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Co-editors:
Ann McKinstry Micou
Birgit Lindsnaes

The role of

VOLUNTARY ORGANISATIONS.

**in emerging
democracies**

Experience and strategies in Eastern and Central Europe and in South Africa

The Danish Centre for Human Rights



Institute of International Education



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The Danish Centre for Human Rights/Institute of International Education

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A report of a workshop on

**The Role of
VOLUNTARY ORGANISATIONS
in Emerging Democracies:
Experience and Strategies in Eastern and Central Europe
and in South Africa**

Czechoslovak Management Center
June 21, 1992 - June 24, 1992

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Preface

The recent emergence of new vistas for democratic governance in virtually every corner of the world has been accompanied by a growing awareness of the critically important contributions of voluntary organisations to the promotion of democratic development. But those contributions are by no means "automatic." A vibrant voluntary sector requires a supportive constitutional, legislative, and policy framework. And it will come into being only as the end product of successful institution-building strategies in settings characterised both by great diversity and by a number of common challenges and themes.

In mid-1992, with the latter propositions squarely in view, the Danish Centre for Human Rights and the Institute of International Education convened a workshop at which representatives of voluntary organisations from Eastern and Central Europe and South Africa compared experiences and strategies for the development of the voluntary sector in emerging democracies. This volume emerges from that workshop. It contains a rich array of background papers and discussion summaries. It also includes detailed country surveys of the legal and policy environments for voluntary organisations in the several countries from which workshop participants were drawn.

The welcome partnership between the Danish Centre for Human Rights and the United States-based Institute of International Education in sponsoring the workshop stemmed from a discussion among staff members of the two organisations in Copenhagen in August 1991. In the course of that discussion, there was a strong convergence of views concerning the sometimes under-appreciated role of voluntary organisations in democratic development. And there was also enthusiastic agreement on the rather more novel notion that fresh insights could be gained if key voluntary sector activists and strategists from Eastern and Central Europe and South Africa were provided an opportunity to learn from their varied experiences and approaches.

In our judgment, the latter expectation was abundantly realised in three days of unusually fruitful discussions among some 40 workshop participants at the Czechoslovak Management Centre, near Prague, in late June 1992. We are thus very pleased that this volume will permit the workshop's deliberations to be shared with a wider audience in Eastern and Central Europe, in South Africa, and in other settings where dedicated men and women are committed to the development of a vital voluntary sector.

William D. Carmichael
Institute of International Education

Morten Kjaerum
Danish Centre for Human Rights

Session I:

**The Functions
of Voluntary Organisations
in Fostering
Democratic Development**

The Contributions of Voluntary Organisations to the Development of Democratic Governance

Morten Kjaerum

Introduction

It is generally accepted that the development of a democratic society is closely related to the emergence and development of civil society, a so-called third sector placed between the state and market economy, and the functioning of a special kind of organisation: Nongovernmental organisation (NGO) or voluntary organisation.

In the following I will use the term "voluntary organisation." It is a bit misleading since it gives the impression that the people involved in such organisations cannot be paid or be highly professional employees but instead are simple volunteers. On the other hand the term "nongovernmental organisation" does not imply anything else than what it is not. To define such an important sector of the democratic state by stating what the sector is not is inappropriate. Since I lack a better term, I will use the term voluntary organisation.

Voluntary organisations are defined as nonprofit and nongovernmental organisations, organised by groups of people in the sphere of civil society, working for a cause for the benefit of society, which very often contribute as well to the development of democracy. There are, however, grey areas in this definition, organisational forms such as political parties and liberation movements that, on the one hand, spring from civil society and, on the other, may end by assuming government responsibility.

That voluntary organisations play a significant role in the democratic process is recognised in the Universal Declaration on Human Rights (article 19 and 20) where the right to freedom of assembly, freedom of expression, and freedom of forming associations (organisations), is stipulated, as well as in the constitution/Bill of Rights of most democratic countries. The freedom of forming associations is also guaranteed in the constitutions of some of the former Communist countries in Eastern Europe, such as Bulgaria and Hungary, but is not yet included in the Constitution of South Africa.

Basically, voluntary organisations perform a dual role in a democratic society. They constitute a precondition for, as well as a supplement to, the constitutionally defined political process and the formal political bodies of the democratic state.

In the following I will:

- Elaborate on the definition of voluntary organisations;
- Look at the functions of voluntary organisations in the participatory process for change;
- Highlight some of the obstacles for voluntary organisations.

An elaboration of the definition¹

Voluntary organisations cover a variety of organisational forms and activities, from small informal local initiatives to more formalised structures, from mutual benefit societies to participatory advocacy groups, from grassroots movements to bureaucratic interest organisations. However, they share some common features that point to the specific place of voluntary organisations within the fabric of democratic society.

First, voluntary organisations do not belong to the apparatus of the state. They may seek to exert influence on the formation of public policy and they may be financially supported by the state, but they are legally and organisationally independent from the apparatus of the state.

Second, voluntary organisations are to be distinguished from commercial and profit-oriented organisations operating in the market place. Special features of voluntary nonprofit organisations are their idealistic mandate and commitment to a cause. Voluntary organisations may provide services for their members on a commercial basis (for example, by charging fees for services), but they do not act as companies or other business entities, striving for profit on the market.

Third, voluntary organisations are conceived by groups of individuals pursuing common interests. Their organisational forms are nonformal in the sense that they are self-imposed (even though the organisational form is often highly hierarchical) and represent nonelected groups of people. In this sense they often represent a "minority" in the society as opposed to the majority elected by the people to the national parliament.²

Finally it should be stressed that the defining feature is the activity more than their common interest. The very activity of members or sympathisers of voluntary organisations acting in the grey zone between state and market is quite simply their prime resource. This is opposed to the state's legitimate monopoly of power and the capital accumulated in private companies.

¹The theoretical framework is based on the annex to the E.C. PHARE Civic Dialogue project dossier for Poland, 1991, where Rød Barnet, Denmark, and the Danish Centre for Human Rights were consultants.

² See article in FUTURES, Vol.24, No.2, March 1992, by Ana Maria Sandi on "Restoring Civil Societies in Central and Eastern Europe."

The functions of voluntary organisations in the participatory process for change

A key function of voluntary organisations is their role in the articulation of the demands of citizens through active participation and consciousness-raising. It is through voluntary organisations that wants or needs of citizens are articulated and thereby transformed into political demands that in turn are transformed into the political process. This process is often fueled by in-depth analysis and monitoring of government policy by NGOs. The so-called "watchdog" function.

As mentioned previously, the freedom to join or form an organisation is one of the fundamental democratic rights on a par with the right to vote and the freedom of expression. It is often assumed in democratic theory that this right is utilised so as to facilitate the formation of organisations that compete against each other.

In this sense voluntary organisations play an important role in encouraging diversity and the growth of different opinions. Since the oil crisis in 1973, the question of energy sources other than oil has been vigorously discussed in many countries with a high energy consumption. The discussion has been fueled by organisations in favour of wind-energy and against nuclear power and others who were against the use of coal but in favour of nuclear plants, etc. The work and the arguments had a very direct impact on the political decisions made in Parliaments in many countries. The result in Denmark was that nuclear energy was turned down.³ This diversity can be seen as a specific quality of democratic life, but the very fact that there are multiple, competing organisations may have other effects as well.

One effect is the facilitation of integration of groups *in* civil society and *into* the country's political process. An obvious example is organisations supporting migrant workers and refugees, not to mention their own organisations. These organisations are crucial for migrants and refugees when they want to be heard as a minority and when policies are counter-productive to their integration into the society of the new country. Another effect is that government, in responding to the pressure from all these diverse and mutually competing organisations, can obtain a higher political equality.

All the functions mentioned so far hinge on the role of voluntary organisations for political mass mobilization in a democratic society. Before we turn to other broad functions, it should be noted that voluntary organisations also function as agents of political socialisation. Through activities in voluntary organisations individuals are trained in the role of *homo politicus*.

Organisations working under repressive regimes often reflect undemocratic tendencies in their own structure. In a period of transition to democracy, it is of

³ The example is taken from an article by Niels Chr. Sidenius: Hvorfor er der ikke atomkraftværker i Danmark? (Why are there no nuclear power plants in Denmark?), *Politica*, 18 årg., no. 4, 1986

paramount importance that the structure of the organisation be changed for the organisation to respond to the demands of the community and to be trustworthy.

Voluntary organisations also assume the role of being an early warning mechanism. For most voluntary organisations, an international network is crucial to their proper functioning. The international network supplies the organisations with information on new developments internationally as well as acting as a platform for exchange of ideas and strategies. One of the most successful networks is the European network on organisations protecting the rights of refugees: The European Consultation on Refugees and Exiles (ECRE). The experience from ECRE clearly shows that in order for a network to be powerful, it should normally develop from the bottom up; i.e., develop from the expressed needs of its participants.

An international network also affords protection against repression from the state, since an international reaction can be expected if an organisation does not get the opportunity to work freely within the framework of the state.

Finally, the international network of voluntary organisations is an important factor in disseminating information about undemocratic tendencies or repression in a given state, information that is normally not accessible to governmental institutions like embassies. Amnesty International, church organisations, and minority rights groups are just a few examples of organisations that play a role as an early warning mechanism.

A last category of functions points to the role of voluntary organisations as a buffer against the state and against the market economy. Just as fundamental human rights provisions are meant to protect individuals from arbitrary infringement by the state, voluntary organisations *de facto* perform a protective function, partly because public policies often are implemented through networks of voluntary organisations, and partly because the social acceptance or legitimacy of state policies to a certain extent depends on voluntary organisations. Moreover there is always the possibility that public policies may engender the mobilisation of (countervailing) voluntary organisations.

Voluntary organisations also function as a buffer against the market economy. That is to say, the democratic values that are reproduced through participation in voluntary organisations counteract the commodification at the market place, and the values that are prevailing there.

Some obstacles for voluntary organisations

As mentioned earlier it is an unquestionable fact that voluntary organisations play a significant role in the democratic participatory process for change in society as well as in sustaining democracy. However, one should be aware of a number of obstacles. The realities of political life do not always fit perfectly with the ideals of democratic theory.

First and foremost, it has been demonstrated that the probability of group's becoming organised is unequally distributed. Small, narrow, and specific interest groups, such as trade union organisations or employers organisations, are more easily organised and are more effectively involved in the formation of public policy. In contrast, large groups find it more difficult to organise and obtain access to the political system. The absence of strong organisations for handicapped and for minorities may serve as examples.

Moreover, the assertion about multiple, ever-competing, and mutually countervailing voluntary organisations does not always hold true. It may be true that a few big and professionalised interest groups tend to dominate the landscape of voluntary organisations. In extreme situations such organisations may even exercise a monopoly of representation of interests.

When it comes to the function of voluntary organisations as a buffer against state and market economy, the ideal may also run into trouble. As underlined earlier, the relationship between state and voluntary organisations is not one of permanent conflict. Associations often cooperate closely with the state apparatus in some areas while criticizing the state in other areas. But at times, voluntary organisations become integrated into the apparatus of the state and thereby lose their ability to articulate demands of other citizens. Thus, the state may wish to pacify voluntary organisations by cooptating them into the machinery of the state.

In some Western democracies, the apparatus of the state has led some observers to speak of "corporatist interest representation." This is a model of interest representation that is quite different from the ideals of democratic pluralism.

There is also the danger that voluntary organisations may be drawn by the market economy and transformed into profit-making organisations. The more organisations are preoccupied with the selling of services to members (and to the public at large), the more likely the transformation from voluntary organisations into profit-making organisations, if there is no law to counteract this.

Finally, I would argue that voluntary organisations can by no means take over the responsibilities of the state to serve its citizens through national programmes in, for instance, the health or social sector. What voluntary organisations can do is to act as a mediator that pushes or shows the state how to find solutions to a variety of difficult problems in society. This is a point that is specifically important nowadays in Eastern and Central Europe and in South Africa, where the former totalitarian state regimes are being replaced and followed by more freedom of initiative.

By way of conclusion, it should be stressed that, although there are a number of obstacles to the ideal democratic role of voluntary organisations, they nevertheless constitute a fundamental prerequisite for democracy.

The Particular Missions and Roles of VOs in Periods of Transition from Authoritarian to Democratic Policies

William D. Carmichael

I want to pick up on some of Morten Kjaerum's comments, while focusing my own observations primarily on the particular missions, roles, challenges, and, indeed, pitfalls facing VOs (NGOs) during periods of transition from authoritarian to more open, participatory, and inclusive democratic regimes.

But let me begin with a few caveats relating to the generalisations involved. It isn't easy to generalise on such a topic across the range of geography represented in this group. I was reminded again in a visit to Hungary last week that, even within the several countries of Eastern and Central Europe, the situation varies a great deal from one country to the next. With very different starting points for the events of the last three years, the countries of the region are currently in very different stages of transition and, in addressing an array of common problems, they are employing rather different strategies. And that diversity of strategies means that the challenges facing the nascent VOs in this region differ in certain respects from one country to the next.

When we add South Africa to the mix, we introduce even greater diversity. Without belabouring the obvious, South Africa has a much longer history and a correspondingly richer array of vibrant VOs. From my perspective, however oppressive the apartheid regime in South Africa has been, it has allowed more "space" for nongovernmental organisations than has been available, until very recently, in this region. And that space has been effectively filled by vigorous individuals and groups committed to human rights and social justice.

This is not to deny the difficulties under which VOs have laboured in South Africa: many such groups have been closed down by the state; their leaders have been banned, jailed, tortured, even assassinated; and fundraising has been made difficult. The state has introduced all sorts of other obstacles, but the fact remains that a very lively VO sector has developed.

Nor is noting the contrast meant to suggest the absence, in Eastern and Central Europe, of large numbers of brave individuals similarly committed to human rights and social justice; it is simply to say that, with some notable exceptions, in Eastern and Central Europe the governments of the past era simply did not allow the space, the room for manoeuvre, that we have seen in South Africa.

It is also hard to generalise in talking about a VO, or NGO, sector in which there is such great diversity of organisations, with many different missions, as indicated in

those mentioned in the rather daunting introduction a few moments ago. I suspect that it might be easier to identify some common themes at a later point, after this afternoon's presentation of country profiles, than it is at this opening session. But my task, here and now, is to identify, in those diverse situations, some of the challenges that are particularly important for the VO sector, and to make a few observations about commonalities that I hope will be enriched, or perhaps in some instances contradicted, in the course of our discussions over the next couple of days.

What, then, are some of the most important common problems and opportunities facing VOs during the current transitions from authoritarian to democratic rule?

Charting new relationships with government

The first one, and one under which several other challenges that I will go on to mention might be embraced, is the need for VOs to chart new, very different, and sometimes quite uncomfortable relationships with government. Under very repressive authoritarian regimes, the nature of that relationship can be simply described: It is one largely of opposition and protest. But as the transition to democratic rule proceeds, new complexities and subtleties are introduced. To be sure, if VOs are effectively performing several of the functions that Morten Kjaerum outlined, there will always be an element of antagonism or opposition in their relationship with the state. But as the transition proceeds, VOs will often seek to exert a positive influence on government policies. They may even seek partnerships with, and funding from, agencies of the state.

The difficulties in charting that new relationship were brought home to me very vividly a year ago in a series of conversations with key staff members of several South African VOs that had been represented in IIE's Career Development Fellowship Programme (which offers training and VO internships in the United States). In the conversations with key staff members in some 20 of these organisations, what struck me most dramatically was the anxieties that they were experiencing in contemplating or entering into new relationships with the state. Imagine, in South Africa, VOs taking money from the state! Imagine entering into partnerships with what was, not long ago, the principal focus of opposition!

The South African VO leaders were understandably worried about how these new relationships could be successfully managed while maintaining the degree of independence from the state that is the defining characteristic of VOs or "nongovernmental organisations." Viewing the state not as the enemy, but as a partner, is fraught with a number of potential pitfalls. But experience in other settings can offer several instructive lessons. And our hope, in organising this workshop, is that we can share some of these lessons over the next couple of days.

Formulating new frameworks supportive of civil society

A second important challenge facing VOs in periods of transition to democratic rule

involves their direct and indirect participation in the processes in which key features of new constitutional, legislative, and administrative frameworks affecting their own operations are being determined. Here, I am referring not only to participation in debates leading to new constitutions and bills of rights, with guarantees for freedom of association and freedom of speech, but also to the construction of the laws and administrative regulations, at a great variety of levels of government, under which VOs are entitled to operate, under which they are taxed or relieved of taxation, and under which funding they may receive from various sources is regulated and treated under the tax laws. I am also referring, perhaps somewhat less obviously, to laws and regulations assuring their access to needed information from government, and facilitating (or, indeed, mandating) their having a voice in a host of administrative decisions affecting environment, location of public facilities, and so on.

There is much more to be said on this topic, and Session III has been set aside for that purpose. But the point here is that there is an extraordinary opportunity, in periods of transition, to chart a genuinely enabling environment for effective VO activity and one of the most important chances facing the VO sector, and its varied components, is to participate constructively in that "charting" process. This is truly a once-in-a-lifetime opportunity.

Generating policy options

A third, new, related challenge, or opportunity, open to the VO community as the transition to democracy proceeds involves direct engagement in the process of generating policy options for new governments in the full range of public policy fields such as education, environmental protection, access to legal services, social welfare, and job creation, to name but a few. The strategies open to VOs in pursuit of this mission are diverse: Developing pilot or demonstration projects and urging their adoption and/or funding by government on a larger scale; engaging in policy-oriented research and bringing the findings of that research to bear on the political and governmental processes in a variety of ways; tapping into various international networks and identifying experience in other national settings that may be helpful in addressing similar needs at home. New activities such as these have important corollaries. One is to build new staff expertise to perform these functions and to find new ways of drawing on the needed expertise in such institutions as universities, research institutes, and the like. Another is to develop the additional funding sources required for new staff appointments or consultancies, while maintaining the independence of action that is the hallmark of VOs. I won't say more about these challenges of institution building and funding development here, but they will be topics for discussion in Session IV.

Organising activities related to democracy

A fourth new mission of the VO community in periods of transition to democratic rule involves the organisation of a series of activities directly related to the

introduction of democratic processes: I am thinking in particular, for example, of public education campaigns instructing people how to register and vote (not whom to vote for) and of election monitoring operations. In some settings, new VOs may be created especially for such purposes, but, particularly in the voter education field, there is considerable scope for activity on the part of a wide variety of VOs.

Monitoring the transition process itself

A fifth, distinct, but partially overlapping, mission of the VO community in some transition settings will be to monitor the transition process itself, with the aim of holding the several participants in that process accountable, and helping to assure adherence to the "rules of the game." In a way, this is simply a manifestation, or an elaboration, of the "watchdog" function that Morten Kjaerum referred to, in the specific circumstances of transition. But it focuses not only on the existing government, but on other actors, including partisan groups seeking power in the post-transition period. It is a function that can be performed by domestic VOs, but it is also one, as in recent transitions in Namibia, Ethiopia, and Nicaragua, in which international VOs may also have a role to play.

Providing a reservoir of talent and setting standards

Two additional special missions or challenges facing VOs in periods of transition to democratic rule should also be briefly noted and elaborated on. One is providing a reservoir of talent from which new ranks of political and government leaders will often be drawn as the transition proceeds. Paradoxically, this means that many VOs may be weakened by the siphoning off of such talent at precisely the moment when one would expect the advent of democratic governance to give them new vitality. And it means that one of the most important challenges facing VOs in such periods will be to develop new ranks of leadership to replace those drawn away to other pursuits. Another is to develop, in their own internal decision-making and employment practices, a set of standards with regard, for example, to transparency of decision-making, accountability, gender equity, and minority involvement that can serve as beacons or exemplars for governments at various levels to follow. What I am suggesting here, in essence, is that if the VO sector does not have its own house in order, it can hardly expect the government agencies that they are duly trying to influence to do a much better job.

Conclusion

I want to conclude with an observation that may perhaps be regarded as controversial and probably falls best under the heading of pitfalls to be avoided. Simply put, it is that another difficult challenge that many VOs must contend with in periods of transition is maintaining not only an essential degree of independence from the state, but also a healthy, and, in my judgment, a similarly essential degree of independence from partisan political groupings. As Brian Currin has noted in an

essay about human rights issues in South Africa over the next five years, "political organisations...compete for political power and are potential governments." The risk is that, if a VO becomes affiliated with or enters into close association with a particular political group, it may well lose the independence and credibility required for the effective performance of many of the missions I have attempted to highlight here. Some VOs may decide not to adhere to this counsel. But for those that do see the wisdom in avoiding excessive identification with a single political grouping, there are varying strategies that, despite conflicting pressures, can be employed toward that end: In building governing boards; in staffing patterns; in making their products available across the political spectrum.

I hope that some of these introductory comments have succeeded in reminding us that the current periods of political transition are replete with challenges and opportunities of immense importance for the voluntary sector. And I hope, too, that they have also helped to confirm the notion that comparing experiences in diverse national settings can sometimes offer new insights into what VOs can do. That is the premise on which this Workshop is based. And it is the proposition that I hope to see richly demonstrated in the ensuing discussions.

