would be a risky action, ambitious but fraught with threats to survival. For now, the Edhi Foundation is likeliest to thrive by stressing personality at home and facts and figures elsewhere.

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ARTICLE

Developmental Issues in News Media: NGO-Media Interaction in Bangladesh

Masudul K. Biswas[1]

This article examines factors influencing news coverage of developmental issues in the context of NGO-media interaction in Bangladesh, by employing qualitative interview and thematic analysis methods. The investigation finds several influential factors: NGOs' nature of communication with news media, the commercial orientation and agenda-setting role of media, corruption in journalistic and NGO practices, personal relationships, and journalists' lack of knowledge about development issues, which influences both the NGO-media interaction and the nature of coverage of developmental issues. Some of these factors also act to diminish the number of critical news articles about developmental activities of NGOs. To improve news coverage, the article suggests that developmental NGOs more frequently convey newsworthy ideas to the media, and that both journalists and NGO professionals pursue capacity building.

Introduction

Developmental NGOs play a major role in Bangladesh's human development process. Media are regarded as important for developmental NGOs, as they can promote or create awareness about NGO activities. NGOs need media to convey their messages, and also to form public opinion about government policy. Similarly, news media have become dependent on NGOs for covering development issues. Developmental NGOs of Bangladesh are among the most active in the world, and they have been successful in helping the government to achieve targets in human resource development (UNDP, 2005). This study investigates factors concerning NGO-media interaction that influence the coverage of developmental issues in Bangladesh, a least developed country[2] that is also a "medium human development" country (UNDP, 2005).

Knowledge transmission and enhanced transparency are regarded as key ingredients of an effective strategy by development policymakers. Promoting good governance and development requires improvement of media capacity for reporting on

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[2] Least developed countries are those deemed highly disadvantaged in the development process (many of them for geographical reasons), and facing greater-than-average risks of failing to come out of poverty. There are 50 countries in this category. The UN considers low income, weak human assets, and economic vulnerability as three criteria for LDCs. Similarly, UNDP in its human development index considers a country's health, education, and income in a country. (http://www.unctad.org/Templates/Page.asp?intItemID=3618&lang=1 & UNDP, 2005)

socioeconomic and development issues such as public health and education (Hudock, 2003; and Ojo, 2005).

NGO Activities in Bangladesh

Bangladesh became independent in 1971, through a bloody liberation war to escape the rule of what was then West Pakistan. Bangladesh's struggle for economic emancipation continues; the country remains poor. Though the country has progressed in human development and agriculture compared to other least developed countries in the 36 years since independence, its development process has been fettered by political and environmental factors. Developmental NGOs have significantly contributed to the development process in Bangladesh. Since independence, the NGO sector in Bangladesh has emerged to contribute to the state's daunting task of rebuilding a war-ravaged nation (Ahmad, 2001). Leading NGOs such as the Bangladesh Rural Advancement Committee (BRAC), Proshika, and Grameen Bank started their activities in the early or mid-1970s (Lewis, 1993).

At the start of the 1990s, development prospects for Bangladesh were seen as slim, about the equivalent of those for sub-Saharan Africa today (UNDP, 2005:46). Even so, Bangladesh has recorded "some of the developing world's most rapid advances" in basic human development indicators since the mid-1990s. According to the World Human Development Report 2005, the successes of Bangladesh demonstrate what can be achieved through stronger state action and civic activism. Apart from progress in infant mortality, fertility, and nutrition, primary school enrollment rates now exceed 90%, up from 72% in 1990, and enrollment in secondary education has been rising too (UNDP, 2005). NGOs' success in poverty alleviation and development initiatives is often undermined, though, by political misuse of government policy regarding NGO sector ("EU to urge govt again to release fund allocated for Proshika," 2004).

In order to support social and economic empowerment of the poor, NGOs in Bangladesh have vastly widened their activities to include group formation, micro-credit, formal and informal education, training, health and nutrition, family planning and welfare, agriculture and related activities, water supply and sanitation, human rights and advocacy, and legal aid. Some NGOs have succeeded in providing services such as education, health, and microfinance and in promoting human rights, particularly women's rights (Rafi & Chowdhury, 2000; Shehabuddin, 1999). NGOs' activities in the sector of human resource development have contributed significantly to national achievement. But in areas such as poverty, quality education, women's rights, and human rights, NGOs need media support to inform and mobilize people. Distance and lack of interaction between media and NGOs over these issues stand in the way of implementing these development initiatives.

Development Journalism

Though the concept and practice of development journalism is a subject of debate, some have tried to redefine it. Encouraged by the UNESCO's much-talked-about New World Information and Communication Order (NWICO) in the late 1970s, developing countries saw development journalism as a means for promoting economic development (Dare, 2000). In practice, though, the concept was used to pursue political objectives,

with governments trying to harness the media in the name of nation building and economic development (Radio Australia, 2001).

Those who are now redefining development journalism do not mean only to expose problems. They do not view development journalism as limited to particular development topics. Some argue that this type of news reporting needs a solution-oriented approach with more follow-up stories (Uttamchandani, 2005). One media critic notes that as politics, social failures, crimes, and executives dominate mainstream news, the media have "no positive thinking and make no efforts to give the society a new direction." Journalism committed to development needs to look at the situation in a broader context (Uttamachandani, 2005). In the view of Namra (2004), it should focus on "the needs of the poor, the deprived, and the marginalized, and should emphasize their effective participation in development planning."

Development journalism is more pertinent in the context of NGO-media relations. NGOs can use media both to teach – to inform the public about their activities – and to learn (Hudock, 2003; Fleury, 2004 &. Gregoire, 2005). In this case, the agenda-setting[3] process is important as well as challenging. Quoting a study on agenda-setting by Dearing and Rogers, Wallack et al. (1999, p. 4) observe, "The agenda-setting process is an ongoing competition among issue proponents to gain the attention of media professionals, the public, and policy elites."

Media in Bangladesh

Media have played crucial roles in Bangladesh, including by in revealing development concerns to guide policymakers. The issue of arsenic contamination[4] in Bangladesh was first picked up by print media in the mid-1990s. News coverage drove both the national government and the international community to pay attention to the issue. In Bangladesh, media support NGO initiatives to strengthen human rights and to campaign against gender discrimination, repression of women, and religious extremism. The media have made the people of Bangladesh more aware of their fundamental human rights and constitutional protections than in the past (Anam, 2002). However, the practice of journalism in Bangladesh is not free from "envelope journalism." Referring to a global assessment of bribery in the newspaper industry by Kruckberg and Testura in 2003, Heath & Combs (2006) cite Bangladesh as one of the countries where such bribery is "most common"; essentially, news coverage is sometimes for sale (Kruckberg & Testura, 2003:477).

Because of the level of adult literacy (43.1%) and the limited purchasing power of a large section of the population, newspapers circulate among a relatively small portion of the total population. Some argue that journalism has not yet become relevant to the real needs of ordinary people. Most newspaper readers live in cities, so rural issues are

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[3] Agenda-setting describes a powerful influence of the media: the ability to tell the audience what issues are important. Agenda-setting helps to form public awareness and a concern for salient issues. Media concentration on few subjects leads the public to perceive those issues as more important than others (McCombs & Shaw, 1972).

[4] A highly toxic carcinogen, arsenic has affected people in the Bengal Basin. Arsenic naturally exists in the earth. Tube wells installed without scientific investigation caused arsenic to dissolve into drinking water (http://www.nvo.com/ghosh_research/arseniccontaminationinthebengalbasin1/).

addressed only peripherally (Anam, 2002). Overall, television viewers are increasing, but newspaper readers and radio listeners are declining. From 2002 to 2005, the number of TV viewers increased from 61% to 64%, while newspaper readers dropped from 26% to 24% and radio listeners from 29% to 22% (Hasan, 2005). Despite these trends, newspapers are likelier than electronic media to undertake critical and politically challenging in-depth reporting, and they reach opinion leaders (Roy, 2005).

This article considers NGOs' interaction with mainstream newspapers and private television channels in Bangladesh. Political and economic factors associated with media operation can significantly influence the NGO-media interaction.

NGO-Media Relations: A Review

There is a notion that the NGO-media relationship is often cozy because media in general are on the side of many NGOs (O'Sullivan, 2003). Some view media relations as the center of the practice of public relations (Taylor, 2000). Media not only can expose the efforts of NGOs, but also can enhance the legitimacy. So the relation of an NGO or any organization with the media needs to be ongoing on the basis of information, while also recognizing the need of news media (Hopkins, 2003). Consequently, many consider as an essential element of media relations the development of personal relationships with reporters and "the information gatekeepers" – editors and producers (Malan, 2005). NGOs depend on media coverage because it can increase the public's awareness about an organization, lead to a better understanding of the group's mission, and help gain public support for its activities (International Code Council, 2005).

People often get the bulk of their new information from the news media, so any organization seeking public attention and support needs the media. In this context, the most important task for an organization is to find newsworthy information and to present it to journalists accurately and usefully ("Helping the news media cover family planning," 1995). Such factors help organizations to develop a credible relationship with media. In contrast, attempts to "manage" news media – for example, by withholding information or issuing self-promotional half-truths – undermine the organization's credibility ("Helping the news media cover family planning," 1995).

Referring to a study on non-profit organizations' media relations by Rouner and Camden, Taylor (2000:6) mentions that not-for-profit NGOs "lack the expertise and sophistication" in media relations efforts. Similarly, journalists' low level of professionalism often constrains the relationship between NGOs and media (Report: NGO Needs Assessment, 2002). On the other hand, training, personal experiences, social systems, and objectives of journalists influence the selection and processing of information (Taylor, 2000).

In discussing the NGO-media relationship, it is important to consider what interests news media. Many say that tension and conflict interest media, and that media like numbers and lists. In this context, formatting messages to gain media attention is an important consideration (Weidman, 2003). Because media are market-driven, they are concerned about audience interest to sell their stories or programs. NGOs perceive news media as preferring negative stories (Malan, 2005; Schenkler & Herrling, 2004). When providing content and information, NGOs need to consider not only the interests of journalists but also those of their audience (Diouf, 2001).

Media have a stronger influence on economic and political outcomes when they work with other institutions, such as NGOs. Media in Bangladesh have supported NGOs in strengthening human rights and campaigning against gender discrimination, religious extremism, and violence against women (Anam, 2002). Consequently, a regional workshop on gender and disasters in Pakistan in 1996 emphasized the need for NGOs to develop interactive partnerships with media and bridge the difference in perception between the two (Duryog Nivaran, 1996). At the same time, some development organizations maintain a patronizing attitude towards journalists and think that they can tell journalists how to cover a story (West, 2005).

In a study on NGO-media interaction, Malan (2005) found that local NGOs in South Africa assist journalists in gaining information about HIV/AIDS. Earlier, though, those NGOs had to convince reporters of the importance of the issue. On the other hand, Kenyan NGOs rarely interact with media and so failed to communicate adequately with the public on HIV/AIDS issues (Malan, 2005). NGOs that successfully network with media invest considerable time and effort in making things easier and more understandable for journalists. In short, an NGO's relationship with media mostly lies in its ability to ensure journalists' access to reliable information (Malan, 2005). Reporters want organizations to be "open" and "committed to being the first and best source of information" (Heath & Combs, 2006).