The Role of Civil Society in Promoting Democratic Development: Some Aspects of the South African Debate

Mala Singh

Introduction

My task today is to speak on the role of civil society in promoting democratic development. What I am going to do in my presentation is to focus on two aspects: I will first examine some of the elements of what is understood by the notion of civil society, and then locate this definitional glance within current debates about democracy in South Africa. Second, I will problematise some of the perceptions and expectations surrounding civil society in relation to the building and safeguarding of democracy. My observations are made in anticipation of some of the problems that will arise both within the transition as well as within the politics of reconstruction in South Africa.

A previous speaker made a comment about the definition of nongovernmental organisations and voluntary organisations and asked whether we are using them interchangeably. I understand by the voluntary sector both those nongovernmental organisations that utilise paid staff as well as those that consist of voluntary, perhaps paid-up, membership. By democratic development I understand development initiatives that attempt to address issues of poverty alleviation within the context of the empowerment of individuals and communities. Initiatives that enable the poor and the dispossessed to get closer to and intervene in decision-making processes that affect their lives.

Civil society and its meanings

Before I go on to look at some of the views on the relationship between civil society and democracy in South Africa, I want to raise briefly a few of the conceptual underpinnings of the notion, given the contradictory purposes to which the concept has been put within both liberal and socialist discourses.

In its history, the meaning of civil society has emerged through being demarcated as the realm of the secular as distinguished from the realm of the Church, the realm of civil or civilised relations as against the state of nature (Locke, Rousseau), and, in its modern usage, the realm of "society" against the domain of the state (Hegel, Marx). In its most general usage, civil society would refer to all voluntarily constituted social relations, institutions, and organisations that are not reducible to the administrative grasp of the state. However, a discussion about the nature of

civil society cannot proceed without an understanding of the nature, role, and functions of the state, especially in its impact on civil society.

Despite the modern differentiation between civil society and political society, civil society activity and organisations are not abstracted nor separate from political concerns. There is, in fact, a close intermeshing between the two, regardless of whether their integration is cordial or hostile. Hence, civil society denotes the realm of nonstate but not necessarily nonpolitical activity. In the pre-1990 era in South Africa, civil society was a terrain for different types of political activity. With some important differences, it will continue to be the case within the politics of reconstruction.

In a great deal of liberal and Marxist discourse, civil society includes the dimension of economic relations. This is a vexed question for left theorists who want to rehabilitate civil society from its bourgeois democratic theoretical origins and render it into a progressive notion. This has led civil society to be characterised not only as the realm of nonstate activity, but also as the realm of nonprofit activity. Such a progressive use of civil society sets it apart from both state and private sector control. It is also underpinned by the view that civil society left entirely to market forces will produce intolerable inequities and sees a need for state intervention in the facilitation of economic justice. (Waltzer, 1991: 302) Swilling, for example, sees civil society as a sphere within which ordinary citizens, "who do not control the levers of political and economic power, have access to locally-constituted voluntary organisations that have the capacity, know-how, and resources to influence and even determine the structure of power and the allocation of material resources" (1991: 22).

The expectations surrounding civil society as a contributor to democracy are twofold and, I would say, quite reminiscent of the kind of distinction that Isaiah Berlin made about two concepts of liberty. A negative concept and a positive one. (1969) Two dimensions, echoing liberal as well as Gramscian impulses, exist within the context of the South African debate. The negative function of civil society pertains to its "watchdog" role as a check against the claims of the state to monopolise decision-making in an authoritarian or paternalistic way, in other words, to make the state more accountable. The positive dimension of the idea of civil society as employed within the South African debate pertains to the fact that, although the individual's right of free association may be the basis of traditional liberal conceptions of civil society, civil society could also foster solidarity, communitarian values, and an associational ethos that leads citizens to achieve social goals together. In this light, democracy would constitute the possibility not only to restrict the power of a potentially authoritarian state but also the opportunity for individuals and communities to enjoy enlarged frameworks for self-directed participation at all levels but particularly at the level of micro politics.

Aspects of the South African debate

I want to start with a brief comment about democracy and the way in which the

civil society debate is emerging in South Africa in relation to the building of democracy. Democracy, as we know from its use in different contexts, is one of the most opportunistically and loosely used words, certainly one of the most promiscuously used words, in the political lexicon. And yet it is also true that, through their commitment to and through their struggle for democracy in South Africa, many people have been killed, maimed, and deprived of their freedom, their dignity, and their livelihoods.

In South Africa, at the moment, there is a great deal of rhetorical convergence around the idea of democracy on the part of a variety of ideologically opposed political actors, but little substantive consensus about its content and implications. Within the liberation movement, the changed political terrain after February 2, 1990, is forcing a greater attention to the mechanics of democracy and democratisation, in anticipation of a restructured society and state. It is within this context that the present debate about civil society has to be located. It is part of the process of spelling out what democracy would look like in a post-settlement South Africa concerning relations between the state and society, between the state and "the people." At the present moment, then, the debate about civil society is primarily linked to the politics of reconstruction, about nonstate organisations of citizens being able to call the new state to account, about ensuring the principle of political pluralism, and about securing grassroots participation in development planning and implementation, all of which were denied by the apartheid regime. In a longer term context, however, the civil society debate also encompasses the expectation that some form of reconstructed socialism could be established in South Africa.

The attention to the notion of civil society as part of the democracy debate has different impulses emerging from within and outside the country. The first impulse is based on the history and experience of resistance to oppression in South Africa and the desire to carry the lessons of struggle against a repressive state into the phase of building a new state. The second impulse comes from the attempt to understand the collapse of a number of "socialist" regimes in Eastern and Central Europe and the implications of this failure for any future that socialism might have in South Africa. The third impulse comes from the failure of state-controlled democracy and development initiatives in southern Africa and the rise of pro-democracy movements with their general demand for social and political democratisation.

The more explicit use of the notion of civil society as part of the debate about how democracy is to be constructed in South Africa has gained momentum after February 2, 1990. But there has been, as we well know, a solid tradition of organising within the different areas of civil society, based on a clear demarcation between the state and the people. Unions, civics, professional organisations, youth and women's organisations, educational, religious, and sporting organisations, became nodes of resistance, organised under the umbrella structure of the United Democratic Front (UDF) and, on a smaller scale, the National Forum.

Within the politics of resistance, civil society activity has been inextricably meshed with the attempt to dislodge state power and not simply to move it in a more

accountable and democratic direction, which is one of the roles that civil society in more democratic societies is supposed to play. The concerns of civil society and political society largely overlapped in a common struggle against the repressive state. It is only on the present terrain, with the unbanning of a whole range of political organisations, that a process of separating out is occurring between organisations and movements directly concerned with the appropriation of state power and those that are not, between political organisations, on the one hand, and unions and civics, etc., on the other. The "many hats" debate within the liberation movement. The question as to whether the leadership of the African National Congress and the South African Communist Party should also be in the leadership of the civics, the unions, etc. and the question of the autonomy of the latter from the former is an indication of this separating out process.

Despite its frequent usage and its acquiring the status of a radical cliché that functions as a metaphor for all and any kind of state-restricting, democratising procedures, the notion of civil society remains controversial and contested. It is a concept welcomed by the left and the right as well as dismissed by the left. There are "democrats" who see civil society as the only hope for making democracy real, given the disastrous statism of Eastern European and African politics. But there are also "democrats" who see it as a weakening of political will and radical vision, a replacement of revolutionary goals with a bourgeois democratic diversion or compromise. There are spokespersons of big business who welcome the call for the strengthening of civil society, in anticipation of maximum state withdrawal from the economic sphere. And there are socialists who call for a working class civil society. Clearly, there are a variety of interests and strategic considerations that lie behind this stark divergence of opinion on the meaning and role of civil society in South Africa.

I now want to summarise briefly three sets of views about civil society emerging from the current South African debate. One view is encapsulated in the position of Swilling (1991), who proposes civil society as having a watchdog role against the state as a way of guaranteeing democracy, but also as the key to an "associational socialism." Another is the position of Nzimande and Sikhosana (1992), who see the separation of civil and political society as a bourgeois democratic conception that endangers the building of socialism and who want to see the present close link between the two continuing into the future in the form of "organs of people's power." A third is captured in the view of Mayekiso (1992), who is critical of both of the above perspectives and who argues for a working class civil society that will have a watchdog function as well as constituting the building blocks of socialism.

Swilling argues that the coming constitutional settlement might limit the capacity of the new state to engage in development initiatives in the way that it might fully wish. This would allow community-based organisations of civil society to direct resources better at a grassroots level. He also argues that the basis for such civil society activity in the future already exists from the period of resistance, as do the necessary civil society values of anti-statism, decentralisation, community and worker control, grassroots participation, etc. Swilling further upholds political pluralism and diversity, and the non-monopolistic role of the state in policy decision-making. He even goes so far as to argue that it should be civil society

rather than the state that should be finally responsible for the public good. This is a view that is arguable even at the level of theory but is particularly fraught with difficulty in the context of transition and reconstruction. Against this extremely celebratory and seamless view of civil society, one can argue that neither the autonomy of civil society nor its progressiveness are simple uncontested issues. The question of forging an appropriate measure of independence for civil society from the state and from party-political frameworks as well as a working resolution of competing ideological interests within civil society will be a continuing process of struggle into a post-settlement future.

In their assessment of civil society, Nzimande and Sikhosana make the absolutely vital point that the democratising role of civil society cannot at all be conceptualised independently of the way in which the state is conceptualised. A watchdog role for civil society is not an adequate way of understanding how democracy can be facilitated. Such a task cannot be left to civil society alone. For this purpose, it would be necessary to engage political society, particularly the state, in its own domain. Instead of leaving political society to its own devices and focusing attention on the realm of civil society as a way of guaranteeing the future of democracy, Nzimande and Sikhosana's argument is that it is within the realm of the state that the primary concerns about democracy and democratisation have to be raised. They reject the separation of civic and political struggles that is implied by the introduction of the notion of civil society and argue that, in the light of the fact that the ANC is not a political party, but a mass-based national liberation movement, the civics should not be seen as being separate from ANC mass structures. The emphasis should be on the building of strong and democratic ANC branches that will encompass civic, youth, and other concerns.

If Swilling is too celebratory in his assessment of the role of civil society in facilitating democracy, Nzimande and Sikhosana are too dismissive of the question of political pluralism and the necessary differentiations of power that must become part of a more democratic political landscape. These concerns are rejected as attempts by the left to reintroduce bourgeois liberalism into a future South Africa under the guise of "democratic socialism." In this way, Nzimande and Sikhosana's position faces the danger of going the orthodox Marxist route of collapsing civil society into political society on the basis of a presumed lasting commonality of interests between the two. However, they do help to focus on a key issue within the civil society debate on how to conceptualise the relationship between political society and civil society during the period of transition, when elements of the two are so closely and ambiguously entwined with one another.

On the basis that civil society is "a terrain of class struggle and contest," Mzwanele Mayekiso takes issue with the "undialectical" views of Swilling on the one hand, who sees civil society as "a class-free sphere of liberty," and Nzimande and Sikhosana on the other, who see civil society as "necessarily a tool of the bourgeoisie" (1992 : 35). He further argues that the current dominance in South Africa of the civil society of the bourgeoisie is being contested by organisations that are struggling around issues of housing, health-care, education, etc., in other words, by the civil society of the working class. This working class civil society will have the task of working together with a progressive democratic state to ensure a

redistribution of wealth and to play a watchdog role if such a state should become "confused." It also has the task of preparing the way for the building of socialism, again in cooperation with a democratic state. In contrast with simply celebrating or dismissing civil society, Mayekiso's view demonstrates a complex grasp of the differentiated potential of civil society to facilitate contending ideological agendas, agendas of the poor as well as of the privileged. Further, it postulates the necessary interaction of state and civil society for the achievement of social and economic goals that benefit the poor and the working class. However, given current assaults on socialist theory and history as well as the global and national context within which transition and reconstruction is likely to occur, Mayekiso does not offer enough towards substantiating what a socialist state or a socialist civil society might resemble when he argues that working class civil society can promote the transition to socialism.

Civil society and its ambiguities

I want to move on to the last section and focus briefly on some of the ambiguities surrounding the use of the notion of civil society, especially as they relate to the issues emerging from the South African debates. The first concerns the restructuring of state and society. Because we have had a repressive state together with a tradition of civil society activity in South Africa, we tend to imagine that only the state is in need of restructuring. However, civil society will also be restructured as organisations, resources, and actors from within the sphere of civil society become drawn into the new state apparatus, as was the case in some of the Eastern and Central European countries after 1989. The possibilities for any kind of democratic development will thus depend on the interaction between the restructured state and the new civil society that would have begun to take shape.

Given the scale of the ravages of apartheid, civil society cannot hope to achieve a variety of development objectives on its own, independently of the state. The role of the state will be central to restructuring in South Africa. Clearly, it will have to be the central agency of social transformation since civil society cannot perform that function. It will also have to forge a national and civic unity out of a fractured and divided population. Civil society cannot do that either. The state will have to generate a measure of social and political consensus on the basis of which development strategies could be undertaken while avoiding the dangers of statism. Swilling may well be constraining the development spectrum in assigning primary responsibility for the public good to civil society whereas Mayekiso's view of a strategic interaction between civil society and state opens up a larger scope for development initiatives. Both state and civil society will be necessary to perform different but related functions.

To think of the relationship between state and civil society as being automatically "adversarial or cooperative" (Barkan, 1990 : 5, n.12) would be undialectical insofar as it would ignore social interactions and exchanges that take place under different and changing political, economic, and social circumstances. Civil society will have to work with the state, against the state, and even around the state, depending on the needs of the conjuncture. However, given the volatility of the political and economic

circumstances of the transition, balancing cooperation and adversariality will itself be a precarious undertaking, full of promise and threat for both civil society and the state. State/civil society relations in South Africa will have to walk the tightrope between the danger to democracy posed by the threat of social disintegration contained in the particularistic demands of multiple organisations of civil society. A structured relationship that allows for cooperation without cooptation and adversariality without destructiveness would be the appropriate paradigm of state/civil society relations under a new democratic order. A paradigm difficult to establish under more stable conditions.

What kind of state can tolerate an independent and actively functioning civil society? A state that sees decision-making about the public good as its sole prerogative will not look kindly upon the claims of nonstate agencies in this regard. But if governance is seen as a process that "involves a measure of bargaining and compromise with societal interests" (Barkan, 1990 : 22), a strong civil society is more likely to thrive. This makes state/civil society relations depend on certain philosophical conceptions about the sources and agencies of power within society. Is there a single authority that sets the framework for the good life and has the responsibility for organising people around a common agenda? Who decides what development is and oversees it at macro and micro levels? If the answer to these questions is the state (and, worse still, the state reduced to the single party that is in power), then civil society is clearly endangered. One may agree that the state could set the parameters for democratic development at a macro level, although even this should be politically contestable. However, the reality of development strategies are experienced by citizens largely at the level of micro-politics. A viable state/civil society relationship may, thus, be only as productive as a working consensus reached on the question of how the public good is to be realised and by whom. In the process of transition from an authoritarian and unjust dispensation, contestation over the definition of and responsibility for the public good is likely to endure well into the future in ways that will not necessarily advantage the development of a strong civil society. On the other hand, it is also not in the interest of the state to marginalise or oppress civil society to such an extent that it becomes one of the sources of anti-state politics.

In the discourse about the relationship between state and civil society, it will be necessary to go beyond the tendency to think of them as "monolithic" realms (Chazan, 1990 : 3), which can be characterised in homogeneous ways. At any given time, both domains will house a variety of class and other forces contesting with one another for ascendancy, forces that are both progressive as well as reactionary. Mayekiso underscores this point in his distinction between bourgeois and working class civil society. In order to understand the potential for both the state and civil society to contribute to democratic development, the different social forces operating within these realms will have to be "disaggregated" (Chazan, 1990 : 3) and their interactions across class and other lines analysed. Ultimately, the connection between civil society and democracy can only be an ambivalent one, given the heterogeneity of forces and interests operating within civil society. If, for example, one takes seriously the right of free association and the issue of political and social pluralism, it is clear that civil society will include, at any given time, organisations and activities that are not committed to similarly conceived emancipatory ends. For

example, the End Conscription Campaign in South Africa existed in the same civil space as the Boys on the Border support groups. A great deal of celebratory discourse about civil society in South Africa has still to address what levels of pluralism will be tolerated within the sphere of civil society in a period of reconstruction. How should a democrat view the fact that some forces within civil society may seek not only to call the new state to democratic accountability, but may also be bent on weakening, disrupting, undermining, or even dislodging it, very much as occurred under the apartheid state.

It is unavoidable that development priorities will be a central part of the restructuring plan of any future government. Despite the level of political and economic constraint that any settlement might impose, the new state will demand a comprehensive national grasp of and control over any development agenda. It will not necessarily want to cede too much control of development policy and implementation strategies to a whole range of organisations within civil society. A new government that is attempting to stabilise the political arena through taking control of key areas of social life may be quite reluctant to share development responsibility with an unregulated civil society sector. In South Africa, there may be continuing conflict over state power after a formal settlement and organisations of civil society may be used by opposition groups as centres of resistance (as they have been under the present regime). What then will be the approach of a new government that will embark on the path of development and democracy under extremely stressful political and economic circumstances towards the various claims of an assertive civil society?

Swilling has pointed out that a future constitutional settlement in this country is likely to constrain the role of the new state and that this provides a window of opportunity for the organisations of civil society to insert themselves into processes of democratic development. In various pronouncements, the African National Congress has indicated its support for a strong and autonomous civil society. It has also committed itself to multipartyism, to freedom of association and assembly-- values and principles that would sustain a civil society. In other words, it has indicated very strongly at this stage of the transition that it is going to take civil society seriously as a political principle and as a policy partner as far as development issues are concerned. However, actual state/civil society relations in South Africa will depend, to a very large extent, on the political and economic circumstances under which a new government will come into power and the levels of political, economic, and military stability prevailing within the country.

It is clear that in a post-apartheid South Africa, strong state intervention will be needed in order to correct massive structural imbalances in the political, social, and economic spheres. At the same time, a strong state operating under conditions of scarcity and instability is likely to be an insecure and unpredictable one, as well as potentially quite authoritarian. Paradoxically, at the same time as we will be welcoming the strong interventionist role of the new state in South Africa, there will also be the need to build a strong civil society as a means of combatting the statist potential inherent in the role that we are anticipating for the new state. It may not be possible to mediate successfully between the need for a strong interventionist state that will function as a unifying and regulative mechanism, and,

on the other hand, the need to strengthen the sphere of nongovernmental decision-making. In the era of reconstruction, ongoing tensions between the state and civil society over development issues may leave not only civil society threatened but the state debilitated and ultimately ineffectual.

Conclusion

The existence of a "vibrant" civil society in South Africa will certainly be one of the factors that could facilitate democratic development through harbouring organisations at the micro level that will enable many from among the poor and the dispossessed to have a say in decision-making that affects their lives and through pressuring the state towards greater accountability. But this is only one dimension of the process of democratic development. Working towards the establishment of a stable democratic state that will take primary responsibility for setting up a development agenda and infrastructure will be equally important, as will the search for a basis for cooperation between the two. Analysts of the role of civil society in the struggles against "communist" regimes in Eastern and Central Europe have pointed out that the mobilising force of the idea may have been greatest in uniting people against a repressive state. Conceptualising a new role for it will be premised on the recognition that it "does not act in opposition to the democratic state, but cooperates with it. It no longer has to be a kind of 'parallel' polis, but now can simply be part of the polis." (Geremek, 1992 : 2) A post-apartheid civil society in South Africa may also have to be reconceptualised in a more positive, even state-supportive role, especially within the phase of reconstruction.

In talking about the possibilities for democratic development in South Africa, one would also have to go beyond state/civil society relations within the national borders and look at the role, agendas, and modes of operation of a host of transnational actors, of governments outside of South Africa, of aid agencies, of foundations and trusts, of the World Bank and the IMF, etc. How will the interventions of such agencies shape the South African development agenda in general and the voluntary sector in particular? Will they provide the conditions to move the voluntary sector towards more democratic initiatives and more democratic forms of operation or will they predispose the work of the voluntary sector towards a continuation of certain forms of privilege as well as organisational behaviour that reproduces "statism" in relation to its public? With regard to the latter, it is clear that the possibilities for civil society to contribute to democracy will also depend on the extent to which its organisations are themselves accountable, internally democratic, able to facilitate grassroots participation, and successful in mediating conflicting ideological interests.

The point with which I want to end is that some of the commonalities of struggle in South Africa and in Eastern and Central Europe against authoritarianism, struggles in which civil society played an important role, may lead to misleading estimations that there is a common framework for the civil society debate in these societies vis-à-vis a new democratic dispensation. Despite some similarities, there is quite a substantial difference in the traditions and processes of struggle of the two areas, as well as in the circumstances shaping democratic values and development priorities. It will be necessary to focus rigorously on whatever similarities and differences

there are instead of reducing the idea of a commonly understood civil society as the key to democratisation politics in both South Africa and in Eastern and Central Europe.