Media advocacy is important for developmental NGOs because they are generally eager to spur community involvement in social change or development. Given the media's important role in shaping public opinion and awareness, advocates of any development program must rely on the media to disseminate their messages (Rubin, 2000). *Media advocacy* is the term for the strategic use of mass media to advance social or public policy initiatives. It uses a range of media and other advocacy strategies to define the problem and stimulate broad-based coverage (Wallack, 2005:422).

This study asks a broader question: What factors in NGO-media interaction affect news coverage of developmental issues? The focus is on challenges, weaknesses, and opportunities in NGO-media interactions, as well as perceptions of journalists and NGO professionals about each other.

Method

The study uses both qualitative and quantitative methods to analyze factors associated with coverage of developmental issues in Bangladeshi news media. Qualitative interviews provide an in-depth analysis of existing NGO-media interaction as well as a comparative analysis, while a thematic analysis with quantitative interpretation examines the news stories about a large developmental NGO in Bangladesh. Coverage of the NGO Proshika's poverty alleviation programs is analyzed for two Bangla-language and two English-language national dailies between January 2003 and July 2006. The thematic analysis identifies the nature of news coverage of Proshika and its programs.

The qualitative interviews with journalists and NGO staff members were semi-structured, with the researcher asking several fixed open-ended questions (Appendix III). Journalists interviewed include both editors and reporters for mainstream newspapers, news agencies, and television channels. From NGOs, two officials of Proshika's Policy Communication and Advocacy and Information and Documentation departments were

interviewed using a similar format. The researcher also interviewed officials responsible for external relations and communication activities of CARE Bangladesh and Karmojibi Nari (KN), for representation from three different types of NGOs – a large national organization, an international one, and an issue-focused rights-based one. Proshika is considered one of the largest national NGOs in Bangladesh, with about three million group members and over 11 million beneficiaries; it conducts activities in 57 of the country's 64 districts (www.proshika.org). CARE International, of course, is an international NGO (CARE Bangladesh, 2005). Karmojibi Nari (KN), finally, is relatively small in terms of program focus and target audience, and it is completely rights-based (Karmojibi Nari, 2005).

The researcher interviewed four news reporters covering developmental or economic NGO issues. Of them, two are from different Bangla-language national newspapers (the Prothom Alo and the Bhorer Kagoj), one is from English-language national newspaper (The Bangladesh Observer), and one is a former stringer for the Bangla service of BBC. The researcher also interviewed four senior journalists working in gatekeeping and planning positions in news media – two from Bangla national dailies (the Ittefaq & the Sangbad) and one from an English national daily (The Daily Star), and one from a weekly news magazine (The Dhaka Courier). With informed consents, the researcher conducted the interviews following the semi-structured and conversational style. At the outset, each interviewee received a written brief of the study, approved by Institutional Review Board of Ohio University, as well as an oral description of the study's purposes. Because the consent form (Appendix I) guarantees confidentiality, A, B, C, and D are the news reporters, and E, F, G, and H are the journalists in gatekeeping positions. The two Proshika staff members are identified as X and Y, and the Care Bangladesh and KN staff members are U and V.

All of the informants answered the common questions (Appendix III). However, other issues arose during some conversations and led to follow-up questions. Consequently, the interviews vary from about 25 minutes to an hour. Transcripts were prepared, some verbatim and some partial.[5]

The thematic analysis of news coverage represents a reality check of informants' observations. The researcher scanned Proshika-related news stories published in four newspapers – the *Daily Star* and the *Bangladesh Observer* (English-language national dailies), and *Prothom Alo* and the *Ittefaq* (Bangla-language national dailies) – between January 2003 and July 2006, excluding February through July 2004.[6] Three dominant thematic categories emerged: "news on developmental outcomes due to Proshika's projects or initiatives," "news on Proshika's developmental and organizational activities," and "news on challenges faced by Proshika." Thematic analysis shares many principles and procedures with content analysis, but is more exploratory (Donovan-Hall, 2004). The

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[5] There are three ways of transcribing data from qualitative interviews: (1) full, verbatim transcripts, (2) partial transcripts that omit irrelevant discussion, and (3) transcripts limited to pertinent points (Weiss, 2004).

[6] From March to May, 2004, Proshika's activities were hampered because its chief and staff members were arrested as part of government's crackdown on the organization. This topic dominated coverage of Proshika at the time. Accordingly, the period is omitted from this study (Seabrook, 2004).

researcher coded coverage by theme. As these data are nominal, a chi-square test was conducted to see whether the comparison among these three themes was statistically significant. The researcher also conducted a content analysis of the sources of the selected news stories, by coding on the basis of three news sources – own correspondents, press release, and news agency.

Findings

The qualitative interviews with NGO staff members and journalists suggest some key factors that influence the coverage of developmental news in Bangladesh: NGOs' nature of communication with different audiences, the commercial orientation and agenda-setting function of media, corruption in journalistic and NGO practices, personal relationships between editors and NGO leaders, NGO officials' knowledge of journalistic practices, and journalists' knowledge of development issues. These factors overlap. An NGO's nature of communication is affected by staff members' personal relationships with journalists and their knowledge of journalism, as well as by journalists' knowledge of developmental issues. Corruption in journalism and NGOs affects the personal relationship between journalists and NGO chiefs.

NGOs' Nature of Communication with News Media

We normally see two types of NGO communication with news media: regular and situational. Some big NGOs with projects in different areas develop project-specific communication strategies. Regular communication encompasses two principal ways by which news media receive information from NGOs, according to one journalist informant: press releases and guided media tours. A respondent from Proshika said that they recognize the importance of mass media in disseminating information about their activities. Proshika staff X said, "Previously the scope of utilizing mass media was limited to few newspapers and one state-owned television channel. Newspapers are publishing special pages on business, economic, and development issues, and these pages are accommodating news of both commercial sector and non-profit organizations. A new beat[7] is also developed in news reporting particularly in the area of NGOs." CARE Bangladesh, usually known as an "infrastructure development organization," shifted its focus to governance and social justice issues after 2000. Because the shift in approach requires generating awareness and participation in different groups of people, CARE Bangladesh, earlier known as a "media-shy" organization, worked actively with mainstream media in Bangladesh.