References

- Barkan, J.D.: *Nurturing Civil Society from Below*. Discussion paper given at the 33rd Annual Meeting of the African Studies Association, Baltimore, 1990.
- Berlin, I.: *Four Essays on Liberty*, OUP, London, 1969.
- Chazan, N.: *Engaging the State: Associational Life in Sub-Saharan Africa, 1990* Paper prepared for publication in Kohli, Migdal, and Shue (eds), *State Power and Social Forces: Domination and Transformation in the Third World*.
- Geremek, B.: *Civil Society Then and Now* in *Journal of Democracy*, Vol. 3, no. 2, April 1992.
- Mayekiso, M.: *Working Class Civil Society in African Communist*, Second Quarter, 1992.
- Nzimande, B. and Sikhosana, M.: *Civil Society and Democracy in African Communist*, First Quarter, 1992.
- Swilling, M.: *The Case for Associational Socialism* in *Work in Progress*, July/August, 1991.
- Walzer, M.: *The Idea of Civil Society* in *Dissent*, Spring 1991.

The Pre-1989 Disintegration of Civil Society in Czechoslovakia

Jiri Hajek

It is very difficult to compare developments in South Africa with developments in Eastern and Central Europe, because the past grounds of the two regimes are quite different. In South Africa, the regime of apartheid was the rule of an ethnic minority over a society that was, as we understand, quite heterogeneous in its composition. I would say that this regime was imported from outside by a European ethnic group, colonisers, and imposed on the local original majority.

The contradictions are, of course, different from those existing in Central and Eastern Europe in the period before 1989. There, the elements of democracy and rule of law, introduced after World War I, have been suppressed by authoritarian, fascist, and Nazi regimes in the crisis period since the end of the '20s, and after the World War II by introducing the totalitarian Stalinist system.

The cold war

Czechoslovakia may offer an example as the only Central European country having introduced and maintained, up to 1938, a democratic state governed by the rule of law and by respect for human rights and fundamental freedoms. In September 1938, Czechoslovakia was delivered to Hitler by the Munich agreement in which Great Britain and France abandoned their democratic ally and forced it to give up its border region. This was done as an attempt to avoid a direct conflict with Hitler's Germany and to turn its expansionist policy towards the East, where they hoped that a conflict with Stalin's Soviet Union would exhaust both adversaries and allow the West to regain hegemony in Europe. By taking that step, the borders between Germany and Russia were virtually eliminated and the struggle between those totalitarian powers could rage on. The West was nevertheless forced to accept a division of European territory for military operations in Yalta, 1945, a division that opened the Central and Eastern European space to the Soviet army and political influence.

The Czech and Slovak people, having lived with the bitter experience of the "Munich betrayal" by the West and the following Nazi occupation, accepted the liberation by the Soviet army and was willing to develop friendly relations with the Soviet neighbor after the war. A majority of the population even accepted an adaptation of Czechoslovakia's internal structures to the Soviet regime. During the Cold War all the European countries were forced to choose between the East and the West, and Czechoslovakia, abandoned by the West both in Munich, 1938, and Yalta, 1945, had no practical choice.

I would like to illustrate this by the fact that many people, who were certainly not Communists, as for example Jan Masaryk, the son of the founder of Czechoslovakia and an outspoken democrat, accepted the situation of the Cold War. They accepted the change in February as well, because it was for us a direct result of the events as they developed.

Disintegration of pre-war civil society

In Czechoslovakia, but also in Hungary and Poland, civil society had developed in the course of the previous decades. Thanks to the mentioned events, this civil society was disintegrated step-by-step by the pressure of the Communist regime, although it was not eliminated in substance.

The Prague Spring was a living example of how quickly a civil society could arise once a sign was given. After the oppression of civil society in Czechoslovakia by the invasion in 1968 and by what was called the "normalisation," we began an action that was aimed at reawakening civic society, the action of Charter 77 in 1977. It was consciously aimed at the fact that civil society existed and that it had to be reawakened. Now we need, with the many defects that civil society has had, and has now in the present difficulties, to work systematically and intensively to remove all remnants of the past and develop the full vigour of civil society, rule of law, and democratic structures.

To sum up

The civil society in Czechoslovakia and in Central and Eastern Europe, with its democratic mentality and political and legal structures built up in the period between the World War I and II, became the object of manipulation and domination by the Stalinist Soviet power, through the events of World War II and its consequences. The Soviet power was actively supported by a considerable part of the population influenced by Communist ideas and social and political experiences since the 1930s. The consequences of the totalitarian regime brought the society into the phase of re-awakening. This took place in Czechoslovakia during the Prague Spring of 1968 and after its brutal suppression with the invasion in August 1968. This period of inertia was re-awakened by the activity of dissident groups like Charter 77, and was the direct result of the general crisis of the Soviet system and by the efforts to overcome it undertaken by Gorbachev and his followers.

These were the developments leading to the 1989 revolution. Although the grassroots and forces working in these developments were different from the forces active in civil society in South Africa, certain experiences may also be of some use for this society and its activists.

These are my observations, which I simply wanted to bring to your attention. I hope that in the ensuing discussion my colleagues from neighbouring countries will more clearly elaborate on these points.

Session II:

**Country Profiles and Similarities
and Differences:
Eastern and Central Europe
and South Africa**

Introduction

Ian Bell

We have been talking about the importance of a vital third sector in the development of democracy. I sometimes wonder, in my travels through this part of the world, whether that is as yet a perception either of the people of the country or indeed of governments. I think that, perhaps, at some stage it might be interesting to give some consideration to how one actually rates the awareness in the public mind of the potential and importance of NGOs in creating long-term stable and pluralistic democratic societies. At the moment the argument is not so widely accepted as it might be.

We have certainly become aware this morning of the very great diversity that there is, particularly in South Africa, but I think West Europeans have been very guilty over a long period of time seeing the "Eastern bloc" as being something monolithic. In fact, I think there has been a tendency in the West to forget just how deep are the traditions, the cultural traditions, the linguistic traditions, of this part of the world and how these traditions have not actually died. They have perhaps in some ways been subject to control, but we are in an area of Europe where diversity is one of the most striking features. We are not talking about a "monolithic" situation.

I have mentioned cultural and linguistic diversity. There are other factors that have affected the positions of NGOs in this part of the world. The degree to which minority groups exist and are articulate within the societies differs very much from country to country. The degree to which different legal traditions and traditions of religious practice have reemerged vary strongly in some parts of the region. I would also suggest that the international aspect, the way in which the conditions within many of the countries within this region are actually impinged upon considerably by the situations in neighboring states where there is a potential for conflict, for disagreement and so on, will affect the development of the society as a whole and the necessity for a very serious consideration to be given to problems of conflict resolution and the reduction of tensions.

So I do think that diversity is definitely going to be the key note of the country profiles. There will be plenty of diversity, particularly as we are going to begin with an introduction to the situation in South Africa.

South Africa: The State of its Political Transition in 1992

Rory Riordan

Three hundred and forty years of white minority domination of South Africa's political process

There is increasingly convincing archeological evidence that South Africa has been settled by humankind for between one and three million years, making it one of the Earth's earliest places of human settlement.

Much happened over this considerable time, but the prehistory of South Africa's present political arrangements could possibly be said to have begun in the mid-seventeenth century with two events: The arrival of whites from the Netherlands in the south western corner, near Cape Town, in 1652, which whites were destined to settle in South Africa; and the simultaneous migration of Africans, or black South Africans, southward toward this southwestern corner. This black population came from lands inside and around the present South Africa, which they had settled over the centuries.

We will note only two of the thousands of political processes that emerged: The white community, always a numerical minority, has politically controlled the territory it has occupied in South Africa from 1652 to date, leaving the white community and its institutions with a very long tradition of political dominance of the South African process; and this domination, maintained with a ruthless force and under conditions of extreme exploitation of the black population, has been massively resisted by black South Africans over this entire period of three hundred and forty years.

Over the period 1811 to date alone, there have been 24 major conflicts and over two score smaller localised rebellions in South Africa. A few examples are:

- The so-called Border Wars, which took place in the Eastern Cape in 1811-12, 1818, 1819, 1834-35, and 1846-78;
- Basutoland resisting the advance of both British and Boer wars of 1852, 1858, 1865, and 1869;
- Uprisings and wars in Zululand in 1852, 1858, 1865, and 1869;
- More recently, South Africa has seen a black miners' strike of 1946; civil disobedience campaigns in the 1950s; risings in Cato Manor in 1959 and 1960; the Sharpeville massacre of 1960 and the Poqo uprising of that year; the PAC attacks in Paarl in 1973; the 1976 Soweto revolt; and more.

On average, one major rebellion, war, or uprising has taken place every third year in South Africa over the past 176 years alone.

I will draw on only two other events out of this enormously rich history of exploitation and struggle that have characterised South Africa's last 340 years: What is known as South Africa today was drawn together as a unified state, and accepted its independence from the then colonial power, Britain, in 1910 with the first of three South African constitutions all of which have denied voting rights to the vast majority of people of colour in South Africa; and the political party today that governs South Africa, the National Party, came to power in a whites-only election in 1948 and have governed since that date and through ten ensuing elections (albeit whites only).

This Nationalist Party government has attempted over the last 45 years to make into law the now well-known system of apartheid, or separateness, which was initially and brutally imposed onto South Africa's social fabric. Resistance was always in evidence, and the first of the National Party's reforms away from grand separation happened as long ago as 1967, when the then NP Prime Minister, John Vorster, made some concessions to nonracial sport in order to keep an increasingly restive world playing sport against sports-mad white South Africa.

It is against this background, a background of centuries of white minority political domination of the South African political process, consolidated over the last 45 years into the domination of one political party, the National Party, repeatedly re-elected by the white minority and repeatedly reforming its laws to contain opposition, and massive, often violent, resistance by the suppressed and disenfranchised black majority, that we arrive at our discussion of the politics of South Africa in the 1980s.

The 1980s: The period of mass revolt against an increasingly terrorist state

In 1983, the ruling National Party imposed South Africa's present constitution on the nation after a whites-only referendum that voted two-to-one to accept this new constitution in November 1983. At the time, South Africa was the only country in the world to classify its citizens legally into racial categories, in terms of the Population Registration Act of 1950, which demanded that all South Africans be classified at birth as one of White, Indian, Black, or Coloured. Various subdivisions play to the bureaucratic desire for precision.

The three significant features of South Africa's 1983 constitution are that:

- It was presented to the white electorate as a "reform" constitution, because it created three separate chamber of parliament, one voted for exclusively by whites, one by Indians, and one by so-called coloureds. The inclusion of coloured and Indian chambers were new and these population groups were, for the first time, to be brought into a parliamentary structure with whites;

- The ruling party in the white House of Assembly dominates the parliament, for these racially segregated chambers vary in size according to an entrenched four white:two coloured:one Indian formula; and
- Black South Africans, who comprise 68 percent of the population, are excluded totally from this constitutional structure and they remain voteless and unrepresented in the land of their birth.

The imposition of this constitution, which had been unilaterally constructed within white political circles and then imposed onto black South Africans from whom it withheld the franchise, provided a trigger for massive black political anger that was released in two forms: In the creation of an organised political vehicle within South Africa that had mass political loyalty and in the emergence of a near-anarchic political violence.

The political organisation was the United Democratic Front (UDF), formed in 1983 with ties and fraternal relationship with the then banned, and in exile since 1960, African National Congress (ANC). The ANC is, of course, the political machine that has always had the support of the majority of South Africa's black citizens, and the ANC's support for the UDF accounted for the UDF's immediate and immense popularity, and for the fact that it became the domestic vehicle for carrying the revolt against the state.

The near-anarchic violence in South Africa began in September 1984 in the Vaal Triangle in the Transvaal, when a one-day stayaway, called to protest rental increases in black townships, flared into violence that within three days left 31 people dead. Over the next three years, 3,400 people died in South Africa's political violence. In 1984-85 alone, 1,417 businesses, 4,435 homes (including those of 814 black policemen), 28 churches, 54 community centres, and hundreds of schools were either totally destroyed or severely damaged in wave after wave of violence almost all of which was in South Africa's black townships, making the 1980s a kind of Group Areas war of an exceptionally violent kind.

The state's response to its crisis of legitimacy in the 1980s was predictable, ruthless, and well-organised. It followed three paths of action. To ensure the maximum mobilisation of the community around the security issues, the NP government created a formidable security establishment by:

- Propagating a philosophy of "total onslaught," the core of which was that Soviet Communism was attempting to take South Africa over for its purposes through the vehicles of, in order, the South African Communist Party, which was presented as controlling the ANC, which was presented as controlling the UDF;
- Coordinating the bureaucracy and the security forces into the National Security Management System, which effectively gave the security/military establishment control over the civil bureaucracy;
- Shoring up the Defence Force and the Police with massively increased budgets and numbers;
- Developing one of the world's ten largest armaments manufacturing industries;

- Filling the statute book with some of the world's widest sweeping security laws, which had the effect, in the words of one commentator, of turning all opposition into criminal subversion.

Using legal methods of repression that can be described as state terrorism:

- The deployment of this widespread security law dragnet, and the detention of possibly 40,000 people, including possibly 10,000 children under 15;
- Legal police killings, with, in 1986 alone, the South African police killing legally 624 adults and 91 juveniles and wounding 2,100 more people in the course of their normal duties – on average every 19th policeman was involved in one such incident and 90 percent of all victims were black;
- Large numbers of legal executions, including security-related offences, with one fifth of all executions known to Amnesty International in 1987 happening in South Africa.
- Massive forced removals of entire communities, to destabilise communities like Cape Town Crossroads that were posing security problems.

Using illegal methods of terror violence:

- Deaths in detention of security detainees, with 18 such dying in 1984–1986;
- Widespread security police torture of detainees;
- The deployments of hit squads, and political assassins, the details of which are only now beginning to emerge;
- The deployment of groups of conservative black vigilantes in mass attacks and mass murders, inflicted on communities in revolt, and as a method of terror control;
- The deployment of proxy police at homelands and municipal level, in acts of terror and great brutality.

The extent of the pressures for democratisation that had built up by 1990

When F.W. de Klerk became leader of the NP and later, State President, in 1989, there were well-developed pressures for change in a democratic direction. Some of these pressures for transition to democracy were new—some were long established by 1990. They included the following eleven:

Black Revolt

Since the formation of the UDF in 1983, South Africa has been gripped by a sustained and unstoppable period of black revolt, with black homelands, black urban councils, black schooling systems, white businesses, the security forces, and the regime being thrown back on the defensive continually.

The same period had seen an enlarged international ANC hone its remarkable diplomatic skills under Oliver Tambo and Thabo Mbeki, and slowly but surely win acceptance in the world while at the same time isolating and discrediting the Pretoria regime. By 1990, the ANC had more international diplomatic missions than had the Pretoria regime. ANC are winning the international battle, and with their allies in South Africa, the domestic revolt also.

The flagship of revolt, the armed struggle, has had a psychological impact on the white community far in excess of its military achievements. Whether we are willing to admit it or not, it has been a factor in changing Pretoria's direction.

The twin pressures of demographics and urbanisation

In 1951, three years after the NP became government, a population census was held in South Africa. It is instructive to compare the South Africa of 1951 with that of today and tomorrow.

In total population figures, the South Africa of 1951 had a population that was 20 percent white. The 1990 figure is 12,6 percent white, and Human Sciences Research Council (HSRC) high fertility projections for the year 2030, which is forty years in the future while 1951 is 40 years in the past, show the white population being 5.7 percent of South Africa's total. By then six million whites would, if the Botha tactics had continued, be trying to sit on top of 94 million Africans. Plainly that is impossible.

The same trend is shown in urbanisation figures. In 1951, whites outnumbered "coloureds" by nearly two-to-one in Port Elizabeth, and outnumbered Africans in total numbers. Today, coloureds outnumber whites in Port Elizabeth and Africans do by a margin of three-to-one. These factors, demographic and urbanisational, are powerful forces for the politics of peaceful coexistence as against authoritarianism and terror. Policies that were dreamed up in 1948, and which may have seemed possible then, by 1990 were falling apart, and by 2030 would have become impossible to implement.

The economy

Growth in the economy led to a shortage of white skilled labour. This caused blacks to get sucked up into skilled jobs. It further caused employers to supplement black education with something better, because it was very difficult to train skilled workers who had come out of bantu education. These factors caused integration in the workplace and demands for an end to apartheid education.

Further, black communities learned to use black buying power in consumer boycotts, and inevitable rise of black trade unions, needed by management to stabilise highly fractured workforces, gave black people a vehicle for mobilisation that quickly learned to carry political as well as workplace issues.

A huge variety of different lobbies for change emerged

Including the Democratic Party, organised business, the churches, the human rights movement, the judiciary, the liberal universities, the Urban Foundation, literally dozens of lobbies for change took root and grew in our society.

And, most particularly, if one is to believe F.W. de Klerk's biographer brother Willem, the emergence of the enlightened Afrikaner movement, including as it did by 1990 the Broederbond, the HSRC, and many other liberalising Afrikaner establishments, the existence and growth of these institutions, and their calls for change, did much to encourage F.W. de Klerk on his reform path.

The rise of the human rights movement within South Africa

In the 1960s, Port Elizabeth's Ernest Malgas was sent to jail by a South African court for 14 years for a political offence. He had only Pro Deo council, which he dismissed at his trial. He served every day of his 14 years on Robben Island and had no visitors at all over this period. He had all of two gifts of money during this time, totalling R80. On release he was banished to his home, never to be in the company of more than one other, and never to do anything political.

Those were the good old days. By 1990 political trials had good, well-funded defence council. International agencies monitor these trials. They are widely reported locally and internationally. People in jail are visited, and they and their families receive subsistence grants. The rise of the human rights movement in South Africa has changed so much of what the government could get away with.

The work of foreign governments

There is not a foreign government that was not, by 1990, ceaselessly lobbying the South African government to change. And they are doing more than that. They are funding endless organisations, like IDASA, which are in turn beavering away, uprooting apartheid.

USA/USSR agreement on policy towards apartheid

I believe it was Conor Cruise O'Brien who first said that, for as long as the South African regime could play one superpower against the other, it can last well in the gap. But, if the superpowers agreed on opposing the South African regime and formed a broad strategy thereon, apartheid was finished. They did that during the Angolan War and the impact was not lost on Pretoria.

The collapse of communism in Eastern Europe

The collapse of communism, and the reluctant discrediting of socialism, left De Klerk with a strategic opportunity to take the gap while he could, and he did.

Sanctions

Five of the many sanctions applied against South Africa had considerable impact on the regime:

- The withdrawal of loans by American banks had considerable impact on the regime;
- The 1977 comprehensive U.N. arms embargo took 11 years to hurt, but, when the Russians committed Mig 23s at Cuito Cuanavale, it eventually bit and bit hard;
- It became increasingly difficult for South Africa to export conspicuous products, like manufacturing products. And, with South Africa falling from 60 percent of world gold production to 40 percent, foreign exchange balances were hard hit.
- The sports boycott, despite desperate circumvention, hit and hurt the man-in-the-street;
- The passage of the Comprehensive Anti-Apartheid Act by the U.S. Congress, the first significant sanction by a major trading partner of South Africa, gave a clear signal to all of what was ahead if change did not happen.

Ideological shifts

During the Botha era, two fundamental ideological shifts within the NP and away from apartheid were made:

- The shift to tricameralism institutionalised a shift from a balkanised, homelands South Africa to the acceptance that South Africa is a united country; and
- The "total onslaught" philosophy led to a nonracialism of the "total response." In military eyes, all South Africans, black and white, were threatened alike by the Russian bear, and all had to be readied into the total response in a nonracial way. For the first time, nonracialism became a part of the South African regime's response to a political problem.

The 1989 election

The election of 1989, which saw, in rough numbers, the NP win 50 percent of white votes, the Democratic Party 20 percent, and the Conservative Party only 30 percent (it had promised much more), also reassured the NP that there was almost as much to gain from leftwards movement as would be lost to the right, should the pace of reform be quickened. The DP, in its demise, has played an honorable role.

Given all this

In 1990 De Klerk, as head of state, was faced with corridors full of bearers of bad news:

- Ambassadors were telling him "You can't go on like this;"
- Businessmen, unable to export their manufactures, were telling him "You can't go on like this;"
- The reserve bank, embattled in its responsibilities to foreign creditors, was telling him "You can't go on like this;"
- Judges, forced by law to hand more and more people, were telling him "You can't go on like this;"
- Church leaders, coming to believe that apartheid is a heresy, were telling him "You can't go on like this;"
- Danie Craven, unable to satisfy a rugby-crazy public, was telling him "You can't go on like this;"
- University heads, unable to get foreign speakers and facing increasing isolation, were telling him "You can't go on like this;"
- The Department of Foreign Affairs, whose ambassadors were being vilified and attacked, was telling him "You can't go on like this;"
- And finally even the Broederbond concluded that another strategy was necessary to preserve the Afrikaner into the 21st century.

Only the white right said the forces of change should be reversed. Then came, of course, a major cause of South Africa's transition to democracy, the psychological profile to F.W. de Klerk.

His predecessor, P.W. Botha, would doubtless have continued to tell everyone to get lost; would have dug his trench a metre deeper and bought a bigger gun. But F.W. de Klerk is at his core an Afrikaner civil politician. For him, a civil political solution was the only one that promise an enduring solution.

The politics of the years 1990–1992 in South Africa

Thus came the new decade of the 1990s, and it was barely a month old when State President de Klerk, opening Parliament on February 2, 1990, announced the benchmark reforms:

- The ANC and the South African Communist Party, banned for 30 and 40 years respectively, were unbanned;
- ANC leadership, including Nelson Mandela, were to be released from jail;
- ANC leaders, and others in exile, were to be allowed home;
- The NP government was committed to negotiate a democratic constitution with parties including the ANC.

This was a benchmark set of political concessions, and made way for an apparently open political process, as well as for the beginning of a fundamental transition from white minority rule to a nonracial dispensation.

Or so it seemed

In truth, it was a set of political concessions with a hidden plan. The plan was

twofold. The NP believed that the ANC could be weakened to where, while still the largest political movement, it might not be able to command the support of more than 50 percent of voters and as such would need an alliance partner to govern; and could not command the loyalty of significant numbers of upper- and middle-management people in:

- The bureaucracy;
- The security establishment (the Police and Defence Force);
- The state-owned electronic media (television and radio);
- The business community;
- The parastatals (the railways, the electricity-generation industry, etc.);

and because the ANC had no purchase in the management of these institutions the ANC *could not govern* in the face of hostility from the above establishments, which are mostly NP-controlled or NP-supporting.

Hence, the NP saw "power sharing" or "joint government" as an arrangement it could force the ANC into, even if the ANC was much larger than the NP. And what would be the costs to the ANC of joint government? Quite frankly, power sharing or joint government is NP government, for that party in a joint government that controls the bureaucracy, the security establishment, the state media, the parastatals, and is supported by the business community is the party of government.

And how has the NP plan worked out? To begin with, well. For, after February 2, 1990, the ANC was beset with problems that all but paralysed it, the problems of:

- Unifying a leadership that came from exile, with one from jail, with one from the underground, with one from the UDF, etc;
- Uncertainty as to whether the process of democratisation was reversible or not and whether to close down exile structures and open local ones;
- Getting regional offices, public meetings, and so on, together;
- Negotiating the repatriation of exiles and the release from jail of political prisoners;
- Explaining ANC policy to business on one extreme and the suspension of the armed struggle to township youth on the other.

There were many other controversies and problems that beset the ANC in 1990ties. By early 1991, the ANC was reeling around like a punchdrunk loser, and the NP and its allies moved in on the kill.

In 1991, 15 ANC middle-level activists and organisers were assassinated; vigilantes ravaged ANC communities with obvious security force collusion; character assassination, political attacks, pressure from the NP deliberately slowing the release of political prisoners and of returning exiles. In 1991, the NP, the security establishment, and their allies threw everything they had at the ANC--and?

Well, at the end of 1991 the ANC was much stronger, and the NP much weaker, than at the beginning of 1991. The process began when Nelson Mandela withdrew the ANC from further negotiations with the NP in protest against alleged security

force involvement in violence. It gained speed with the ANC's consultative conference in Durban, their first in 30 years in South Africa and a great success.

Its new building in Johannesburg gave the ANC pride and coherence, and the process gained massive momentum with the Inkatha Freedom Party funding scandal and other Inkatha behaviour that plainly embarrassed the NP and other Inkatha allies. Mandela's international reputation continued to soar in the Third World. By the time of the Peace Conference, the ANC and the Government sat down as equals.

Then the VAT [value added tax] strike came. This caused the NP considerable panic, for it showed that unilateral government was no longer possible. Then NOCSA [National Olympic Committee of South Africa] and the Olympic Games and the NP's most prized weapon against the white right, its ability to deliver international sport, became an ANC instrument.

Then came the DP's acceptance of an elected constituent assembly and the (albeit ill-fated) Patriotic Front and, by the time CODESA (Conference for a Democratic South Africa, South Africa's negotiating forum) sat, the NP was enormously weaker and the ANC enormously stronger than at the beginning of 1991.

The informal transition of 1991 was more important than the formal transition, for it has seen a fundamental shift in power in South Africa from the NP and its allies towards the ANC. The year concluded with a meeting of CODESA at which Mandela made a powerful speech attacking both De Klerk and the NP, and plainly causing both of them immense embarrassment.

Then came another massive blow for the NP when in March 1992 it lost the seventh by-election in a row to the conservatives on the white right. This was to be the low-water mark for the NP, since it called a referendum (whites only) and won an unexpected landslide mandate from the white community to continue in the negotiation process with the ANC.

Where is the NP now?

It is doing three things simultaneously, and the cumulative act is both dangerous and must prove unsuccessful:

- It is cooperating with the ANC and other parties in the constitutional negotiating forum, CODESA, and in the process South Africa appears to be moving towards a democratic and negotiated constitution;
- It is destabilising the ANC through its unwillingness to curtail security force hit-squad activities, and the behaviour of vigilante groups who rampage through ANC communities and who conduct the train massacres; and
- It is competing with the ANC for electoral support in conservative enclaves in the coloured and African communities.

Clearly, to cooperate, destabilise, and compete all at the same time requires some considerable skills, and the NP is showing that it has these skills. Only time will tell for how long such skills can be effectively deployed without the process of cooperation becoming destroyed.

Some of the characteristics of South Africa's present transition

Six final points, drawn from the previous, need to be made:

- The white minority in South Africa has controlled the political process over centuries, and very longstanding patterns of "powerful" and "powerless" are established within our society;
- Resistance to white minority control is likewise very longstanding, and such concessions as have been won have been the result of years of struggle;
- The long-term duration of minority domination/majority revolt has resulted in enormous violence and bloodshed over many, many years. Sob commentators believe that such violence is endemic in our politics;
- South Africans are winning their freedom from themselves. There is no colonial master to send home, and as such all parties have to live with each other into the indefinite future;
- South Africa's transition is as of now, incomplete and appears to be incapable of a quick and clean conclusion.

The incumbent regime remains a powerful political player, with electoral control over three small but vital minority communities (the whites, the coloureds, and the Asians) who between them own the vast majority of financial capital in South Africa and who, for bad reasons certainly, also possess the best human capital (education and skills levels);

It further has effective control over and loyalty from the bureaucracy, the security establishment, the electronic media, the parastatals, and has dominant support from the business community. This is not the sign of a decayed elite, about to collapse at the first push.

The pretender to the throne, the ANC, probably has an electoral majority supporting it, but its ability to control the above elites is very limited and it does not possess the necessary level of skilled operators to be able to replace, for example, considerable numbers of revolting bureaucrats.

The above all points to a difficult, unresolved, and complex transition.

Transition of the Political and Economic System: Building VOs in Hungary

Tamas Lovassy

First of all, I would like to characterise the country I come from, speak briefly about the political situation, then describe the landscape of VOs, and finally introduce United Way, the NGO that I represent.

As an introduction I want to make two points: First, United Way is nonpolitical and I would like to keep myself to that. Second, I have two distinguished colleagues with me from the same country, so I ask them to correct me and to help me make my presentation if they differ from my viewpoints.

Economy

From a political point of view, Hungary could be characterised in several ways. I would dare to say that Hungary is quite sophisticated in the sense of having a political structure and having quite a successful Parliamentary structure after a smooth transition period.

Some features of this transition period: First, an economic crisis is actually ravishing the country. This was also the case some years ago after the change of the economic system complicating the transition. With economic problems like this, to build a structure for the voluntary sector is certainly more difficult than in a country that is economically providing the conditions and circumstances for this very important sector.

The second point (and this is a new phenomenon in our country) is that unemployment is on the rise. I don't have the exact figures, but unemployment has exploded and about 400–500,000 people are unemployed. This is something that really creates problems in a society, morally, ethically, as well as physically. Inflation is also a problem for the government. It was 37 percent last year; now the official estimates are ranging between 24–28 percent. It is still a very strong phenomenon and certainly hindering the nonprofit sector and the progress of VOs.

Another important factor is the declining manufacturing industry inside the country because, if we conduct a needs assessment and have a strategic planning process, we will be very greatly affected by these factors, as well as by the purchasing power inside the country.

Another very serious development (again a new phenomenon) is the declining agricultural production in the country. Hungary was known basically as an

agricultural country, with a high standard of agricultural products. Right now, agricultural production is in a very critical period, and some of the well-known products that have been widely produced are disappearing. The population of rural Hungary, and certainly the existence of the nonprofit organisations in rural Hungary, are greatly affected by this development.

Some more specific problems are the budget deficit (I will not discuss the specifics of this) and lack of capital (something that, I think, exists in other countries in the region as well). These *de facto* problems establish obstacles everywhere, including in the nonprofit sector.

And this is still not the end of the list of major difficulties. Some special problems provide extra burdens for the fiscal policies. One new problem, threatening the economic well-being of this small and fragile nation, is the refugee question. Two types of refugees are arriving in the territory of Hungary: Political refugees or victims of either a dictatorship or civil war (Bosnians, Croats, Hungarian minorities, etc.) and economic refugees. The needs of the political refugees should be met on the basis of humanitarian solidarity, in spite of the very fact that these people caused a tremendous economic burden on the national household. The so-called economic refugees seek to get to different Western European states, but the overwhelming majority will be caught somewhere around or in Hungary. These economic refugees arrive from practically all over the world.

Political situation

Very briefly, I would like to discuss the political situation of the country. It is important to see that there are some positive developments. At least we have a democratic parliamentary pluralistic system. We have six political parties in Parliament and it seems to be a smooth transition in that sense. We are half-way through the first election period and have two years to the next election.

I see two characteristics of this political situation (without entering into details): First (and this is a subjective observation), I think the Hungarian political life, as well as in some other Eastern and Central European countries, is overpoliticised, making politics too much involved in every question, including issues relating to the nonprofit sector.

Second, there is another development that could be dangerous. A certain popular disappointment or disillusionment can be perceived. This is due to the overpoliticised social sector as well as the sometimes very harsh political debate in the parliament and in the political parties. A certain disappointment is due to the fact that, for some very substantial percentage of the population, the change of the system has caused more difficulties and more hardships, even to the social network, than expected. So these are problems that certainly influence our VOs' potential.

Landscape of VOs

Looking very briefly at the landscape of the voluntary organisations, as far as our

calculations go, we have about 8,000 foundations plus some other types of VOs in Hungary. A majority are very small, very fragile organisations and, as far as their services and activities are concerned, overlapping activities could be observed, lack of coordination, lack of cooperation, and, certainly, lack of long-term planning for their activities. But, we have an atmosphere that is very favorable and there is popular support towards the activities of these organisations, as well as the media, which seems to be quite supportive and helps to create the favorable atmosphere as well.

United Way

I would like to introduce the United Way, an American organisation, by far the biggest nonprofit organisation. United Way has offices and branches in 26 countries all over the world, one of which is established in Hungary. We have created a charitable network organised with a branch in Hungary, where there is a great need.

United Way, which provides services in needy areas, is a community-based organisation consisting of voluntary committees. In order to make strategic planning and on that basis start up their activities these voluntary committees begin with "needs assessment processes."

United Way of Hungary supports services in four major areas: Social services, health services, education, and environment protection, mostly programmes dealing with teaching and training. The full scale activities are carried out in the respective communities by the local chapters. These organisations really and in concrete ways contribute to the bettering of their communities. I would also like to say a few words about how United Way operates and how it seems to fit into the Hungarian structure.

The first area is social services. By far the biggest branch is the United Way Southern Hungary, the organisation in Szeged. On a daily basis, they give 80-100 free of charge, main course meals to the destitute. Also we have a day care centre for senior citizens; 40-60 people are served there daily. We have a chain of discount stores that is a cheap social store network. It is very difficult to estimate how many people are serviced there on a daily basis, but our estimate is about 500-2,000 people. Furthermore, we carry out legal family counselling services.

Our second major area of activity is health services. We provide services to those organisations that are active in this area, providing mostly services for handicapped people and handicapped children.

The third area is education. We have a very comprehensive programme in this area, supporting foundations and organisations that are very active and that are providing particular education projects at various levels.

Environmental education is our fourth major area. We have a very interesting pilot programme through which we are going to introduce environmental education into the whole elementary and secondary school system.

Response to questionnaire: Hungary

Tamas Lovassy and Peter Balazs

Short history

The situation of the VOs can best be described in the past decade by the level of development of civil society of a given state. Hungary started the liberalisation of its rigid, Soviet-type economic system as early as the mid-60s (the so-called New Economic Mechanism was officially introduced by January 1, 1968). Even this slight easing up of central control has immediately contributed to the strengthening of laying down the foundation of necessary civil society infrastructures. Certainly, the then newly emerging organisations, associations, later foundations, etc., have had to tolerate the actual legal regulations: That was a precondition of their very existence.

On the other hand, they have greatly influenced the cultural, political life and have largely contributed to the broadening of the limitations created by the authorities. There were several types of VOs, but it is not our intention to give any kind of classification in this respect. However, it is necessary to emphasise that a large number of VOs wanted to work in areas that were regarded as "taboo," since the governments have never recognised the existence of unemployment, poverty, illiteracy, ethnic discrimination, etc. Those VOs that have started their activities in those areas have become involved in politics as well.

The most important changes regarding this sector were made by the legalisation of these associations. Although nonprofit legislation is still lacking, the actual formation of these VOs has considerably accelerated.

Types of VOs

As far as the very colorful Hungarian landscape is concerned, for the most part grassroots organisations have appeared and spread their activities. There are still very few larger VOs with national networks. It should also be mentioned that social life is still overpoliticised: In many cases the intervention of politics is present and exerts a strong influence. Foundations can be founded and organisations directly supported by political parties. The classification of VOs could be done most practically on the basis of activities (that is, in what area do they practice their activities, what kind of services do they provide, etc.). The most frequently practiced services are: Humanitarian, human rights, social support, social care, health-related services, education-related services, and many activities concerning helping refugees (civil war victims).

No statistics are available. It has been estimated that about 8,000 VOs are in operation. The dust has still not settled, and it is extremely difficult to see clearly all the processes. Two years after the huge changes, the society is moving towards a more settled phase, but the rules of the game are not worked out yet.

At the present stage, any statement could be perceived as a political qualification, therefore we recommend adopting a different approach: That is, to put these questions to some of the VOs themselves and compare the answers.

Links and networks

Some of the VOs work on building national links and networks. All kinds of ways and methods are applied in practice; e.g., informal links, federations, joint activities, building their own structures, etc. VOs also build international links and networks.

Economy

VOs receive funds from the state, private foreign funds, domestic banks and companies, foreign states, foreign companies and organisations, private national funds, and are dependent on their own fundraising. They do fundraising in several ways and business activities are not excluded. Methods of fundraising include direct mailing, personal connections, and organised events.

General questions

The most serious problem facing VOs is the lack of available funds. Generally, the public views them with great sympathy. If VOs do a good campaign, then the public awareness is strong and support will be provided for them. The press is very positive and describes the activities of VOs, with few exceptions, very favorably. Some of the journalists are dedicated to supporting VOs and do assist with PR and campaign-related activities. Something has started already in that direction [discussing the "ethics" of VOs], but the process is slow. Generally, all kinds of available support and contacts [internal or external backup] could be extremely valuable.

Government policy

- Generally, the role of VOs is positively considered by the government;
- Yes, they do [promote activities of VOs] on a selective basis;
- Not known [if government cooperates directly with VOs];
- In some cases, yes [government takes advice from VOs];
- Directly or indirectly [government restricts the activities of VOs]; the position of VOs became more difficult because of the lack of nonprofit legislation;
- From a theoretical point of view, it is understandable [that government favours

cooperation with state-controlled organisations];

- The position of the government [regarding the formation of VOs] varies from case to case. A certain guarantee system controls the registration of the VOs.

Local administrative policy

With respect to Hungary, it is extremely difficult to answer these questions due to the special domestic political situation. One important element is that, a year after the first free and democratic election took place, local elections were held, where in a great number of cases, the opposition parties won. As a result of the still overpoliticised atmosphere, it is impossible to characterise the position of the local administrations, since what is valid in one place will be precisely the opposite in another one. Therefore, the answers will necessarily be general.

- If they [local administrative bodies] feel the positive contribution of the activities of VOs, they certainly do support them. There is a certain kind of interdependence between the local government and the VOs;
- In most cases, yes [local bodies promote the activities of VOs]. In the case of United Way, Southern Hungary, the local leadership provided direct assistance;
- Yes [local bodies take advice from VOs], and they actively use the services of these VOs;
- Not known [if they seek to restrict VOs];
- Again, it [local bodies favouring cooperation with state-controlled organisations] varies from community to community (e.g., in the case of a government coalition local leadership, it seems to be obvious that they would like to see the most cooperative system of all organisations, including the VOs).

Constitution/Bill of Rights

A, B, and C [freedom of association, speech and press] are guaranteed in the Constitution of the Republic of Hungary.

Laws and regulations

In Hungary, VOs are organised under laws authorizing "civil association." It is easy to set up a VO, needing only ten founding members to declare the association to be set up and to state the statutes of the association, its name, goals, and address. The registration happens at local courts in Budapest and at 19 county courts. All data are then sent to the Supreme Court for record. Deregistration happens at the same courts on instructions by the Public Prosecutor's Department.

- They are not necessarily not-for-profit entities;
- Yes, they have to include the goals to serve "public" purposes in their statutes.

There are no regulatory requirements, but VOs traditionally draw up and publish an Annual Report, which is occasionally checked by the Tax Office.

The closest definition of "public" purpose is given in the "tax allowance rules," which say that a foundation is considered "public" if it is devoted to prevention and health care, the goals of science, research, environmental protection, protection of historical buildings, protection of nature, culture, education, student and mass sports, religion, the defence of public order and safety, supporting national and ethnic minorities and refugees. The statutes should clearly rule out that the foundation's money could be used for private purposes either directly or indirectly.

The only other incentives are connected with customs preference.

Tax treatment of VOs

- All persons and legal entities that donate to foundations specified under IV.5. [public purpose] receive indirect income tax benefit (deduction from taxable income);
- No [recipients of qualifying charitable contributions do not have to be registered];
- Only the types of organisations specified under IV.5 [public purposes] can be the recipients of qualified charitable contributions;
- A qualified VO may engage in the activities specified under IV.5;
- A qualified VO may not engage in political activity;
- No restrictions [to a certain class of beneficiary or certain locale];
- No [law does not specify use of funds], but there is one temporary restriction that says that hard currency funds must be used outside the country;
- Yes [law imposes tax on investment income]. The foundations are exempt from paying income tax if their investment does not exceed ten percent of their total income, maximum ten million Hungarian forints;
- No [no requirements on using specific percentage of receipts];
- See under V.A.1. [tax incentives];
- See under V.C.2. [tax incentives];
- None [municipal or other nonincome tax benefits].

Grassroots Movements in Poland

Irena Woycicka

I would like to concentrate on a number of organisations in Poland and on their strengths and weaknesses along with their correlation to Polish traditions and the transformation system. The self-support movement in Poland is a tradition that has existed for more than a century. During nearly the entire period of limited political freedom, it was an expression of pride plus independence.

In post-war Poland, the independence of social activities was very limited. To start the independence process, there were repeated attempts at civic self-organising. Some of them, like the "Committee of Workers," had an enormous impact on political life. Others, like an organisation for disabled children, was a reaction to the state's inactivity in the social sphere.

Since the Polish abolition of Communist military and social life, we have witnessed a rapid development of civic activity, which resulted in the establishment of about 15,000 associations, foundations, and self-help groups. About 3,000 of these are active in the fields of social care and health, including especially those dealing with alcoholism, disability, and homelessness. There was also a strong movement of ecological and cultural organisations. We observe many new NGOs concentrating on social and economic development activities at the local level, as a reaction to the accompanying transformation from a central plan economy to a free market economy. Foundations appeared supporting civic activity, financially as well as technically.

Speaking about the nongovernmental sector in Poland, I could give the impression that we are dealing with stable, big, and professional nonprofit organisations. This is not true; rather we are dealing with grassroots movements with social activity that in time may become more professional. However, I think that the development of stable nongovernmental institutions will be very limited, whether we like it or not.

The tradition of civic activity in Poland provides an enormous ideological background for the development of civic society, but, at the same time, it constitutes its weakness. First, the tradition of civic activities of democratic opposition of the '70s and "Solidarity" were closely linked with the political concept of freedom. Now, we can start shifting a large part of the intellectual and organisational potential into creating political institutions. Organisations and NGO movements gained valuable experience and, at the same time, lost their identity, intellectual background, and staff.

Cooperation with the state

There is also a lack of ability to cooperate between the state administration and nongovernmental organisations. The organisations, founded on the idea of citizens' disobedience, resort to the traditions and attitudes of the movement that was fighting in Poland for independence and democracy, the movement for which we have chosen to couple assistance and strong independence, and which was a basic condition for survival. As a result, nongovernmental organisations in Poland often suffer from the childish illness of independence; they avoid contacts with state and political institutions. This attitude, in turn, often met with that of state officials who try to monopolise the stir of social activities.

However, I have observed a growing number of successful attempts to break this pattern. Some quite good governmental programmes have been created for supporting NGOs. Many NGOs have good cooperation with state institutions. The partnership with persuasive civility of both sides is the basic condition for effective actions.

Numerous legal Acts issued during the last three years have created the foundation for a socio-economic system for NGOs and are providing the basis for complementary cooperation and coexistence between the state and NGOs. In the case of social policy, the opportunity is created through the Act on education providing a field for social activities in the sector. The Act on health care institutions is a basis for equality of the public and private sector. The Act on social workers obliges state offices of social assistance to cooperate with and support NGOs in this field. And one of the first passed post-Communist Parliamentary Acts was accepting the bill on associations that barred Communist control on monopoly and social activity.