Like Proshika, informants from CARE Bangladesh and the NGO focused on women's labor rights, Karmojibi Nari (KN), said that they use mass media to inform not only the organization's beneficiaries and the mass public, but also the government, other stakeholders, and development partners. KN staff member V said, "You can be benefited by working with journalists. Instead of going to many people, if you talk to five journalists you can reach one million people." Along with sending press releases by fax and messenger, these three NGOs contact journalists individually and reiterate the message, as media people do not always understand the importance. "If news management can be briefed about the importance of any program or event before, it can

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[7] A *beat* is an area, either topical or geographic, covered by a reporter.

also be helpful in getting better coverage," V said. Such communication is situational, employed only when NGOs need information disseminated or awareness raised.

CARE informant U said, "We had a well-planned media strategy for any project. We have separate media strategy for different projects because all projects may not need similar communication intervention. CARE has media strategies for 18 projects." Reporter B and senior sub-editor H admitted that "NGOs have appeared as news source for media. We had to depend on NGOs for happenings like women repression and human rights violation at interior places in the country. It is true that we get many [more] news items on the happenings in rural areas than what we used to get 15, 20 years back. NGO sources are contributing more news reports." Journalist G noted the other side of the transaction: "If media do not give coverage, NGOs will not get funding. Published news items with positive coverage can help NGOs to convince donors or policymakers about their efforts in releasing funding."

Thematic Analysis of News Stories of Proshika

Between January 2003 and July 2006, excluding the crisis period from February to July 2004, the *Daily Star*, the *Bangladesh Observer*, the *Prothom Alo*, and the *Ittefaq* published 116 news stories on three topics: Proshika's developmental and organizational activities, achievements of its beneficiaries, and the political or legal challenges it faced. Among the published news stories, 24 were on the positive outcome of developmental projects, 77 on organizational or developmental activities, and 14 on political and legal challenges (Appendix I). Difference among these three types of news reports is statistically significant as $p > 0.05$ as Pearson chi-square is 59.809 (Appendix I: Fig 1).

The source of news stories is important in determining the interest of media in NGO issues. Of the stories on developmental outcomes and those on political or legal challenges, stories reported by the newspapers' own staff outnumbered those based only on press releases. Of 24 stories on the developmental outcomes of projects, 21 were covered by newspapers' staff. So too with 11 of the 14 stories on political or legal challenges. By contrast, 70 of the 77 articles on organizational and developmental activities relied equally on newspaper staff and press releases. The difference between the two types of article sources – own reporter (coded 1) and press releases (coded 2) – is statistically significant as chi-squire test result shows $p > 0.05$ (Appendix II: Fig 2). The difference between the two types of sources is also statistically significant (Appendix II: Fig 3) in that each of the three topics was covered in all four newspapers.

These findings indicate that newspapers used press releases in covering organizational and developmental activities. In the case of news reports on issues related to developmental outcomes and government challenges, newspapers mostly used stories written by their staff and in some cases a news agency. (In news agencies, news stories are developed in a similar fashion, on the basis of either organizational press releases or staff reporting.) Most of the success stories gave the name of the NGO in the headline, which garners the most attention. As some informants mentioned, this practice promotes the organization instead of the issue. Of the 24 stories on positive outcomes of Proshika's projects, 10 featured the organization's name in the headline. The rest of the news stories emphasized individuals in headlines and introductory paragraphs, but mentioned Proshika in the body of the story.

Personal Relationships

The nature of the relationship between media management and NGO authorities influences coverage of NGO activities, according to informants from both NGOs and the news media. This relationship can include "self-censorship," when the press ignores events that might reflect badly on the NGO. Sometimes, both NGO staff members and journalists use personal relations for exploring new stories. Thus, personal relationships have both positive and negative aspects. Two reporters mentioned that assignments to cover NGO events depend on personal relationships. "If an NGO chief is known to the newspaper editor, he or she may request to cover or publish any news item concerning that organization," a reporter admitted. The relationship between an NGO chief and a newspaper editor, and the relationship between NGO people and journalists, particularly the gatekeepers, are decisive factors. Media people who have good relations with NGO people avoid contentious coverage of the NGO sector, though they know its flaws.

An NGO informant commented, "Personal communication and friendship with journalists are my strengths. I have over one hundred journalist friends. If I visit any media house, I can trace four or five familiar faces. I do not lose anyone's visiting card. I may forget their face, but I maintain communication with them." This informant also said, "I try to help journalists with ideas and tips. I even give them permission to use my analysis as their news report or under [their] name."

Commercial Orientation and Agenda-Setting Function of Media

The commercial orientation of mainstream mass media, both broadcast and print, often appear as a challenge for developmental NGOs. The commercial interests of news media dictate what type of news will be presented. An NGO informant was not optimistic that private satellite television channels would air programs on developmental issues. Two state-controlled media – Bangladesh Television (BTV) and Bangladesh Betar – are run by less efficient, less qualified, and more politicized government staff. The state-owned media are not concerned about programming diversity or quality. From experience working with broadcast media, an informant from Proshika said, "Grassroots people do not have access to satellite television channels. Public media like Bangladesh Betar and BTV with higher reach are accessible to many people. Though they run commercial programs, they are conservative in terms of selecting social issues." CARE Bangladesh staff perceives that in Bangladesh, as elsewhere, negative news dominates, driven by commercial gain.

An informant of the women workers' organization (KN informant) observed, "As KN is concerned with workers' rights, they do not often get adequate coverage from the newspapers or television channels owned by business entrepreneurs. The corporate interests of some news media appear as a challenge for them. Recently, one of the news stories, published in a newspaper owned by a garment owner, indirectly blamed concerned NGOs for educating garment workers about labor rights."