However, this bill, while creating space for civic activities, was not created in dialogue and consultation with the nongovernmental sector. The second weakness of the nongovernmental sector in Parliament was its lack of representatives of the sector that could have impact on public opinion and sustained solutions. Maybe it was the intention of the state officials, who would like to deal only with representative partners. The creation of a culture based on cooperation and, at the same time, in a state of competition will take time.

Pressure groups

Undoubtedly, some kind of common action has already started in Poland, with the creation of the Federation of Foundations and Associations. Similar types of organisations cooperate through the exchange of experience and information. But all this action has not achieved the standard of organising an awareness that could influence public opinion and shape policy.

I suppose that other barriers could make an enormous impact on the socio-political system of the Republic of Poland. The obvious purpose of forming new political

parties observed in the last two years has civic activities merging into public life. Discussions on many social problems are often dominated by short-term political interests rather than the merit of strategic arguments. There is an urgent need for regaining factual style in the discussions on systems. I see the importance of making use of civic movements in this process. While describing the basic weaknesses of the organisations, I have also pointed out how the movement could help in the period of remodelling social life in Poland.

I would like to turn to the role the movement is playing now. First, in the communal and social transformation and in shaping the sense of social security, the movement is strengthening the social networks and is trying to fight the feelings of isolation and hopelessness. Second, it tries to solve the newly occurring problems of today. It can to a large extent be more innovative and more flexible than state entities. The problems of homelessness, people infected with AIDS, or social integration of the disabled persons are practically the domain of NGOs. Third, the movement definitely has an impact on social lives as it revises the values of the Communist system, such as cooperation, responsibility, activeness, and solidarity. These values must constitute the basis for the social order under construction now.

Movements of social organisations in Poland are only taking shape now. At the same time, new legislation, new state institutions, new division of duties between the state, citizens groups, and the family are introduced. They have created newly discovered values of social life and new elements of social awareness. The influence of all these elements will determine the final shape and place of the NGO sector in Poland.

The Increasing Responsibility of the Third Sector in Czechoslovakia

Vladimir Raiman

Under the Communist regime there was no room for individual nor nongovernmental voluntary activity in the prospect of some disadvantaged persons or groups of individuals. Everything was organised and solved on the "scientific" and state level. The state was presented as a careful mother. Official propaganda described only positive effects of state care; it was not allowed to speak about shortcomings, lack of sensitivity, about dissatisfaction of "protected" persons. The protected persons (e.g., mentally or physically handicapped, individuals belonging to minorities and others) were perceived by the mass media as objects, not as subjects. A consequence of the isolation of disadvantaged persons was that the public became insensitive to their problems and needs.

After 1989, the situation changed rapidly. On the one hand, the state stopped declaring its absolute responsibility for every social problem and on the other hand the wave of enthusiasm for free activity made room for nongovernmental involvement. Today, the situation demands better mutual information about activities of nongovernmental organisations and for mutual cooperation. We organise conferences for voluntary organisation and foundations. We have also begun to edit a newspaper, "Nonprofit," in order to improve information about nongovernmental activities.

The addresses of foundations were published, as well as their legal consultations and descriptions of individual foundations. We made a decision to found an information centre in Prague and to develop an information centre in Nitra. These centers are prepared cooperatively, also in the case of the split of Czechoslovakia. Democracy could not exist without civic society and without identification of citizens with their problems. Citizens' organisations are very useful and necessary in a period of such massive economic and legislative changes.

Of course, there are many countries that could be classified as being in transition; e.g. South Africa and Czechoslovakia. Bilateral relations between two countries are usually motivated by two sets of factors. Those that are common and those that are singular. Now I will quote some passages from an article "Czechoslovakia and South Africa," written by Jan Voderadsky.

Historical parallels

One source of understanding and successful development of relations between any two countries is the existence of common historical experience. It is a popular

custom for politicians, especially on occasions such as the opening of bilateral talks, to refer with satisfaction to common experience. In the case of Czechoslovakia and South Africa, it seems an indisputable fact that significant historical parallels exist, especially with regard to the post-World War II period. These could be expressed succinctly in two words: "Totalitarianism" and "Isolation."

There are other transitional factors of a more particular nature that confront contemporary Czechoslovakia and South Africa that relate to the common need to confront and dispose the undemocratic past.

The first is of a psychological nature. Hundreds of thousands of inhabitants of both countries have to answer one intrusive question: What was their attitude or what action did they take against the system that everybody now recognises as having been oppressive? Facing the same moral predicament is a powerful force for mutual understanding and for bringing people together.

The Role of Donors and the State in Creating VOs and Foundations in Czechoslovakia

Dasha Havel

First I would like to thank the Danish Centre for Human Rights and the Institute of International Education for organising this workshop. I would like to say that sometimes I have a feeling that the absurdity of Kafka's world appears also here. The Iron Curtain sometimes made a barrier for us to know the outside world. Now it seems that it has an urgent desire to learn about us. Last year, sixty-five million visitors came to Czechoslovakia; they came mainly to see Prague, which has one-and-a-half million people.

In a similar unpredictable environment, NGOs are developing foundations that have their offices in Prague; but we know that Bratislava already has a lot of contacts. They have several opportunities to exchange experiences, they even have difficulty dividing their time, to manage time between visitors and conferences, which leaves only a little time for work on projects and so on.

Foundations placed far from the main business or tourist centres face very difficult conditions. Since Vladimir Raiman has already mentioned the main fields of work of foundations and the main base of communications among them, I will just make a few points about the voluntary sector.

First, the foundations here are in an open situation, financed by distant rich donors or companies. Their goal is often to finance all kind of activities, sometimes in personal areas of interest. It is commonly felt that foundations are like a gift and that it is enough to receive by the act of registration of the foundation. This particular approach is often seen as an active approach.

I will now discuss why it is not so easy to do, but this approach is not common even in understanding. Another problem that seems important to me is the attempt to couple professional activity with civil activity. We can find examples where governmental institutions are creating foundations to gain authority for their own activities or the activities of institutions that are under their control or operation.

It is not rare that a city government is thinking of creating a foundation to finance the city police or other activities that the state should take care of. On the other hand, there is no environment that can motivate sponsors to support voluntary activity. I do not know how well you are informed about the new tax laws, to be introduced by the first of January, 1993, that actually do not adequately motivate sponsors to support the voluntary sector.

In other words, there is no general understanding of the role and field of activities of nongovernmental institutions in the social and health care, in environment, research, or education fields. Moreover, there is not yet created an efficient money-flow between the business field, the state, and NGOs.

Today, we are discussing in Czechoslovakia the question of the role of Federation and the Republics in connection with the question of financing and the role and place of NGOs. In the Czech Republic we are discussing the possibility of creating a fund called The Privatisation Fund. The capital will be taken from the selling out of state property and the fund will be something like an endowment, acting as a matching fund for already established foundations that could then act as grant-givers to NGOs. This is only in the discussion stage as yet. The law allowing the establishment of the fund has already been passed, and now a committee has been created in order to work out the criteria that will be applied.

Finally I will end my presentation by saying that by today's NGOs I understand organisations that are bringing, from time to time, some new developments to our lives. To give and to receive gifts is something that is new for us.

Response to questionnaire: Czechoslovakia

Vladimir Raiman

Short history

Until 1989 citizens in Czechoslovakia were associated in organisations housed by the National Front, which was under strict state control and directly managed by the Communist Party of Czechoslovakia. Since November 1989, there has been a great explosion of VOs. The majority of them were established unsystematically, without knowing any rules and laws accepted worldwide.

Types of VOs

Meanwhile, there appeared several main groups of VOs: Humanitarian, ecological, social care, educational, and others. The journal "Nonprofit" established a database that includes about 170 VOs. The Czechoslovak Chamber of Humanitarian Cooperation has organised trucks with material aid sent to Ukraine, Croatia, etc. The Charter 77 Foundation organised a monetary collection for a Lexel Gama knife for a hospital in Prague. The foundation Good Will of Olga Havel purchased several wheel chairs for disabled. The Foundation For Life initiated the analysis of environment in the region and elaborated a project for its improvement, providing financial means as well.

Links and networks

VOs are building national contacts within Czechoslovakia that will be connected with foreign countries through a basic Information Centre in Prague, but also independently. They are using the contacts made in the preparation of international events, especially in cooperation with VO organisations from U.K, U.S.A., Belgium, Germany, Holland, and Sweden.

Economy

Well-known VOs are mostly funded with the help of foreign private foundations, but also with the assistance of foreign countries and through their own activities. The conditions for more active commercial activities in Czechoslovakia have not been favorable so far. Typical ways of raising funds inside Czechoslovakia so far have been lotteries, benefit concerts, exhibitions, collections, and others.

General questions

Clear legislation and a new tax system are planned to be introduced in January 1, 1993. In general, the public evaluates VO activity positively and citizens do have clear ideas about their programmes. In general, the press has not paid interest in the activities of VOs. VOs must make publicity themselves. Some events were organised by journalists themselves and by editorial boards collecting money for refugees in Yugoslavia or medications for Nagorno Karabakh.

Regarding questions like the ethics of VOs, fundraising techniques, and public accountability, the Information Centre referred to above has considered organising seminars about the above topics. VOs could benefit from closer cooperation with foreign and local VOs of similar orientation.

National and local policy

The state is considering what is necessary and what could benefit VOs for their existence and the state cooperates in events organised by VOs and tries to provide financial and moral support.

The state functions often as one of the sponsors. The organisation of international conferences on topical problems is actively supported by the state (e.g. The Czechoslovak Committee of the European Cultural Foundation organised the Second Bratislava Symposium entitled "Minorities in Politics," sponsored by the Prime Minister of the Slovak Republic and the Ministry of Culture of the Slovak Republic). At the moment, ECF is preparing the IIIrd Bratislava Symposium entitled History and Politics which will be sponsored by the Slovak Ministry of Culture. The state has also devoted the financial means for the International Workshop named Illusions and Reality, which was organised by Minority Rights Group in Slovakia and IREX from the USA.

- The state did not refuse advice from VOs and it cooperated directly in some cases. This was the case until the 1992 elections;
- I have not met with any restriction of VO activity [by the government];
- In many cases, it is much more simple for the state [to cooperate with state-controlled organisations];
- The liberal-thinking members of the government have realised the significance and functions of VOs in civic society and attempt to satisfy VO needs.

Constitution

The freedom to associate is guaranteed by the Charter of Human Rights, as well as the Freedom of speech and Freedom of the press.

Laws and regulations

- The establishment of VOs is not complicated and usually it runs very smoothly;
- There is not [a central registration system];
- Yes [VOs must be organised as not-for-profit];
- No [they do not have to show "public purpose"];
- No [there are no other reporting or regulatory requirements].

VOs in Romania

Liviu Matei

The following considerations are based mostly on results of an as-yet-unfinished survey being conducted with a team of social psychology students. This survey actually consists of an exhaustive investigation of statistics, synthesis, and interviews of a national sample of VOs, state agencies, and press analysis.

Short history of VOs

It is difficult to speak about VOs during the Communist period in Romania. The Communist ideology only accepted the idea of civil organisations created and controlled by the party-state. Those organisations were considered to be transmission chains, useful for the achievement of the Party's goals, in the same way that the trade unions were considered to be transmission chains.

The need for total control of the Romanian society forced the Party to create one megaorganisation, the so-called Democracy and Socialist Unity Front, which assembled all nongovernmental organisations. The Romanian Communist Party and the Securitate controlled the Front, otherwise presented as the formal expression of civil society, the obvious and legitimate ground for the Party and its Conductor. Moreover, the Democracy and Socialist Party Organisation was created, as part of the Front, in order to include by force all adult Romanians who were not members of any other organisation.

This big umbrella, as big as the House of the Republic among buildings, was nothing but a machine of empty talking, promoting the repetition of the power's stereotype statements. Nevertheless, some organisations arrived to fulfill real needs, within a limited space (the Deaf and the Blind People Associations, the Red Cross, could be mentioned here). Attempts were made to set up clandestine organisations, most of them in the field of human rights. Those efforts were isolated and violently suppressed, having no relevant public echo.

After the revolution (with or without quotation marks) from December 1992, the landscape changed:

- A legal framework for VOs was reinstalled;
- Free speech and the freedom of media permits an open discussion about the present state of disaster correlated with the missing willingness or missing capacity of the state to overcome some of the difficulties; many foreign NGOs have started to work in Romania, providing models with which to tackle these circumstances.

These two elements, and probably some others, too, share the responsibility for the high VO growth rate in the last two-and-a-half years.

Types of VOs

It seems that humanitarian, human rights, medical, and social VOs are dominant. This is so because of the two directions one could consider as dominant in the VOs' present activity:

- The fight for a democratic society, the opposition to every attempt of reinstating totalitarianism;
- The help for specific categories, the most vulnerable, from the medical and social point of view, during the transition period.

These organisations represent more than 90 percent of the total. They are also the most present in the media. Statistics produced by the following institutions were identified as being:

- Romanian Information Clearing House (Ministry of Health);
- Soros Foundation, Bucharest;
- Ministry of Work and Social Protection;
- State Secretariat for Handicapped Persons;
- Youth Department (Ministry of Youth and Sport).

These statistics seem to be produced in order to support the mentioned institutions' current activity. They cover only one or two fields (i.e., medical, social, youth, etc., but this is less true for the Soros Foundation).

It is difficult to evaluate the VOs' growth rate, but it is obvious that we are seeing continuous growth. The estimates concerning the number of VOs range from 700 (Soros Foundation private statement) to 20,000 (Ministry of Work Statement within the VO Congress in August 1991). We hope to be able to answer this question in two-to-three months.

Typical VOs

Human rights: The Helsinki Committee in Bucharest. Activities are publicity for human rights (including printing of bills and declarations), attempts to influence legislation being enacted, reports about the situation of human right in Romania, involvement in concrete cases of abuse.

Social Care: Voluntary Organisation for Social Assistance in Brasov. Activities are material help, staff training for social work institutions, publicity around concrete social problems, contacts with local and central authorities in order to solve them.

Sociological: Group for Ecologic and Social Dialog. Activities are workshops, conferences, magazine editing.

Other

The Soros Foundation sponsors a wide range of activities aiming to support the creation of "free society." The Soros Foundation is probably the most important VO in Romania and is often a source of support for other VOs. The Romanian League for Mental Health, in Bucharest, is engaged in mental health education. Save the Children, in Bucharest, Timisoara, Craiova, is involved in social and medical care and education.

Geographical distribution

It is surprising that Transylvania, considered to have a higher life standard, is better covered with VOs than the Valachia or Moldavia provinces with a lower standard of living.

Most interesting trends

The most interesting trend in the present situation seems to be the growth of the educational field and the creation of "development agency" VOs.

Links and networks

- The government tried to create a National Committee for the Coordination of VO activity in 1991. Fortunately the initiative did not succeed.
- The Romanian Information Clearing House edits one magazine for health care VOs which informs them about the most significant events in the field.
- Some local and national informal networks exist, assembling at each meeting not more than eight-to-ten VOs, either from the same field or connected to the same foreign organisation.
- One federation was created in Timisoara with the participation of the 21 VOs in this town.

Most of the Romanian VOs have relevant international links (some of them being even created due to those links). Few VOs are part of these international networks (e.g., family planning, ecological, medical federations). Those links are orientated towards Western Europe and the United States. Few links, and only by accident, exist with VOs from other Eastern or Central European countries. No links exist with VOs from outside Europe or North America.

Economy

The well-established VOs are typically funded by private foreign funds. VO engagement in business activities in order to raise money is not significant. Still, it seems that many VOs are beginning to think it is desirable. The only significant

way to raise money is to apply for funds from international agencies (e.g., UNICEF, UNESCO) or international NGOs and federations. Very few funds can or have been raised inside Romania.

General questions

There is no appropriate legislation involving VOs and no experience. They lack "know how." It is a difficult social context, due to factors like increasing poverty and legal and political instability. There is lack of coordination and cross-information between VOs. There is resistance in every-day life towards the idea of VOs.

The public attitude towards VOs is ambivalent. The VOs are sometimes accepted, and even asked to do something, while at other times they are accused of not doing enough. It is also said that they are unnecessary.

The idea of VOs is generally well accepted by the press. Magazines and newspapers are closed to political groups and their attitude towards VOs is consistent with this affiliation. The humanitarian, health, and social-care VOs have no important problems with the media. Their activity is well presented and sometimes the press assists VOs (mainly publicity around their programmes, problems, asking for public or state support, etc.).

On the contrary, human rights VOs have difficulties with some of the newspapers. The common belief is that the VO and policy have to be separate. Human rights defence is considered to be a political activity and this is why those VOs are considered to be political organisations and are treated as such.

Such discussions take place very often in informal meetings and sometimes even in formal ones.

Internal and external backup

VOs could benefit from the backup of appropriate laws and authorities opening for cooperation with VOs. Moreover, they could benefit from training in consultation, information for strategic planning, basic and financial management, board development, fundraising, marketing, and computers.

Constitution/Bill of Rights

The freedom to associate is guaranteed by the Romanian Constitution, subject to a referendum on December 8, 1991. The freedom to associate is only limited by the thesis that no association could act against the laws or against state unity. It is not defined exactly what "acting against state unity" is. Free speech is also guaranteed by the Constitution under the same limitations. Freedom of the press is claimed to be guaranteed by the Constitution, but it is also said that a special law will rule out the details. This law does not exist yet and a lot of problems have arisen because of this.

The Difficulties Facing the Emerging Third Sector in Bulgaria

Mois Fayon

I would like to share my observations on the social environment of the emerging Bulgarian voluntary sector. This sector appears under a multitude of names: Voluntary sector, nonprofit sector, nongovernmental sector, third sector. I guess everybody has his own preferences. In fact all of these terms are somewhat ambiguous and imperfect.

Let me make only a few comments on the vocabulary we are going to use. I know that the discussion of terms is usually quite boring, yet we have at least to make sure that we have in mind similar phenomena.

The vocabulary of voluntarism has not been coined in Eastern Europe and using this vocabulary in an Eastern European context may sometimes prove confusing. For example, a great number of the voluntary organisations that have emerged in Eastern Europe in the last two or three years resemble the ecological movements, foundations, or human rights groups that have been established in the West. But do all these organisations actually form the "third sector" of the East European societies? Should this term be applied to societies where the first (i.e., the state or public) sector is almost falling apart, and the second (i.e., the private or commercial) sector is in the stage of formation and hardly able to support itself?

While the third sector in developed democracies relies upon the other two sectors, the problem for the corresponding third sector in the emerging Eastern European democracies is finding another basis for its existence. The easiest solution to this problem seems to be that the East European third sector should rely upon the Western third sector (and maybe also on the Western first and second sectors). But if the voluntary sector relies only on foreign support, it will forever remain foreign to Eastern Europe, to the socio-political cultures of East Europeans. The problem, then, is to find the immanent, the inherent, forces that can support a voluntary sector in countries with ruined economies and political structures in transition.

Speaking of Eastern Europe, I am aware that there are deepening differences between the countries of this region and that in the current geopolitical situation each country is interested in stressing its uniqueness and in selling its most favorable image to the rest of the world.

The emerging foundations

And so, coming to the concrete description of the social environment of the voluntary sector, I will limit my discussion to some problems that the Bulgarian

third sector is facing. The most active and also the most controversial part of the Bulgarian third sector are the public charity organisations, most often called foundations. Hundreds of them have emerged within less than two years. As a rule, they have quite limited resources. Among the foundations, those supporting education and research are the most popular.

Foundations in Bulgaria are facing two basic problems: The lack of Bulgarian donors and the lack of a favorable socio-cultural environment for their development. While the first problem hardly needs any explanation, the second one may seem paradoxical. The results of a national representative poll conducted in 1991 show that more than 30 percent of Bulgarians have some doubts about the noble intentions of Bulgarian foundations. I believe that it is the second problem, the problem of creating public confidence and support for the voluntary sector, that is crucial to its development.

There are several reasons for the unfavorable attitudes and suspicion towards foundations. One of the reasons is that the very idea of charity was corrupted during the Communist regime. In the early 1980s, three state-controlled foundations were established to promote talented children, students, and artists. These foundations were dominated by members of the former dictator Zhivkov family. Lacking any public control, their funds have been largely misused. In addition to this, the state-controlled foundations received support from persons of doubtful reputation (like the late Robert Maxwell).

After 1989, all restrictions for the establishment of truly independent nongovernmental organisations were canceled. Foundations were granted a tax-exempt status. They could also get involved in business, for-profit activities, and pay no taxes. This may look like a wonderful arrangement for the foundations, but there were no regulations concerning the use of the profits gained by a foundation. In a very short time, foundations mushroomed. The greater part of them were only for-profits in disguise, misusing their nonprofit organisation status.

So the foundations turned into a convenient way for making easy money or for money laundering. This was a second serious blow to the image of all foundations. When the absurdity of the situation became obvious to everyone, the government decided to abolish the tax-exempt status of all business activities.

The last point I would like to make concerns the culture of giving. I believe that it is not only the economic and legislative factors, but also the attitude of the public and of the decision-makers towards voluntary organisations that are crucial for their successful operation. While the legal framework is most important in providing strong incentives for businessmen to donate, personal donations depend very much on the dominating values and expectations in a society. The paternalistic values promoted by the Communist regimes were hostile to real charity or to other voluntary actions. Unfortunately now they are being replaced by another extreme, the spirit of self-centered, laissez-faire capitalism that is, in fact, equally hostile to giving and to nonprofit voluntary actions.

I think that the greatest challenge the Bulgarian voluntary sector will have to face in the future will be the contradictions between these two socio-cultural trends. Voluntary organisations have the opportunity to become the agents of a new humanitarian culture that will offer a basis for the unification of a nation divided by too many political, ethnic, and generational differences.

Response to questionnaire: Bulgaria

Prauda Spassova and Mois Fayon

Short history

Some quasi-nongovernmental foundations were established in the early 1980s. They were efficient in promoting international contacts among talented children and in providing financial support for students to attend universities in the United States and Western Europe. However, because of the lack of control and misuse of funds, these foundations had a rather negative public image. The few really independent human rights and ecological VOs established in 1988-89 were prosecuted by the regime and could not operate freely until November 1989.

After 1989, many VOs have been established. Their activities are no longer restricted by totalitarian governmental control. In March 1992, some of the VOs (foundations) joined together in a Union of Bulgarian Foundations.

Types of VOs

It is hard to estimate the actual significance of all the existing VOs because of the lack of information. The most popular are foundations (and especially those supporting education and research) and ecological VOs.

There are no statistics so far on the number and growth of VOs. One interdisciplinary research project, Study and Development of the Third Sector in Bulgaria, has been recently started.

A typical human rights VO is Helsinki Citizens Assembly, which monitors human rights abuses in Bulgaria. Some of its members take part in international monitoring activities as well. The ecological movement, one of the few oppositional organisations in Bulgaria before 1989, was too much involved in the political struggles after 1989 and as a result its influence and popularity have somewhat decreased.

Three of the most active VOs are the Open Society Fund (Sofia), Mati Bulgaria, and EcoGlasnost. The Open Society Fund, Sofia (Soros Foundation), gives financial support to educational and cultural initiatives of the Bulgarian public. Its activities are concentrated in the field of social sciences, the humanities, and economic management. The Open Society Fund, Sofia, has assisted in the establishment of the New Bulgarian University, an alternative, nongovernmental, educational organisation. Mati Bulgaria is a VO promoting Bulgarian culture among Bulgarians

living abroad, and particularly among the compact masses living in ex-Soviet republics and the neighboring countries. Its activities include the establishment of Bulgarian schools abroad. Ecoglasnost is an ecological VO with a national network.

Links and networks

The foundations have recently united in a Union of the Bulgarian Foundations. An informational centre for nonprofit organisations with database and library has been set up and functions at the Union. Most of the emerging VOs do not have national networks and their scope of activity is limited to the local community. A few VOs have international links or are part of an international network (e.g., Open Society Fund, Sofia, Helsinki Citizens Assembly, Centre for the Study of Democracy).

Economy

The well-established VOs are normally funded by foreign or private Bulgarian funds. Some VOs engage in business activities to raise funds. Funds are raised usually by submitting projects that emphasise the benefits for the public and/or for the target donors.

General questions

The major problems VOs face are the lack of a legal framework facilitating their activities. VOs do not receive adequate support from the state. There is no favorable environment. Most of the VO managers lack the relevant training and experience. Generally speaking, the public is practically unaware of the VOs' activities. The press gives quite inadequate coverage of the VOs activities. Ethical issues were discussed at the establishment of the Union of the Bulgarian Foundations and an Ethics Code for philanthropic organisations was elaborated.

Government policy

The present government does not restrict the activities of VOs, but it also does not promote them. The government has not recognised the need for creating a favorable legal framework for VOs. The government funds that could help the development of voluntary activities have not been used for this purpose. There is no direct cooperation between government bodies and VOs. The Ministry of Justice is considering a draft law on nonpolitical organisations and VOs. Although the existing (quite obsolete) law enables government authorities to interfere with and even prohibit the formation of VOs, the process can hardly be controlled and there are practically no obstacles for VO formation.

Local administrative policy

There is no difference between the state and the local policy regarding VOs in Bulgaria.

Constitution/Bill of Rights

The Constitution guarantees the freedom to associate, the freedom of the press, and the right to free speech (Constitution of the Republic of Bulgaria, articles 39, 40, 41, 44). All these freedoms actually exist. A new law concerning the freedom to associate is to be passed.

Laws and regulations

It is comparatively easy to establish a VO. A separate law concerning civil association and foundations is to be passed. The old "socialist" law is applied at present. There is no central registration system. VOs are registered in regional courts. VOs must be organised and operate as not-for-profit and this must be clearly stated in each VO code. VOs must demonstrate in court that they have been set up and function to serve public purposes. There are no other tax incentives except those associated with income taxation for the establishment of VOs.

Tax treatment of VOs

- No restrictions for recipients of charitable contributions;
- No [recipients do not have to be registered];
- No [certain types of VOs are not precluded];
- No [laws do not specify use of funds, impose tax on investment income, or require use of a specific percentage of the receipts];
- Donations are tax free;
- Twenty percent tax on income from profit-oriented activities;
- No [no municipal or other nonincome benefits].

Treatment of donors

- All kinds of donors may receive tax benefits;
- Contributions may be in cash or in kind;
- A donor is allowed a tax deduction only;
- No [tax payer cannot make contributions to VOs in lieu of paying taxes];
- No others [municipal or other nonincome tax benefits];
- Yes [charitable contributions are exempt from gift tax];
- Not relevant [exemptions from death or estate tax];
- No [government does not provide fiscal incentives];
- Yes, in a limited number of cases [government and corporate matching programmes].

References

Stephan Nikolov, *The Emerging Nonprofit Sector in Bulgaria: Its Historical Dimensions*, pp. 333–348, in *The Nonprofit Sector in the Global Community*, San Francisco, Jossey-Bass Publishers, 1992.

Catalogue of Bulgarian Foundations, The Open Society Fund, Sofia, 1991.

Synthesis

Philip Rudge

This synthesis constitutes an immediate view of the presentations and discussions of the first day of the Workshop.

Some elements of the comparative nature of the seminar

The discussion ranged from the philosophical and theoretical to the descriptive and factual, with a number of propositions about the nature of voluntary organisation (VO), nongovernmental organisation (NGO), or third sector agents of social action from Morten Kjaerum, Bill Carmichael, and Mala Singh, followed by some country descriptions that attempted to describe the national context within which NGOs function. The meeting may have generated two alternatives to the rather negative term "NGO," and the rather misleading "VO," namely CSO (civil society organisation) or TSO (third sector organisation).

The meeting was struck by the vast diversity of the subject matter of the Workshop: NGOs differ in their interests; in their level of organisation; their size, financing, and legal character; the state of democratic transition in which they operate; and the nature of the repression out of which they emerge.

The meeting quickly disposed of the notion that our comparisons are based on any notion of the homogeneity of the "Central and Eastern European bloc."

The meeting concluded that a valid basis for comparison does exist between Central and Eastern Europe on the one hand and South Africa on the other. The intellectual basis of this was demonstrated by reference to social analysis of Gramsci, Hegel, Marx, Rousseau, and Isaiah Berlin. Explicit mention was made of the common history of totalitarianism and isolation.

The meeting heard detailed theoretical analysis of the South African situation and a number of specific insights into issues in Central and Eastern Europe. A number of provocative hypotheses were offered for consideration:

- Can one discuss a "third sector" if the first sector (political society) and the Second Sector (economic society) are weak and disintegrating? Does the third sector in fact depend upon the third sector outside the country?
- Is Central and Eastern Europe trying to get the state out of peoples' lives while South Africa is trying to get the state more responsible in the lives of the people? Is Central and Eastern Europe moving from the dominant command economy to market freedom, South Africa moving from market forces to a more interventionist facilitating economic system?

The nature and role of civil society

The meeting heard presentations on the nature of civil society, its source of legitimacy, and its functions in a period of transition and beyond.

Morten Kjaerum defined a VO in terms of its democratic role, its nonprofit and nonstate character, its adherence to a socially useful cause, and outlined a number of common functions and obstacles to functioning.

William D. Carmichael emphasised the challenges to VOs in the transition to democracy in terms of charting new relations with governments, formulating new legal frameworks for themselves, generating policy options and public information, and monitoring the transition process itself. Strong emphasis was put on the need for VOs to maintain their independence from state and partisan political groupings, to build new ranks of leadership, and to ensure their own internal democratic accountability.

Mala Singh offered a philosopher's analysis, starting from the South African position that, while there may be little consensus on the content of democracy, there has been great attention to the mechanics of democracy in the last two years particularly. She traced the sources of the concept of civil society in South Africa, stressing the distinctive role of civil society while not separating it from political and economic concerns. She warned against the use of the term "civil society" as a "radical cliché." She presented two opposing views of the role of civil society in South Africa from two of the country's prominent thinkers. The one emphasises the watchdog function of NGOs in a civil nonmonopolistic state; the other rejects this separation as characteristic of bourgeois liberalism and stresses the priority of conceptualising the role of civil society inside the process of conceptualising the democratic state. [In reworking the paper, Professor Singh added a third view on the necessary interaction of the state and civil society for the achievement of social and economic goals that benefit the poor and the working class.] The meeting considered the notion that the relation between civil society and the state need not automatically be either adversarial nor cooperative, agreed that in no sense could civil society replace the state, and considered its role in setting the framework of democratic debate and the ensuring of the public good.

National situations

Following the in-depth analysis of the issues associated with the role of civil society in the South African transition, participants from Central and Eastern European states offered their perspectives and insights into the similarities and differences in their own reality. All states had seen a veritable explosion in the formation of NGOs/VOs since the revolutionary changes of recent years. Participants described an often uneasy and sceptical relationship with authorities, press, and public opinion. The meeting considered the reality of the distinction between "human rights" organisations, and other voluntary organisations, in terms of the explicit content of their work and the implicit approach. All participants pointed to an

inadequate, evolving, and sometimes chaotic legislative framework in which they were supposed to operate and highlighted problems of cooperation and coordination among VOs themselves and in relation to national and local authorities.

While all participants reported serious financial limitations, a variety of views were expressed about the advantages and dangers attached to assistance from outside donors. For some, it was the sine qua non of their existence; for others, it implied a threat of interference by unquestioned Western European values. One participant was very critical of the immaturity and childish independence of some NGOs vis-à-vis the state. It was a common theme of the session that virtually all VOs were in need of "management" help, be it in administrative techniques, fundraising, marketing, or computer technologies.

Participants characterised the situation for VOs in Central and Eastern Europe as being one in which they were looking for a role between the paternalism of the state control in the days of communism and the oppressive individualism of the crude free market, laissez faire, capitalist model being promoted by some Western interests. All were convinced that the development of the third sector was an irreversible process, and that this development cannot rely only on foreign resources in the longer term. Contributions from South African participants underlined the unhealthiness of long-term dependence on outsiders.

All participants agreed that the very factor of repression itself had been the mobilizing force for key elements in civil society whose role would need reevaluation given the demise of the ideological underpinning of the struggle. The issue was whether there could be sufficient human rights and humanitarian engagement with efficiency and consensus to fill the remaining vacuum.

Session III:

An Enabling Environment: The Legal and Policy Framework Required for a Vibrant Voluntary Sector

Introduction

Sheila Avrin McLean

Voluntary organisations, and the civil society they are a part of, are institutions independent of states, serving public purposes, and having developed differently in different countries.

Today, like yesterday, we are looking for similarities and differences among VOs. The differences are sometimes explained by different legal environments, sometimes by different political or policy environments, and sometimes by different histories and different cultural and religious traditions.

First, let me turn to the law. The questionnaire sent to participants has as its core the major legal issues relating to VOs. The laws that affect VOs include guarantees of freedom of expression, freedom of association or assembly, and free access to media. These particular freedoms, when embodied in laws, give VOs the right to exist as legal entities. This "juridical personality" is very important because it gives VOs the right to operate.

Other laws that affect VOs include fiscal, tax, and inheritance laws. For example, the endowed private foundation is a twentieth century creation, traceable originally in the United States to inheritance laws and then, increasingly, to the tax laws and, specifically, the tax deductibility of donations. There are two concepts embodied in these last remarks: Tax deduction and tax exemption. Tax exemption refers to donations to the juridical bodies, the VOs, that are exempt from income tax. Tax deduction relates to the donor, not the VO, and allows individuals or businesses to make gifts and deduct them from their income tax. In a Western policy environment, these differences can be important.

Differences in religious and cultural traditions and political history can be equally significant to laws and, of course, affect legal structures. Turning to Moslem countries, religious traditions produced the "waqf" (or religiously based charitable trust) in Islamic societies. This is the way Moslems can express the charitable impulse. By contrast, the "harambe" movement in East Africa is a means of traditional expression of the charitable impulse in that part of the world.

Turning to politics, many VOs in South Africa and East Central Europe are traceable to decades of political protest.

These comparisons are important in understanding the differing roles of legal policy, cultural traditions, or politics in fostering pluralistic institutions. They also highlight that what we call civil society, including VOs, differs greatly from country to country. Civil society is not a monolithic concept, even in democracies.

In fact, such comparisons emphasise that different states *must* develop their own "civil societies" and their own structures, consistent with their histories and

appropriate to their own traditions. One of Africa's elder statesmen, Julius Nyerere of Tanzania, warns:

"To be effective, African civil associations must take great care to ensure they approach their work from the point of view of the circumstances, needs, and cultures of African people...[I]t is a mistake to imagine that democracy can be imported like coca cola or a ready-made garment...[I]deas about democracy and democratic institutions are not divine truths. They have to be acculturated and absorbed into the blood stream of the people. The institutions through which these ideas become operational have to grow out of people's own practices and be given a chance to grow in a form natural to the changing social and economic conditions."

While recognizing differences in civil society and the legal, policy, and historical frameworks that enable VOs, it is equally important to recognise the similarities in the principles and practices that encourage the sector regardless of history. This session is to find out if we can identify policies and laws that are helpful in fostering a vibrant voluntary sector. That is the task of this workshop.

Let us now start to consider country-specific policies.

Overview: The Legal and Fiscal Environment of Voluntary Organisations in South Africa

Geoffrey Budlender

A 1989 survey by Lee and Buntman concluded that the South African nonprofit sector exists in a negative policy and legislative environment. In this paper I look at the nature of that environment in South Africa, and make some proposals as to how the legal and policy environment can facilitate the establishment of a vibrant voluntary sector.

The legal environment of voluntary organisations can conveniently be analysed under four headings: The general legal framework; the policing of voluntary organisations; the tax treatment of voluntary organisations; and border patrol functions.⁴

The legal framework

The most fundamental legal needs for a vibrant voluntary sector are certain fundamental freedoms. Freedom of association and freedom of speech are obvious needs. If VOs are going to be able to influence public policy, which should be one of their functions, access to the media and a general right to vote are also necessary fundamental rights.

In this respect, we in South Africa are in a very weak situation. We do not have a bill of rights, and government has the legal power to ban organisations and suppress speech. These powers have been widely, almost promiscuously, used in the past. At the moment there are no banned organisations, although the power remains. The electronic media are almost exclusively under state control, and most South Africans are by law excluded from the franchise.

South African law creates the possibility of a wide variety of voluntary organisations, with varying degrees of formality. In general, it is not difficult to establish a voluntary organisation and registration and reporting requirements are limited.

The least formal VO is the voluntary association, which is constituted by little more than an agreement by a number of people to act together to achieve a common object. There are no registration or reporting requirements. A written constitution is desirable but not legally necessary. Moving up the scale of formality, the next

⁴ This classification is derived from the work of Lee and Buntman, who in turn borrow it from the work of Simon, "The tax treatment of nonprofit organisations - a review of federal and state policies" in Powell, *The Nonprofit Sector, a research handbook*.

most common form of VO is the trust. More formal still, in terms of registration and reporting requirements, is the not-for-profit company established under the Companies Act.

I would suggest that in order to promote a vibrant voluntary sector, we need both the fundamental freedoms to which I have referred and certain other legal elements. These would include the following:

- There is generally a need for a variety of possible legal forms for VOs. It is undesirable to attempt to force them into a legal straitjacket. Our experience is that different VOs need different legal forms.
- There should be different degrees of formality required for the different forms of voluntary organisations. A small local organisation with a limited membership, relying on voluntary workers and raising all of its funds through membership fees, should not have to follow the same formalities as a national organisation with a large full-time staff, raising substantial sums of money from the public.
- It should be easy to form a VO. If local grassroots organisations are not able easily to form a VO, they will be compelled to live in a shadow world of semi-legality. They will never flourish.

Policing

In South Africa, the most pervasive form of policing of VOs is through control over their fundraising. This is presented as a purely technical matter, but of course fundraising goes to the heart of VOs. If they can't fund-raise, they can't exist.

There are various statutes aimed at control over fundraising, some of them aimed specifically at receipt of funds from outside South Africa. The rationale for this has been the theory of the "international total onslaught against South Africa". In truth, of course, an international campaign against apartheid. Foreign funding has been seen as unwarranted and illegitimate international interference in South Africa's domestic affairs--the government's right to repress and discriminate against its citizens.

The most important statute has been the Fundraising Act of 1978. This makes it a crime to solicit or receive donations from the public unless this has been authorised by the Director of Fundraising. Any donation received from outside South Africa is deemed to be received from the public within South Africa.

The ostensible purpose of this Act is to prevent the exploitation of the charitable feelings of members of the public; for example, by imposing the registration requirement and substantial reporting requirements. In practice, the Act has also been used for the purpose of political control. For example, when an application for fundraising permission has been received, the Director of Fundraising has routinely asked the Security Police to comment on the organisation involved. Another example is that the major trade union federation, FOSATU, was expressly prohibited from receiving donations. The purpose of this was to cut off the new independent trade union movement from receiving donations from outside South Africa.

Besides this overt control, the Act has also been used to inhibit the flourishing of VOs. The Director of Fundraising has taken the attitude that it is his job to prevent "competition" between VOs for funds. Thus, fundraising permission will often be refused where there is another VO in the same geographical area, with similar aims.

I suggest the following as a basis for a more enabling legal environment, which would permit legitimate regulation but prevent illegitimate policing of VOs:

- There should be no requirement of registration of VOs, unless this is related to a functional need. Registration purely for its own sake is an unnecessary and undesirable interference by the state in the voluntary sector.
- Organisations that raise funds from the general public should *not* be required to obtain permission to do so. However, they should be required to have their accounts audited by an independent professional, to prepare an annual report on how they have used these funds, and to make these accounts and reports available to the public or at the very least to their contributors and to a regulatory body.
- It should be a criminal offence to use money collected from the public for purposes other than that for which it was collected.

Again, there is a need to be sensitive to the differing capacities of large and small organisations. It may be that certain statutory controls should be triggered only when an organisation deals with funds above a certain threshold. It would be absurd, for example, to require a small mutual aid group to have their accounts prepared by a professional auditor.

Tax treatment

The tax treatment of voluntary organisations in South Africa is at best unhelpful, and at worst hostile:

- Only very limited categories of voluntary organisations are entitled to exemption from paying income tax on their receipts and income.
- Potential donors are not encouraged to support voluntary organisations. Only contributions to certain limited and officially recognised educational institutions and funds (and to the Bible Society of South Africa) may be deducted from income before the payment of tax. All other donations must be made *after* income tax has been paid on the amount concerned. In other words, donations are made out of after-tax profits or income.
- In addition, there is a powerful disincentive to donations, in the form of a donations tax. A donor must pay additional tax of 15 percent on any donation that is made above a certain limited amount. (Donations to a limited number of recipient organisations qualify for exemption from this tax.) It is therefore better, from a tax point of view, to spend your money selfishly on yourself than to give it to a worthy or needy individual or voluntary organisation.

I suggest that the following could be done to use the tax system to promote a vibrant voluntary sector:

- The grounds for exemption from the payment of income tax should be much wider than they are in South Africa at the moment.
- As far as possible, there should be no discretion given to officials to decide whether an organisation should be exempt from income tax. Where a discretion is unavoidable, the grounds on which it is to be exercised should be objective, and the decision should be subject to review by an independent court or tribunal.
- It is reasonable to require a VO claiming exemption from the payment of income tax to register as a tax-exempt body, and to file reports that will enable the tax authorities to confirm that it is tax-exempt.
- Once there is a suitable system of tax relief for recipients, the system to be applied to donors should follow the same pattern. Donations to tax-exempt organisations should be deductible expenses before payment of income tax.
- There should be no donations tax. There are other legal and fiscal remedies that can achieve the legitimate goal of a donations tax, to prevent schemes of tax avoidance, without penalising the charitable instinct.

Border patrol

The "border patrol" functions of legislation and policy are intended to keep voluntary organisations from "straying" into what is regarded as the territory of government and business.

So far, there are limited signs of this in South Africa. A worrying attitude is demonstrated by a current case in the Special Income Tax Court. Tax exemption has been refused to a nonprofit nutrition organisation that sells nutritional food at low cost, and undertakes activities in nutrition education. The basis of the refusal is that the organisation is engaging in trading activities. The outcome of the case will be important in determining the legitimate limits of "border patrol" by the tax authorities.

A related problem is the repeated (and almost certainly unlawful) insistence by the Director of Fundraising that registered fundraising organisations may only invest their money with registered financial institutions (banks and building societies). Given that South Africa presently has negative interest rates (the interest paid by financial institutions is lower than the inflation rate), the effect of this is to require that voluntary organisations lose money on their investments.