Reporter C similarly said, "Some newspapers are run by [an] owner-editor. Most of the newspaper owners are businessmen. That is why they want to report on issues that will help them commercially. They are more concerned with negative reports of [the] government as people will like such critical reports more." C found that except for one or two leading dailies, no newspaper campaigns on social or political issues in its pages.

Due to the commercial orientation of mainstream media in Bangladesh, NGOs must influence agenda-setting to promote developmental issues. Agenda-setting in media is achieved through the presentation and treatment of news. Besides newspaper policy, an NGO's credibility among journalists is another important factor influencing agenda-setting of reporting about NGOs. Though Bangladesh has many "fake NGOs," journalists informants credit some NGOs with positive changes at the community level. An informant at a national daily said, "I try to give coverage of NGO activities if I find that they have significant contribution to society. If journalists think that NGOs are doing something good, then they report those activities positively. At least, [this] newspaper does not allow any favoritism in publishing NGO's news." The journalist also noted, "We gave publicity to an innovative approach of a local NGO in Narail where they do not use chemical[s] to curb pests. In a northern district of the country, a local NGO has developed an innovative farming technique to help poor villagers to grow pumpkin[s] on a sandy soil. It changes people's perception that farming can be done on sandy soil."

When NGOs face political or social challenges to their programs, newspapers try to cover the issues. News reporter D said, "In 2000, I wrote many news reports against local *fatwabaj* [religious edicts] and women traffickers who were opposing the activities of a donor organization to check women trafficking. As [the] curbing-women-trafficking program of that organization affected the interest of traffickers, the latter influenced the village religious leaders to go against the activities of the organization. Media reporting during that crisis period helped that organization to get [the] administration's support."

Journalist A said, "It is news media that will know information for the readers or audience or people. It is important that media will act on its own way, not as [a] developmental organization. Previously, media only dealt with problems and solutions. But recently several newspapers brought a change in agenda-setting of news by putting positive news in its first page or highlight[ing] success stories."

Karmojibi Nari did not receive favorable coverage at first. But it began to get good coverage when it worked to protect the rights of working women, as most news media promote women rights. Some big NGOs in the country pursue only service-delivery goals. KN, by contrast, attracted media attention because its rights-based approach is more governance- and people-focused, which appeals to media. Similarly, CARE Bangladesh received significant media attention in promoting their developmental issues after working with news media in partnership. By doing this, they could also reach more people, especially strategic target groups, with developmental messages.

CARE got support from news media in its RVCC (Reducing Vulnerability for Climate Change) project, which deals with the salinity problem in the southern part of Bangladesh. The CARE informant said that embankments and other manmade structures proved to be causing the environmental hazards. Given that manmade causes can be resolved, they decided to try to use the media to lobby national-level policymakers. After CARE brought reporters to the area, four national newspapers made the RVCC the front-page lead story, spurring the government to take immediate steps to solve the problem.

Corruption and Access to Information in Journalistic and NGO Practices

Informants mentioned an allegation that journalists are paid for reporting on NGO issues. Journalist informants complained that NGOs had introduced the practice and that

it has corrupted the profession. Journalist informants believed that the practice made copy editors at news desks look at articles on NGOs with suspicion. The practice also placed some developmental organizations in a difficult situation, because they found that they could not get good coverage without payment. The CARE Bangladesh informant claimed that they promote issues, not the organization. "CARE does not compel or request journalists to write the name of the organization in news reports. It is left to the discretion of journalists. When CARE sends press releases to news media organizations, it wants those issues to be promoted.... Journalists are allowed to work openly in the field and report in their own way. We only give them the normal support of travel cost and accommodation. We don't pay them extra money."

A sub-editor said, "We can understand which news reports are paid, or which reports are biased." In this informant's view, that is why newspapers in Bangladesh cannot be considered watchdog organizations in terms of NGO performance. Another journalist, though, acknowledged that NGOs influence reporters on field visits, but maintained that newsmen are not totally controlled by any NGO.

Journalist A said that a micro-credit program of NGOs has well-documented shortcomings, including an excessive interest rate. "When I was working for a development debate on micro-credit for BBC's Bangla service program, Grameen Bank authorities rejected the proposal of participating in the discussion as the program decided to remain an economic critic of the micro-credit scheme.... NGOs get worried if they find that you are going to report negatively about them." A also said, "NGOs will be happy if they know that you will report in favor of them. [When] I worked for Interpress news service ... I was assigned to visit a donor-funded HIV/AIDS project in Rajshahi. They did not allow me to visit the project. Later I heard that they only strictly monitored field visits for news media."

Two journalists commented that NGOs can be as tight-fisted with information as government offices and private organizations. One observed, "Private, government and NGOs all prefer to be covered positively by news media. It is still challenging to get information from NGOs when news reporters want to do critical news reporting." On the other hand, reporters B and D believe that NGOs, though not free of irregularities, significantly contribute to the nation's socioeconomic wellbeing. "We do not hear anything about major corruption about big NGOs except one politically motivated allegation. There may have misuse of fund to some extent but not large scandals like corrupt government institutions," B remarked.

Lack of Journalism Training and Knowledge of Development Issues

NGO informants complained that journalists, reporters and editors alike, are uninformed about developmental issues. Proshika staff member Y suggested that a lack of skills prevents news media from undertaking investigative reporting on NGO issues. Y said, "The project-based analytical report is not done by any newspaper … they only know about funding issues, not project based activities." Journalists admitted that they lack expertise in developmental issues, as this area of reporting is still growing slowly.