As South African nonprofits become more involved in development activities, including physical development, the issue of "border patrol" will increase in significance.

The Bulgarian participants told us that a similar problem has arisen in their country: The use of charities to "launder" profit-making activities has led to the loss of tax benefits by the voluntary sector.

We need to think more deeply about this problem. A possible solution is for the law to stipulate that nonprofits may engage in trading activities on condition that the trading activity is directly related to the charitable activity (as in the case of the nutrition organisation I mentioned), and that there is no distribution of the profits

or receipts. I would think that would be the minimum claim that the voluntary sector should make.

It is possible to justify a wider claim--that trading activities should be permitted as long as all of the profits or receipts are used for the charitable purpose. Why should a charity not be able to support itself, for example, by selling clothes (Oxfam), or by printing and selling greeting cards (many charities)? It is true that if they are tax-exempt they will enjoy a certain comparative advantage in relation to the private sector, but perhaps this is precisely what the society should provide, in order to encourage and facilitate the voluntary sector. After all, it is hardly likely that this activity will ever grow to a scale where it is seriously threatening. Naturally, this solution would require full accounting and reporting to ensure that it is not used to disguise private profit-making activities.

A more difficult problem is attempting to influence public policy, or, to use a more negative word, lobbying. In his paper William D. Carmichael pointed out that voluntary organisations should attempt to influence public policy in areas of relevance to their work. We probably all accept that this is a legitimate function of voluntary organisations. A voluntary organisation for the aged surely has a legitimate function of attempting to ensure that old-age pensions are set at a reasonable level, and that the pensions legislation favours the elderly.

However, there is a need to find the boundary line between this legitimate tax-exempt activity and the work of commercial special interest groups that lobby law-makers in the interests of those whom they represent. There is no reason why the automobile industry should receive tax benefits for spending its money on lobbying legislators to pass laws that favour the industry.

The U.S. has had a good deal of experience of this problem. We should draw on that experience in finding appropriate local solutions.

Law and the creation of a philanthropic tradition

A fundamental problem in South Africa is that there is no real philanthropic tradition. With very few exceptions, corporations do not devote any significant part of their budgets to philanthropic or "social responsibility" activities. The unsympathetic tax system may be a partial explanation of this. The highest court in South Africa (the Appellate Division of the Supreme Court) recently gave expression to the prevailing atmosphere when it said that it might well be *ultra vires* (i.e., unlawful because it is beyond its powers) for a company to make a donation that does not have a business object. The court quoted with approval a truly venerable English case from 1888:

"...it seems to me charity has no business to sit at boards of directors qua charity. There is, however, a kind of charitable dealing which is for the interest of those who practice it, and to that extent and in that garb (I admit not a very philanthropic garb) charity may sit at the board, but for no other purpose."

While many people would accept that individual citizens have social responsibilities, it seems that it is not yet generally accepted that companies should also be socially responsible citizens. Profit maximisation is still widely accepted as the sole purpose of business. This attitude is sometimes also reflected in other areas, such as environmental protection.

A well-rooted and widespread tradition of sharing exists only in the black community, where there is a deep tradition of what some have called "communalism", sharing what one has with those in need, in particular one's family (in an extended sense) and neighbours.

The attitude of government, as demonstrated in part by the tax regime, is a critical factor in encouraging or inhibiting the development of a broad philanthropic tradition. Simply put, the South African government does not seem to take a positive attitude to private philanthropic activities. I have already mentioned the unhelpful (and even hostile) tax treatment of this issue. A further recent example of this attitude emerged when the Legal Aid Board approached the government for assistance. The Legal Aid Board is established by Act of Parliament and is funded by the State. It runs the national legal aid system. It is widely accepted that the Board is inadequately funded, and that the result is that very large numbers of people cannot afford legal services. The government has recently reduced its allocation to the Legal Aid Board, and the Board is now trying to obtain funding from the private sector. When the Board approached the government and asked that donations to the Board should be deductible from taxable income, the Minister of Finance rejected this. If the government takes this attitude to its own creation, which is providing a noncontroversial and basic service, there can be little hope for relief for the voluntary sector.

It is of course entirely legitimate for government to control tax benefits, so as to prevent tax avoidance. Certainly that is necessary in South Africa. In recent years some of the most profitable companies have paid virtually no income tax, through skillful manipulation of the tax system. However, the government's attempts to ensure maximum tax collection have gone so far that legitimate and even essential voluntary activities are seriously hampered by an inability to raise the necessary funding.

The relevance of the constitutional framework

I have already mentioned the need for fundamental freedoms in the general legal framework. South Africa demonstrates that other constitutional provisions can hamper or promote the work of voluntary organisations.

The policy of apartheid has been a limiting factor on the development of the voluntary sector. It is not that long ago that government insisted that all registered welfare organisations must restrict their activities (and their boards of management) to one or other "racial" group. While this has finally been abandoned, the administration of welfare matter remains an "own affair" under the constitution. The effect of this is that three separate, racially defined, government departments administer welfare activities for people classified as "Asian," "coloured," and "white." "Black" welfare activities remain classified as a "general" affair, which

in practice means that they are subject to white political control. The bureaucratic monster is further complicated by the fact that the administration of each of the ten black "homelands" has a separate department with jurisdiction in respect of its "citizens" and in its geographical area, many of which are in turn highly fragmented. South Africa therefore has fourteen cabinet minister of welfare affairs. The only things that flourish under these conditions are bureaucracy, waste, and confusion.

Conclusion

Today we stand on the threshold of the emergence of a democratic South Africa. Social needs in critical areas, for example, education and health, are so overwhelming that there is no prospect that they can be met by government alone. A crucial question that faces us is whether a new government will recognise that it should act to create an environment that facilitates and encourages private initiative.

The imminent collapse of apartheid is in large measure the result of a flowering of popular organisations and the emergence of an active civil society. The experience of the struggle for trade unions, for nonracial local government, and for land and housing is an experience of participation and change from the bottom up. One of the ironies of the years of apartheid and repression is that they stimulated a rich and fundamentally democratic tradition that people matter and can act to change their own lives, even in a deeply hostile environment. It is critically important that a new system should empower people to act on their lives and their environment.

References

Bamford, *The Law of Partnership and Voluntary Associations in South Africa*;
Divaris and Stein, *Silke on South African Income Tax*;
Honey and Bonbright, *An Enabling Environment for NGOs* (unpublished draft paper);
Lee and Buntman, *The future of the nonprofit voluntary sector in South Africa*;
Rosenthal, *Implementation Guidelines* (unpublished memorandum for the Independent Development Trust).

Response to questionnaire: South Africa

Geoffrey Budlender

Laws and regulations governing voluntary organisations

South African law provides for a wide variety of VOs. Generally, the formal requirements are not onerous and it is relatively easy to form a VO. The major controls that exist are created not by the laws governing the establishment of VOs, but by specific laws dealing with the banning of organisations and with control over the ability of VOs to raise funds.

The Internal Security Act of 1982 (previously the Suppression of Communism Act of 1950) gave the government very wide powers to declare organisations unlawful. During 1991 the Act was amended. The government retains the power to ban organisations. The grounds on which this may be done have been limited to some extent, and it will now be more possible to challenge the banning of an organisation in court, although this will remain very difficult. There are no banned organisations at the moment.

The Affected Organisations Act of 1974 provides that the government may prohibit organisations from receiving any funds from outside South Africa. This has a clear political purpose. Organisations that were declared affected included the National Union of South African Students, the Christian Institute of South Africa, and the United Democratic Front, all of which were actively opposed to apartheid.

The Fundraising Act of 1978 makes it a crime for any person (which includes any organisation) to solicit or receive donations from the public unless this is authorised by the Director of Fundraising. Any donation received from outside South Africa is deemed to be received from the public within South Africa.

The ostensible purpose of this Act is to prevent the exploitation of the charitable feelings of members of the public, for example, by imposing the requirement of obtaining permission and substantial reporting requirements. In practice, the Act has also been used for the purpose of political control. For example, when an application for fundraising permission has been received, the Director of Fund Raising has routinely asked the Security Police to comment on the organisation concerned. Another example is that the major trade union federation, FOSATU, was expressly prohibited from receiving donations. The purpose of this was to cut off the new independent trade unions from receiving donations from outside South Africa.

Besides this overt political control, the act has been used to inhibit the flourishing of VOs. The Director of Fundraising has taken the attitude that it is his job to prevent "competition" among VOs for funds. Thus, fundraising permission will often

be refused when there is another VO with similar aims in the same geographical area.

The Director of Fundraising asserts the right to control how fundraising organisations use their funds. For example, he has asserted that they may not invest their funds with any organisation other than a registered financial institution (bank or building society). Given that South Africa presently has negative interest rates (the interest paid by financial institutions is lower than the inflation rate), the effect of this would be that VOs actually lose money on their investments. When organisations have threatened to go to court to challenge this, the Director has backed off. However, it seems that he continues to apply this rule unless challenged.

The Disclosure of Foreign Funding Act of 1989 creates the position of Registrar of Reporting Organisations. Organisations that are declared to be reporting organisations have to comply with extensive reporting requirements under threat of criminal prosecution and the confiscation of their funds if they fail to do so. This Act was first drafted at the height of popular resistance to apartheid, when anti-apartheid organisations supported by the international community multiplied and flourished. In the changed political climate, the Act has virtually lapsed into disuse, but it remains in force.

The Legal Structure and Obligations of VOs in South Africa

Most VOs in South Africa take one of the following forms: A voluntary association, a trust, or a not-for-profit company. The legal regime governing the VO will depend upon the form that has been adopted.

Voluntary associations

Voluntary associations are the most common sort of VO. A voluntary association is a legal relationship that arises from an agreement among at least three people who agree to achieve a common object, primarily other than the making and division of profits. The parties agree what the rules of their relationship will be, and these form the constitution of the VO. Voluntary associations are the easiest VOs to form and the least regulated.

A written constitution is not a legal requirement, but in practice this is essential for the effective running of the VO. The constitution typically sets out *inter alia* the objects of the association, who may be members of the association, how the office-bearers will be elected, and the relevant powers of the members and the office-bearers. The constitution can provide that the association will have a legal identity or personality of its own. The association can then own property apart from its member, and can contract or sue or be sued in its own name.

It is relatively easy to establish a voluntary association. The founding members can decide upon the terms of the constitution and the constitution can be amended as the members wish. A voluntary association may not have a primary object of

making profit. If it makes a profit incidentally to its main objects, this does not destroy its character as a voluntary association.

There is no official registration system of voluntary associations. There are no reporting or regulatory requirements for voluntary associations.

Trusts

A trust is an arrangement in terms of which a group of people (the trustees) administer funds for the benefit of other people (the beneficiaries), or in order to achieve a stated object. A trust is established by means of a contract, known as a Trust Deed, between a number of parties. These will include at least the founders (sometimes referred to as the donors) and the trustees.

The Trust Property Control Act of 1988 requires that copy of the Trust Deed must be filed and registered by the local Master of the Supreme Court.

In law, the Master of the Supreme Court supervises the administration of the Trust to ensure that the funds are not misused. In practice, there is only very limited supervision. The Master exercises some control at the time when the Trust is registered at this office, but thereafter generally has no involvement except of the most formal nature; e.g., registering amendments of the Trust Deed or changes of Trustees.

At the time when the Trust is registered, the Master has the power to require the trustees to give security (a financial guarantee) for the proper administration of the funds. The Master will require details of the trustees and their financial and administrative experience, to satisfy himself that he should not require the giving of security. The Trust may not commence its operations until the Trust Deed has been registered by the Master.

It is possible for a trust to carry on trading activities for profit.

The Trust is not required to report to the Master or any other person. The Master will require the Trust to appoint a professional auditor, who must report to the Master if he/she becomes aware of any irregularities.

Not-for-Profit companies

A not-for-profit company may be established under section 21 of the Companies Act of 1973. Its purpose must fall within the ambit of "promoting religion, arts, sciences, education, charity, recreation, or any other cultural or social activity or communal or group interest."

The founding documents must be lodged with the Registrar of Companies, and like all other companies a section 21 company may not commence operation until the Registrar of Companies has issued a certificate to commence business. A section 21 company must have at least seven members. The liability of members for debts of the company is limited to a nominal amount.

The reporting requirements are limited to the filing of certain formal information, including the names of directors. The Companies Act also prescribes certain formalities with which the company must comply, for example, in relation to the holding of annual meetings, the giving of notices to members, etc. The Act further requires that the company's memorandum contain certain prescribed clauses.

Housing utility companies are a specialised species of section 21 company. If certain specialised requirements are complied with, the company is exempt from income tax, and may receive subsidies from the National Housing Fund, which is a state agency.

General

In general, there are no financial incentives, other than those associated with income taxation, for establishing VOs. The major exception of this is that welfare organisations that are registered under the National Welfare Act of 1978 can qualify for government subsidies. However, the terms on which a VO may qualify for subsidies are so restrictive, and the administrative and reporting requirements of the Act and the relevant government departments so onerous, that the system is effectively of little or no assistance to most VOs.

Tax incentives for voluntary organisations

In general, the tax system in South Africa is unsympathetic to voluntary organisation. It is difficult for VOs to qualify for exemption from the payment of income tax. Donors to VOs seldom receive any tax benefit as a result of their donations, and may have to pay an additional donations tax. There are no officially sponsored contributions that facilitate the work of VOs.

The tax treatment of VOs

The major tax exemption applicable to VOs is section 10(1)(f) of the Income Tax Act, which exempts "ecclesiastical, charitable, and educational institutions of a public character" from the payment of income tax.

Organisations that qualify for tax exemption under this provision do not have to be registered with, certified, or approved by government authorities before they are entitled to tax exemption. Whether or not they qualify is a matter of fact, and the tax authorities have no discretion in this regard. In practice, organisations that believe they qualify generally seek a ruling from the Commissioner for Inland Revenue confirming this, to avoid subsequent disputes and litigation. The term "educational" is fairly narrowly construed, to mean institutions with the sole or main purpose of providing education in the sense of "at least an element of systematic or formal instruction, schooling, or training."

Although institutions for the relief of poverty and the protection and care of the sick generally fall within the "charitable" exemption, this term is also narrowly construed. For example, the Commissioner has taken the view that a nonprofit

community development trust, established to develop residential areas for people with low income, does not qualify as a charitable institution.

Section 10(1)(f) deals separately with funds that support ecclesiastical, charitable, or educational institutions, but do not themselves carry out these activities. In these cases, the fund must be approved by the Commissioner, who may impose various conditions. The approval may be withdrawn. Exempt funds are required to spend 7. percent of their income each year. (This condition is also generally imposed on institutions that carry out these activities themselves, as described above, though there is no legal basis for this.)

Section 10(1)(e) deals with clubs, societies, and associations. It exempts from income tax the income of any company, society, or association if:

- Its profits or gains are derived solely from transactions with or on behalf of its individual members; and
- Its constitution does not permit the distribution of its profits or gains except to the members with whom or on whose behalf the transactions took place.

Section 10(1)(cB) exempts from the payment of income tax organisations that are not permitted to distribute any profits or gains, and that have the sole or principal object of conducting or promoting scientific, technical, or industrial research; engaging in or promoting nature conservation activities; engaging in or promoting activities that the Commissioner is satisfied are of a cultural nature; and providing social or recreational facilities for its members.

Section 10(1)(cC) exempts housing utility companies recognised by the Commissioner from paying income tax. These are not-for-profit companies that have the building of houses as their sole or principal object. As pointed out above, this exemption does not cover nonprofit institutions that aim to make serviced land available for poor people: The building of houses must be the sole or principal object.

Section 10(1)(cD) exempts any body that in the opinion of the Commissioner is an amateur sporting association from payment of income tax.

The tax treatment of donors to VOs

There is no differentiation between different types of donors as far as tax benefits are concerned. All taxpayers (individuals, corporations, and foundations) are treated on the same basis.

There are no contributions that qualify for a tax credit. The only tax benefit that is available is a deduction from taxable income.

There are no municipal or other nonincome tax benefits available to donors.

Deductions from taxable income. The only donations that carry a tax benefit to the taxpayer are those covered by section 18A of the Income Tax Act. Section 18A provides that a taxpayer may claim, as a deduction from taxable income, donations

up to a certain limit made to:

- Officially recognised educational institutions that provide secondary, tertiary, adult, or vocational education;
- An educational fund administered by an officially recognised educational institution or a special educational trust approved by the Minister of Finance;
- The Bible Society of South Africa.

If a donation is made "wholly or exclusively for the purpose of trade," then it is an allowable deduction in the same way as any other business expense. In a recent leading case in the Appellate Division of the Supreme Court (the highest court), the company concerned had made a widely publicised donation to the Urban Foundation, a nonprofit organisation established to improve the quality of life of urban communities. The company argued that this was a business expense, just as other forms of advertising are. However, the court found that the company was more altruistic than it claimed, and that there was a philanthropic element to the donation. For this reason, the donation was not an allowable business expense.

All other donations do not carry tax benefit to the donor.

Donations Tax. An additional tax, known as donations tax, is imposed on the value of all gifts other than those specifically exempted. The purpose of this is to prevent avoidance of income tax and estate duty by making donations that spread the assets of the taxpayer. A donor who makes a gift to a nonexempt organisation is thus taxed twice on the money concerned: Income tax is paid in the usual way and a further donations tax of 15 percent is levied on the amount donated. (Taxpayers are entitled to make limited donations without becoming liable to pay donations tax.)

A donation is exempt from donations tax if it is made to an institution for the advancement of science or art, or of a charitable, educational, or religious nature, if the Minister of Finance is satisfied that the operations of the institution are in the interests of the public.

Officially sponsored contributions

The government do not provide any fiscal incentives to engage in public interest activities. The only "exception" to this is that during the years of South Africa's growing sporting isolation because of apartheid, substantial incentives were provided to companies that sponsored international sporting activities in South Africa.

There are no compulsory payments through the tax system to collect funds for particular organisations. There is no church tax.

There are no official or private programmes for matching contributions, except that the Minister of Justice has agreed to provide matching finance of up to R5 million (about \$1.75 million) for private contributions to the Legal Aid Board, which is the state-funded legal aid system.

Miscellaneous

There are some indications that the deductibility allowed for donations to educational institutions may be widened in the future. The Income Tax Act is being amended to provide that nonprofit institutions approved by the Commissioner, which provide land and services to low-income communities, will be exempt from the payment of income tax.

The Legal Framework and Support for VOs in Poland

Malgorzata Pleban

When the period of transformation in Poland started in 1989, the first thing the government did was to give freedom to its citizens, and one of the first Parliamentary bills was to give freedom of association. It was done very quickly in order to make the option open to all social movements to start acting.

The whole legal system in Poland is undergoing transition and the laws are not stable. New laws cover immediate and urgent needs and are not constructed in a very detailed way. As a result we have several old laws functioning, and a new bill that allows greater freedom. Freedom of association is guaranteed in the Constitution, and today foundations and associations exist in many legal forms.

There are two kinds of associations, in which the one is a simplified form of the other. There are tax laws permitting some tax exemptions from donations and tax deductions, but there are no differences in the laws for associations and foundations. It is easy to register. The registration is required, simply because, in order to take on any kind of activity, you need a bank account in order to receive donations. So, in fact, all are free to start an association if they follow the stipulations of the Constitution.

During the last three years, about 6,000 hard-working core NGOs were created. One might interpret this as being more positive than it actually is. The main problem is that the new and old laws are not consistent with each other. As a matter of fact, it is very hard for anybody to analyse what the laws regarding financial flow should look like. So at the same time nobody is restricting NGOs, but there are no clear-cut laws and everyone is confused by the legal system.

A valuated tax law is to be introduced very soon, so there are no tax laws for NGOs now. Even though there is a lot of good will and no repression, NGOs do not have a legal system, because the whole system hasn't been structured yet. There are good customs laws exempting certain items from duty, but the officials on the border are not able to recognise what is what.

Paradoxical situations can arise, such as when somebody is constructing a cemetery as a voluntary social activity, and suddenly must pay customs duty for cement or something, treating this as a building activity. And they are just reconstructing tombstones! Such things happen, because laws, in the middle of transformation, are being applied by officials at the ground level who have not yet received training in how the legal system in its present form works.

Receiving donations from abroad is tax-exempt. There is a separate division of activity for all NGOs in Poland, because they can start a business activity in order to make money for their participatory activities. If you establish a pure for-profit

business, then you pay taxes. So an association can carry out any kind of profitable business to finance itself, but then it must pay business tax.

Therefore, I am afraid it will take some time before we are able to say what laws exactly are created for NGOs and what are the financial possibilities for NGOs in Poland. The whole country is in a process of being rebuilt, so I suppose this would be normal under the circumstances.

The NGO-Civic Dialogue Programme

I would like briefly to introduce the NGO-Civic Dialogue Programme that is a component of the European Community's assistance to Poland dealing with NGOs. The NGO-Civic Dialogue Programme was initiated by the Polish government to support the development of a pluralistic democratic civic society. It aims at reinforcing the range and the role of Polish nongovernmental organisations in Polish society and enhancing their capacity to encourage self-reliance, initiative, and active participation in society by people's using their own potential skills and energies.