CARE Bangladesh staff member U talked about two types of challenges: internal and external. Of internal challenges, U said, "Staff members working in projects of CARE Bangladesh do not have any background on development communication or the

practice of media. In that case, I do need to explain them the whole process." Even graduates of local journalism schools cannot relate their studies to development. Of external challenges, U said, "I need to give a lot of time to concerned people working in mass media to make them understand the issues that CARE is working for."

V of Karmojibi Nari similarly noted, "I am sorry to say that most of the journalists are not well aware of both national policymaking process and global governance. For example, I will say that 98 per cent (most) of our media people do not know the distinction between Least Developed Countries and developing countries. If you use the word 'developing country' in your report, then you will give a wrong idea about Bangladesh's rights and obligations to concerned people."

Journalist C observed that NGOs' grassroots activities are typically covered by local correspondents, who often lack academic credentials. They tend to cover only such issues as corruption of local government, crime, and tenders for construction work. With their lack of conceptual knowledge, these local journalists do not innovatively report on developmental issues. One journalist said that the high interest charged by microfinance organizations may not receive coverage "due to a conceptual lacking of journalists to critically see the development projects."

Conclusion and Recommendations

NGOs following a rights-based approach are apt to get more coverage, because issues of governance, human rights, and social justice get priority in newsrooms. Even so, news media usually cover NGO activities unless they threaten advertising revenue. In general, newspapers promote organizations whose philosophies accord with their own. Newspapers interested in promoting human rights, women's rights, secularism, and democratic participation support NGOs with a common agenda.

Developmental NGOs' media strategy targets not only the NGO beneficiaries, but also other stakeholders in development, local and international donors, and the government. NGOs recognize and use the commercial orientation and agenda-setting function of mass media. Along with sending press releases, NGOs seek to cultivate relationships with journalists and when possible media management. NGO staff dealing with the news media need to be proactive and media-oriented.

Developmental organizations often get less coverage than they expect. Informants from the NGO sector blame this on a lack of knowledge about developmental issues on the part of journalists, both reporters and gatekeepers. Journalists accepted this criticism, but stressed that NGO staff need to a richer understanding of the news media in order to get better coverage. Reporters said that NGOs need to tell them about current activities. Reporters also noted that some developmental NGOs wrongly expect developmental news to get the same prominence as political, crime, or other sensational news. Informants observed that some NGOs pay journalists for unmerited coverage, a practice that taints the NGO sector overall and makes it more difficult for effective but non-paying organizations to get coverage. Though NGOs receive largely positive coverage, journalists believe that NGOs' shortcomings deserve warrant more attention than they get. For example, due to relationships between newspaper editors and NGO chiefs, newspapers cannot report on excessive interest in micro-credit schemes. Still, journalists agreed that NGOs contribute more to poverty alleviation than the government does.

In summary, the news media's commercial orientation, the practice of paid reporting, a lack of developmental knowledge among journalists, and a lack of skill in development journalism are identified as challenges for Bangladeshi developmental NGOs in their relations with media. From the other side, journalists identified as particular challenges NGOs' lack of transparency, the rarity of skilled and proactive media relations in the organizations, and NGO chiefs' close relationships with newspaper editors or owners. Journalists want developmental NGOs to give them news ideas on different developmental and policy issues, rather than just event and activity information. Such practices can bring NGOs and news media closer together. Earlier studies have also suggested trust-building and fostering relationships on the basis of the needs of news media (Malan, 2005; Hopkins, 2003; Weidman, 2003; Health & Coombs, 2006). The personal relationships in the NGO-media interaction can be used for agenda-setting through advocating a particular policy issue or developmental intervention. To be sure, these relationships can also be obstacles to critical reporting. NGOs receive nearly unconditional support from media (O'Sullivan, 2003).

RECOMMENDATIONS

Informants from NGOs admitted that they need skills to deal with news media effectively. Similarly, interventions are needed for journalists to sharpen their understanding of developmental issues and their skills in development journalism. Informants talked about the need for capacity building on both sides to promote reporting on NGO issues. Reporters need to be sensitized to the issues that NGOs are addressing, and NGO staff need to become more sophisticated about the news media. Earlier works have also noted the latter problem. Taylor (2000) found a lack of expertise and sophistication in media relations in Bosnia. The 1996 Pakistan workshop on gender and disasters emphasized the need for NGOs to work with media to bridge differences in perception (Duryag Nivaran, 1996), a point echoed by informants in this study.

Informants said that training journalists in the techniques of development journalism will require more and better training opportunities than now exist in Bangladesh. As a possible approach, institutional intervention by the government's media and journalism training institutes was suggested.

Journalists and NGO staff members came up with following suggestions for capacity building to address weaknesses and improve NGO-media interaction:

Scope for Capacity Building:

1.   Developmental NGOs need to train journalists (including local correspondents) on reporting developmental issues. NGOs can partner with media organizations in this process. Training needs to be designed so that the NGO sector can become a distinct news beat.

2.   Concerned government media under the Ministry of Information should support development journalism training programs on a regular basis.

3.   Training on development journalism can be useful for NGO communication staff as well. Again, NGOs and media organizations can organize such training together.

4.   News editors and senior journalists need to become familiar with up-to-date policy and developmental issues and concepts.

NGO-Media Interaction:

1.   NGOs need to be more open with information for newsmen.

2.   NGOs might form a group of journalists to cover their activities.

3.   Development journalism does not necessarily mean promotional news; it can be critical reporting.

4.   In that regard, NGOs need to be receptive to critical coverage.

5.   *NGOs should maintain ongoing relationships with news media, not only to seek coverage of their projects but also to update reporters on different issues and research findings.*

6.   Developmental or donor organizations need to partner with television channels to advance the developmental agenda through news bulletins.

7.   *Developmental news can fit into any time slot of television news. Bangladesh has no fixed prime-time news; many people watch afternoon news.*

8.   Community media (mainly radio) should help NGOs to disseminate their messages constantly to the target audience.

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Appendix I

News_Code * News_Source Crosstabulation

			News_Source		
			1.00	2.00	Total
News_Code	1.00	Count	21	3	24
		Expected Count	15.4	8.6	24.0
		% within News_Code	87.5%	12.5%	100.0%
		% within News_ Source	28.4%	7.3%	20.9%
		% of Total	18.3%	2.6%	20.9%
	2.00	Count	42	35	77
		Expected Count	49.5	27.5	77.0
		% within News_Code	54.5%	45.5%	100.0%
		% within News_ Source	56.8%	85.4%	67.0%
		% of Total	36.5%	30.4%	67.0%
	3.00	Count	11	3	14
		Expected Count	9.0	5.0	14.0
		% within News_Code	78.6%	21.4%	100.0%
		% within News_ Source	14.9%	7.3%	12.2%
		% of Total	9.6%	2.6%	12.2%
Total		Count	74	41	115
		Expected Count	74.0	41.0	115.0
		% within News_Code	64.3%	35.7%	100.0%
		% within News_ Source	100.0%	100.0%	100.0%
		% of Total	64.3%	35.7%	100.0%

Appendix II

Fig 1: Types of News

	News_Code
Chi-Square[a]	59.809
df	2
Asymp. Sig.	.000

[a.] 0 cells (.0%) have expected frequencies less than 5. The minimum expected cell frequency is 38.3.

Fig 2: News Source Analysis

	News_ Source
Chi-Square[a]	9.470
df	1
Asymp. Sig.	.002

[a.] 0 cells (.0%) have expected frequencies less than 5. The minimum expected cell frequency is 57.5.

Fig 3: Difference in News Sources in each type of News

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	10.067[a]	2	.007
Likelihood Ratio	11.079	2	.004
Linear-by-Linear Association	1.479	1	.224
N of Valid Cases	115		

[a.] 1 cells (16.7%) have expected count less than 5. The minimum expected count is 4.99.

Appendix III

Interview Questions for Journalists

1. What is your general observation about the development activities of big NGOs (e.g. BRAC, Proshika, Grameen Bank, ASA) in Bangladesh?

2. What kind of experience do you have in dealing with NGO over news report/ feature article/opinionate?

3. How do you explain the importance of media relationship strategy for a NGO in the context of facilitating development objectives?

4. How do the big NGOs maintain relationship with media? Do you find any difference in media relationship activities between big and small NGOs or among big NGOs?

5. Can you specifically identify the areas of weakness and strength of NGO-media interaction in Bangladesh? What are the challenges remain within NGO-media relationship in Bangladesh?

6. Do you think there is scope for effective NGO-media interaction in Bangladesh? If yes, what are your recommendations?

Supplementary:

Need for capacity building training for journalists or handbook on reporting NGO or developmental issues to cover development news or NGO affairs?

Interview Questions for NGO Staff

1. What is your general observation about the representation of news on development activities carried out by NGO sector in Bangladesh?

2. How do you explain the importance of media relationship strategy for an NGO in the context of facilitating development objectives? As a development organization, what do you expect from media?

3. How does your organization maintain relationships or interact with news media or journalists? Please explain the media relationship strategy of your organization.

4. What are the challenges you/your organization encounter interacting with news media or journalists?

5. Can you specifically identify the areas of weakness and strength of NGO-media interaction in Bangladesh?

6. Do you think there is a scope for effective NGO-media interaction in Bangladesh? If yes, what are your recommendations?

Supplementary:

Need for media relations capacity building program for NGO professionals?

BOOK REVIEW

Charity Law and Social Inclusion: An International Study
Kerry O'Halloran.
Routledge. 437 pp. $150

Reviewed by David Robinson[1]

Kerry O'Halloran's timely study comprehensively covers current charity legislation in the United States, England and Wales, Ireland, Australia, New Zealand, and Canada, with a focus on how recent reforms have impacted the law as it affects philanthropy and charities in relation to social inclusion.

The social inclusion agenda includes domestic issues such as persistent poverty, immigrants and refugees, and inequality, as well as issues in the international agenda such as how to balance aid, trade, and anti-terrorism. Particular attention is given to indigenous people and social inclusion. These major categories in turn cover issues of health, housing, education, and general human rights.

This publication is both a valuable reference book and a polemic stating the case for revising charitable legislation to enable the growing range of non-government, philanthropic, and not-for-profit organizations to better engage and deal with issues of social disadvantage and promote social inclusion.

The question is, to what degree has the common law tradition of charity legislation enabled or impeded the ability of philanthropy to engage with these issues?

From the Statute of Charitable Uses 1601 onwards, charity legislation was rooted in the obligation on the Crown to protect the interests of charities (as well as those of wards and lunatics). This has formed the basis for a paternalistic, controlling attitude towards charities and a restrictive approach to any attempts to widen the definition of charitable activities that might subsequently qualify for beneficial tax treatment.

As a reference book it covers current legislation in six common law jurisdictions, each of which has either recently completed a major review of charity legislation or is currently engaged in such a process.

In the introductory chapters, the concept of charity is separated from that of philanthropy, "Theoretically, charity is concerned with the fact and effects of poverty and is focused on methods for directly alleviating the suffering of others. This should serve to distinguish charity from philanthropy which is primarily about respect for the civilizing effects of human endeavour and is focussed on providing and promoting opportunities for bettering the human condition."

O'Halloran goes on to note that the meaning *charity* acquired in law diverged considerably from any social meaning that would otherwise have logically been ascribed to it.

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[1] David Robinson, a member of ICNL's Advisory Board, is Director of the New Zealand Social and Civic Policy Institute and a Board member of CIVICUS.

The discussion and core argument that runs through the book is concerned with the impact of charity (what is funded by charitable giving), rather than the gift-giving end of the process. The latter is better characterized as philanthropy, indicating the impulse to give.

The sections on each country provide up-to-date coverage (or as up-to-date as possible for a subject that seems to be in the midst of constant review) of the historic role of charities in the country, a short overview of the charitable sector, an outline of the current legal framework, explanations of available legal structures and tax rates and procedures, and summaries of definitions as to what is considered a charitable purpose. It then considers any specific constraints on modern philanthropic activity and sets out the current situation regarding the review of charity law.

These chapters make the publication an essential and unique reference book for those working in this area or those interested in the legal environment in which the charity sub-sector of civil society operates. The comparative layout provides a simple and practical form of cross-referencing different jurisdictions.

Although specific issues vary considerably, a pattern does emerge of what O'Halloran describes as the "main areas of sensitivity" in the relationship between the charity law framework and social inclusion in the six jurisdictions covered. These areas are as follows:

- Partnerships with government;

- Restrictions on advocacy/political activity;

- Human rights and anti-terrorism;

- International aid;

- Issues relating to indigenous people/multicultural matters;

- Fiscal issues, particularly taxation;

- Roles of the court and Attorney General;

- Forums for developing charitable purposes;

- Legal structures; and

- Public benefit issues.

In the concluding chapter, each of these issues is addressed in general terms with proposals for changes to encourage greater involvement of charities, or at least to remove the major barriers to such involvement.

Current restraints on the operation of charities that have grown from the common law tradition include the following.

- The definition of public benefit, requiring that this benefit accrues to sufficient members of the public, and not just a limited section, has restricted action by charities in favor of small groups of severely disadvantaged people.

- An obstacle to the involvement of charities in advocacy and lobbying for changes in the law, which is essential for their effective intervention on social exclusion issues, is the court ruling (McGovern v A-G 1982) that it "had no means of determining whether the outcome of policy changes would be beneficial or otherwise."

- Restrictions on the recognition of trusts as being charitable if they are for the benefit of groups of people related by blood. This has restricted the recognition as charitable of associations in indigenous communities organized around tribal or blood relationships.

These examples are indications of the degree to which the realities of community need have diverged from those set out in 1601 and (cautiously) amended since. They also indicate that reform is long overdue, but the outcome of recent reviews suggests that it may be a long time coming. In general, the countries covered here that have recently reviewed their charity laws have failed to effectively address these issues.

For example, O'Halloran states that in New Zealand, "The Charities Act 2005, on the face of it, has left charity law in New Zealand anchored to its common law legacy and largely unchanged in terms of its capacity to address contemporary social inclusion issues." In Australia, "the collapse of the charity review process is a serious setback for the prospects of achieving a better fit between the legal framework for philanthropy and the contemporary needs of the socially disadvantaged." And in England and Wales, though the proposed statutory changes are important and can only benefit the social inclusion agenda, O'Halloran continues to state that "the principal jurisdictional characteristics of the law will continue." In particular, restrictions on advocacy, political activities, and fiscal issues relating to trading will further inhibit the development of a strategic role for philanthropy.

Perhaps the reluctance of governments to confront constraints on the effectiveness of philanthropy and charity in the modern world reflects an unwillingness to allow the expansion of an independent civil society space outside the control of the state.

In a section of the final chapter, O'Halloran notes recent government declarations of their intentions to further develop partnerships with the voluntary and community sector, often with a revised charity law framework as part of the arrangement. He also notes that the privatization of some nonprofits in the United States is cause for concern in relation to the ability of charities to maintain their independence, but does not draw the same conclusion so clearly in reference to the developing partnerships with government.

In practice, the reluctance to effectively reform charity legislation to encourage charities to engage with social inclusion issues, combined with increased government funding of community organizations, government/community sector partnerships, and corporate privatizations, suggests that we may need above all to defend the inherently independent nature of philanthropy and charity, rather than seek to widen definitions of what is charitable and liberalize tax regimes. This means acknowledging that tax benefits inevitably entail an element of state intervention, and insisting that charities should

vigorously defend their independence even at the cost of losing beneficial tax treatment. Current challenges to this independence are apparent in anti-terrorism legislation.

In general, issues dealing with the apparently intractable problems of ongoing poverty, social exclusion, discrimination, and inequality (both in the domestic and the international arenas) are the responsibility of governments. The generally poor response of governments to social inclusion issues in recent reviews of charity legislation suggests the value of carrying out a comparative study of the boundaries between charitable (or philanthropic) and government action – that is, between funds provided by citizens of their own free will, for purposes selected by them without coercion, and the use of funds collected by governmental decree from the wider population for, in theory at least, purposes that have been collectively agreed upon.

The ultimate strength of philanthropists is the ability to choose what issues to support. Charity and philanthropy are expressions of the human impulse (present in some if not all of us) to share their surplus resources with others. How wide this sharing should extend – to the family, tribe, local community, or all those in need – is at the core of much of the debate around charity legislation. To what degree should gift giving beyond the immediate family be encouraged or restrained by the state?

Perhaps civil society (and charities, or charitable people) should claim outright the freedom to raise sometimes unpopular issues, to campaign for changes in government policies, and to act directly where necessary, without requiring legislative action promising tax breaks. It is, of course, possible for philanthropists to fund whatever activities they choose, as long as they are within the boundaries of the law. One can be "charitable" without the permission of the state. *Charity Law and Social Exclusion*, however, is concerned with *organizations* legally formed as charities rather than the *activity* of being philanthropic or charitable.

As moral and social definitions of charity, altruism, and sharing have become subsumed by economic and legal definitions, the focus has turned from the motivation of individuals to give to the functions of legal structures.

However, changes in government legislation focused on enabling access to preferential tax treatment are not likely on their own to persuade philanthropists that action on social justice issues is necessarily the most critical and interesting aspect of charity.