The programme consists of three components: Information and legal services for NGOs; education and training programmes for NGOs; and grant aid activities to support NGOs' projects and nonformal initiatives. The general objective of the Civic Dialogue Programme is to widen the range of actions and to reinforce the effectiveness of Poland's voluntary organisations and social movements in order to strengthen the participation in civic dialogue and the transformation of Polish society at both national and local levels.

The immediate objectives of the programme are to increase public awareness and clarify the role of NGOs in an open society and to assist in improving legal training work; to develop information on Polish NGOs and promote networking among NGOs; to develop the management and fundraising capacity of NGOs; to enhance their public relations capability; generally to contribute to improving the skills and knowledge base of NGOs; to increase effectiveness and sustain ability; and, last, to promote and extend the type of activities carried out by Polish NGOs of all sorts, including links with E.C.-based NGOs as appropriate.

An Enabling Environment in Czechoslovakia

Jiri Janda

When talking about an enabling environment in Czechoslovakia, one could easily start by a complaint: There are certainly many flaws in the legal framework and the tax treatment of charitable giving and charities themselves is not at all adequate. However, let us try to have a look from the side of the general public.

After four decades of totalitarian regime, preceded by the Nazi occupation of the country, only a few Communist Party-controlled charities were in existence when Czechoslovakia made its turn towards democracy in late 1989. As a result, charities were generally perceived with some suspicion and were not taken very seriously. Although new organisations and informal groups started to mushroom in 1990, and the total number of currently operating charities can be estimated at several thousand, public appreciation of their role and of their actual contribution still remains very vague.

The third sector is still fragile in many ways and this has not been helped by several cases of controversial criticism in the press, questioning the honesty, if you will, of politically independent action, or the value of the activities of some of the domestic organisations. The public could neither compare this with any standards of the third sector, nor could it expect any third sector representative body to defend the case, since none exists.

Furthermore, there has been hardly any recognition that nongovernmental activities in different fields (e.g., environment, culture, and social welfare) have one common denominator, and that they are interrelated. This feeling, of course, is often lacking within the third sector community itself. With the rare exception of one economic daily newspaper, not a single relevant attempt has been made in the media to explain notions such as "foundation" or "working charity" to the public, let alone such concepts as "donation" or "contract culture" and "community responsibility." In addition, there exist almost no statistics concerning the third sector that would prove the efficiency of its services and the value of its contribution, simply because no consistent survey has been carried out and because constant monitoring has not been possible.

This short description indicates that building a positive public image of the third sector has been insufficient and the few newly developed leading organisations could not have been a substitute for nationwide structuring and communication. The situation has started to change rapidly since autumn/winter 1991 and, also, cooperation with the relevant government authorities has entered a new phase.

However, coming back to the original point: In the first two years of Czechoslovak third sector development, there has not been enough publicity designed to persuade the government to give priority to a new, special, and complete legislation for the

third sector. Furthermore, some of the pieces, such as tax treatment, would have to wait for inclusion in the more general acts anyway.

On a more general level, Czechoslovak social development after 1989 has without any doubt brought swift implementation of the very basic rights, vital to a democracy; among them, the right to associate and the right of free expression. They have been fully acknowledged by the Bill of Human Rights and Freedoms, which, together with the amended Constitution, has pulled down the most embarrassing barriers. The new Parliament has passed an incredible number of new laws at an astonishing speed, and some of them had a lot to do with the legal situation of charities.

Following 1989, there has been a strong drive within the society to lay the foundations for democratic development. Organisations of the third sector have been a substantial and natural part of this process and it should be noted that, no matter how many changes in this specific legal and tax environment for the third sector are still needed, a lot has already been achieved in terms of general principles.

The current legislation makes it possible for the citizens to associate for the public good and to establish nongovernmental, nonprofit organisations that can create funds to support their activities, or activities of other organisations. Also, the government itself has been recognising its role and, in spite of economic difficulties, substantial government grants have been made to numerous organisations by the relevant ministries, although better coordination and evaluation would be desirable. Corporate giving is rather underdeveloped, for reasons I will mention later; however, to some surprise, there have been individual entrepreneurs and corporations that have responded to their sense of community responsibility, although they have not gained much, if anything, in terms of tax benefits.

According to the current legislation, there are two main legal norms under which charities can register. As a result, two different types of charities are recognised: Foundations and associations.

Civic code

The first norm to be mentioned is the Civic Code, amended by Federal Parliament Presidium Acts. The Civic Code, in its sections 20b-20e, gives a very basic description of how a foundation can be established, the way it registers, what the basic elements to be incorporated within its statutes are, and how the means released by the foundation can be used. A foundation registers with a local authority, according to the seat of the organisation.

The Civic Code, however, does not define a foundation to full satisfaction, does not define its tax treatment, nor does it deal with questions of public accountability nor an authorised body to which foundations would be answerable in terms of compliance with their purpose and financial accountability. And yet, thanks to the rapidly developing cooperation between the government and charities, some input by the charities has been achieved, which makes it at least a provisionally functional basis until a more specific law can be prepared and passed.

This interaction is to some extent typical of the third sector situation: The government is certainly more than open to new ideas; however, the third sector itself has to define itself and develop its standards more clearly so that further legislation could make use of its development and express the rules and definitions in a legally binding way. This very positive government-to-charities interaction presents a unique challenge to those who are shaping the environment for the third sector in Czechoslovakia.

The general consensus among charities tends to see a foundation basically as a pot of money; that is, as a grant-making legal entity administering an endowed property. A foundation, therefore, should not be directly involved in the provision of services and accomplishment of projects. That should be the role of associations. Also, its ways of increasing its financial resources should be more or less limited to banking operations or future endowments. In practice, however, many of the existing foundations are not endowed at all and must be characterised as grant-seeking organisations. It can be assumed that of the total of some 250 foundations in Czechoslovakia, many, if not most, will be closer to the concept of an association.

Association law

The next relevant norm is the Association Law, passed by the Federal Parliament in 1990, which sets out the rights of citizens to associate. The rights of associations in political parties, or of those working for profit, or in churches and religious associations, are governed by different laws. Being purely general, the Association Law does not make a distinction between associations for the public good and other types of associations, such as professional associations. Therefore, although the official estimate is that there are about 9,000 associations in Czechoslovakia, it is to be presumed that many of them would not be eligible for charitable status.

Speaking about associations that could also be termed "working charities," it can be said that they have been mushrooming all around the country, from the grassroots to the major ones, in answer to numerous needs. Typically, they cover such fields as health care, social welfare, environment, education, and democratic rights.

A note can be added about the Law on organisations with an International Element (Zakon c.116/1985 Sb.), which sets the conditions of registration and operation for internationally based organisations. Since the law recognises an international nongovernmental organisation as one of the eligible types, it can sometimes be worth considering when a long-term subsidiary operation of an international agency in Czechoslovakia is planned for. However, this law may be revoked at some future time to be incorporated into another norm.

Tax treatment

As to tax treatment, foundations and associations are, at the moment, treated basically the same way, within the definition of the so-called "civic organisation." However, there has been a lot of confusion resulting from an intricate and ineffective tax system inherited from the previous regime. Even various government authorities can sometimes arrive at different conclusions when applying the law.

Very roughly, according to the current Income Tax Act, foundations and associations should be taxed only when carrying out a constant profit-generating activity or activities, the gross income of which will exceed approximately GBP 10,000 per annum.

Associations and foundations are considered tax-exempt for any gifts and donations made to them. They are also exempt from the so-called employment tax, which could otherwise be paid at 50 percent of the gross salaries level.

As to corporate donors, they cannot get any tax relief for a donation made under the current legislation. It is only individual entrepreneurs who can deduct a maximum of ten percent from their tax basis for donations made to charities.

There is not much point in discussing this situation in detail, no matter how awkward it is, because the new set of tax laws has already been passed by Parliament and is due to come into effect in 1993. However, some difficulties have to be expected, threatening the development of the third sector:

- It is not entirely clear what type of activities the new legislation will treat as "entrepreneurial" and "competitive" and therefore tax-eligible in respect of associations and foundations.
- Corporate donors will most probably have the possibility to deduct a maximum of two- to three percent from their tax basis, which, given the weakness of the business sector, would make in most cases contributions to charities a sad irony.

Again to try to be fair one should remark that, when talking about money, the state is likely to be impressed only by an argument submitted in financial figures proving not just the third sector's efficiency but also benefits the state can get in return.

Summing up

Let me sum up very briefly:

- The environment for charities in Czechoslovakia still bears a lot of marks of previous misdevelopment and cannot be called enabling.
- However, new legislation specifically to regulate charities is being drafted by a government to charities group. It should serve as a basis for the sector to enter another stage of its development.
- As the national economy is still in limbo, and the state is likely to be restrictive in its financial policy, charities will have to develop alternative sources of funding if they want to survive being independent from government, business, and foreign funding. In short, they need to develop their own money-making skills. For that, new ideas have to be identified and tested, since many of the Western traditional fundraising techniques will have very limited results.
- The legal and fiscal frameworks are just one part of the enabling environment. To influence legislation better and also to become a real partner in the democratisation process, charities need to develop their standards and public accountability as their contribution to the

environment.

- A lot of attention must be paid to communication and networking within and outside the third sector, and international communication should be a natural part of it. Any isolation should be perceived as damaging.

VOs Operating in Romania

Anca-Maria Harasim

The area of voluntary organisations/nongovernmental organisations was very restricted before the revolution and the changes dating from December 1989. It included organisations such as the Fine Artists Union, the Writers Union, and the Blind Persons Association. Generally speaking, these associations were organised on a craft or professional basis (e.g., physicists, mathematicians), all integrated into the ideological system. Any other VO was considered a possible threat.

Since 1990, a host of organisations has suddenly appeared, especially in the big cities. This was a reaction to the central authority erosion and demolition and was the first step to a civil, nongovernmental society. Most of the organisations did not resist, either because of lack of organisation and management or because of the lack of any official support (e.g., headquarters, taxes, facilities). Many were exotic as a main idea or structure.

After December 1989, most of these new organisations declared themselves apolitical with no aim for the political struggle. But, in fact, they participated in the political struggle whether through their candidates in the election or through intervening in political affairs.

In contrast with the VO type of organisation, political parties started off with more difficulties than nongovernmental organisations, but political organisations and the local and national opinion leaders avoided them. The nonpolitical involvement comes from the fact that, a few months ago, under Ceausescu, any nonpolitical organisation was considered a potential opponent (e.g., the Writers Union, the Philatelists Association).

At the beginning, the difference among political, commercial, and nonprofit organisations was very unclear. In many cases, the VOs being set up were a mimicry (i.e., the League for Animal Protection). Among those involved in the new organised VOs, there were some people who had had some experience in local or national initiatives and understood what a VO is and how it works or functions. After two-and-a-half years one can find these people involved in politics or in business; some went back to their professional career and others remained in the VOs.

What will happen in the future in Romania? The number of VOs will increase very slowly, and at the same time, their area of interest will become more focused. More foundations will be established and developed in the next few years.

What do the VOs from Romania need? Their main need is, on the one hand, communication among themselves and with their sister organisations from abroad and, on the other hand, communication with the society and the state. The second

need is management skills in two areas: Resources and funds administration and fundraising. The third need is better and more favorable legislative regulations.

Profile of Romanian VO legal and financial status

On December 8, 1991, the Constitution was voted in Romania through a national referendum. It stipulates the right to free association. The main and only regulation that can be found in judicial practice is Law no. 21/1924 for juristic persons (Order no. 452/February 5, 1924). It is based on the French Law from July 1, 1901, concerning the right to association.

In addition to the law from 1924 is Order no.31/January 30, 1954, concerning physical and juristic persons. These two laws establish the legal status for VOs that have to function under a certified juristic person who represents the rights and duties of any nongovernmental organisation.

The way these organisations are taxed is stipulated in the Romanian Government Order no.804/December 19, 1991, according to the Law no.56/1991, by which the Government is authorised to establish and modify taxes and fees. In Romania, there is no legislative stipulation that covers the rights and duties of VOs concerning strategy, development, organisation and administration, annual report, the accounting verification and inspection, and so on. So there is a large amount of liberty that in fact contributes to the great disarray.

The state is interested only in taxes on the income of staff or any type of fees (i.e., for children). The Economic Order no.804/December 1991 mentioned above stipulates that the commercial or economic companies that make donations for a cultural, educational, or humanitarian purpose will be exempt from any taxation for this donation. It is included in the expenses of the company and is not deducted from the profit.

There is no law that stimulates or encourages companies to make donations to a nonprofit organisation. The lack of legislation is a result of the fact that the state does not see as its duty to support these organisations with any elementary assistance such as headquarters, training, or various facilities. It is not expected in the near future that the legislation will be changed because there is no lobbying by the organisations in this direction.

Now I would like to be more specific to the questions proposed in the plan of the Workshop, even though, at this point in the legal and policy frameworks, the rules have not been established yet and the outlook for the future is not extremely optimistic.

Government policy

The present government considers that VOs are allowed to function in Romania (if they have, of course, a legal statute and a juristic person that enables them to operate in order to reach their goal). Government support is practically nonexistent, but if one considers any cooperation between a VO and the state, the government

would want these organisations to operate with minimum support and under its control.

There is no economic support or state funds that promote VO activity. In some emergency or unavoidable situations where it would be the state's duty to do something in the field, but there are no funds for this, the government will find the suitable organisation that is ready to help with energy and money (i.e., the Blood Collecting Centre that urgently needs AIDS tests).

The government or single state departments do not cooperate directly with and do not provide VOs with any service contracts (there might be some rare exceptions). On the contrary, the State Secretariat for the Handicapped Persons brought the main Handicapped Persons Association to justice for embezzlement and dislocation of the funds received from abroad as donations on behalf of this organisation.

Government and VO cooperation, or government's taking advice from VOs, is almost nonexistent. From an informal point of view, one can find a small exchange of information and support, but it is hoped that after the general elections in September 1992 some better premise will be created for better cooperation. There is no restriction on VO activities in any way, but the bureaucratic system restricts in a way the activity, especially in the field of funds manipulation.

For some of the organisations where the state is interested in making up its own duties, some cooperation is encouraged, but under the same controlled and bureaucratic system that was mentioned above (i.e., the Red Cross). To conclude, the government authorities don't support nor facilitate any initiative regarding the formation, development, or cooperation of VOs.

Local administrative policy

There is an important difference between government and local administration policy. In some cases, the independent VOs inconvenience the local authorities with no real reason. For instance, the different political climate in two big cities in Romania, Cluj and Timisoara, shows a large difference in the way VO activity is supported in each place. In Timisoara, a Local Federation of 20 organisations was created for better information and cooperation. In Cluj, the local administration mixes politics with administration and uses all opportunities to support its political goals, so we can say that its only aim is to put a spoke in the VOs' wheels.

The only example that can be given of the way the administrative bodies cooperate directly with the VOs is similar to that from the government level. The purpose of this collaboration is the substitution of the local authorities' duties with the help of the VOs' energy and funds. An example is the setting up of the Local Minor Centre for reeducation, which is in fact a prison where children are brought in and given a decent life and education.

Generally speaking, the administrative bodies do not believe that they should take advice from VOs, but in some cases when they are convinced of the "noble goals" of the VOs, or have direct advantages from the VOs' activity, an incipient way of exchange can be the basis to start the contact on. So again, there is no real local support for the formation, development, or cooperation of VOs.

Laws and regulations

In Romania, VOs are organised as "nonprofit" or "nongovernmental organisations" or "foundations." The laws and regulations that create a system for these organisations to function are very old and were mentioned above: Law no.21/1924 (for juristic persons, based on the French law 1901), Order no.31/1954 (concerning physical and juristic persons), and the Government Order no.904/1991 (for taxes and fees).

It is not too difficult to establish a VO, given the bureaucratic system that has to be faced during the initial proceedings. Any organisation has to be registered with the local legal authority and will be deregistered when it closes down. VOs can operate as nonprofit entities or can have some economic activity (whose profit will be taxed according to the law).

The purpose of an organisation can be a public one, or a private one, depending on the purpose of the organisation itself. According to the 1924 law, every organisation has to be supervised and checked by the related ministry (i.e., the Soros Foundation has to have two inspectors, one from the Ministry of Education and another from the Ministry of Culture). This does not happen, whether unfortunate or not, and there is no control for the organisations.

Tax treatment of VOs

As I have already said, there is no incentive system that encourages people or organisations to make donations to VOs. The eventual donation need not be registered nor certified by government authorities. The main activities in which a VO may engage are health (protection of orphans or handicapped, blind, or deaf persons), education, social welfare, human rights, ecology, and so on. There are no specific activities in which a qualified VO may not engage, but a VO can be disengaged once it does not respect or follow its own statute or its activity is seen as detrimental to the security or unity of the country.

Certainly, the use of VOs' funds has mainly to be for the purpose for which the organisation was created, but there are no restrictions concerning other ways of using the money. When a VO engages in profit-oriented activities, these will be taxed according to the profit obtained from that specific area of interest.

Treatment of donors

As I have already said, the only advantage for a donor (represented by an individual or an institution) is that the donation is included in the expenses of the company and is not deducted from the profit.

The Legal Framework for VOs in Bulgaria

Mois Fayon

I would like to make just a few comments on the Bulgarian legal framework. I have found that the problems in other Eastern and Central European countries are very similar to the problems in Bulgaria today. Not only the legal framework of the voluntary sector but the whole legal system in our country is in transition, and sometimes laws are passed that contradict other existing laws and this will be the case for the next two or three years, I suppose, until the whole legal system is settled.

The Constitutional guarantees of fundamental freedoms, and in particular the freedom of association, exist and in general there are no abuses of the fundamental freedoms. A new law on foundations and voluntary organisations is to be adopted soon. For the time being the old law is in existence but it is actually not applied, because it gives the government too many rights to interfere with the operation of voluntary organisations. And, fortunately, the government does not interfere as much as it could.

As far as the policy towards the voluntary sector is concerned, I would like to say that the government does not have the means, and especially not the financial means, to support or to cooperate with the voluntary sector. But it also does not interfere and does not create additional obstacles for its operation. There are probably some exceptions, especially with the registration of voluntary organisations. We are moving toward independence of the legal power, but it is still not fully independent. Sometimes the decisions are influenced by the current policies.

Concerning tax incentives and tax regulations, there are tax deductions for donors donating to voluntary organisations as there are tax exemptions for the recipients; that is, they do not have to pay the usual tax for receiving donations.

As I mentioned yesterday, there was a peculiar experiment in Bulgaria that lasted two years, with tax-exempt status for business activities carried out by foundations. This experiment is over now and foundations or other voluntary organisations that wish to go into businesses to support themselves are treated as business companies. I think that is more fair, because the tax-exempt status of voluntary organisations involved in business is actually unfair competition with the second sector.

Synthesis

Sheila Avrin McLean

I think we are now saturated with facts from varieties of countries with varieties of legal systems and varieties of policies. We do not have time for a full synthesis, nor have we yet heard from presenters from all the countries represented here. At this stage, therefore, I would like to make a few comments, as a partial synthesis.

I found very interesting the fact that each presenter here said that freedom of association is basically *O.K* in his or her country, *not guaranteed*, but *O.K.*, even though the state of law is in different situations. And yet, the embodiment of that freedom is important. Geoff Budlender raised interesting questions about the legal structures that embody freedom of association.

Does it allow for flexibility among institution and entities--the small grassroots organisations that he referred to? Should they be treated in the same way as larger institutions that handle a great deal of money? That is a question that does not normally come up in these kinds of discussions. It is interesting, particularly because the law is now being changed in Poland and Czechoslovakia and I think we have a hint that it may be changing in Hungary as well. Should their legal systems treat smaller, grassroots organisations differently from larger, better established ones?

Are those the kinds of things that people are paying attention to? Is there flexibility of mind and spirit in the minds of the government entities that are considering these kinds of questions? We heard that in Czechoslovakia there is a very good dialogue right now between the government bureaucrats and the voluntary sector. That dialogue does not exist in Romania. It sounds as though it does exist, to a degree, in Poland. It certainly does not exist in South Africa, as far as the bureaucratic implementation of the law goes, but the spirit of the bureaucrat and the training of the customs official, the tax official, to recognise that VOs are very special. The fact that they have certain privileges is also very important.

This brings up the difference between regulation and policy. In America, we recognise that fundraisers must be regulated because some of them have exploited the system (not necessarily in the same way as in examples given here) and we accept the fact that in our states we have attorneys general who regulate the fundraising.

But when does regulating move over the line to become policing? We have the extreme case in the South African situation, where, in fact, the regulators police and that is an important "bad case," as we say in law school. Bad cases make interesting, not good, laws. But we should think about that. How do you prevent it from happening? How do you prevent regulators from policing?

And I think that with tax laws there is perennially the question--and the example from Czechoslovakia raised it--when the economy is bad, ministry budgets are

decreased, and governments no longer have the funding they once had for cultural, educational, scientific, and charitable activities. Where does the money to support these public endeavors come from?

I heard today something that was not new to me, but surprised some participants. That is, that businesses are not permitted charitable deductions. In the United States, in fact, until the 1930s, corporations were not permitted a charitable deduction either. The reason was that, under law, businesses conducted business, and the shareholders were entitled to the money they earned. So there was a big legal dispute in the United States about whether or not businesses could in fact give charitable contributions. I can see that this dispute is going to come up in other countries in other settings.

In the United States, we resolved it, but it took many years of battling, to say that a corporation is a legal entity that lives and operates in a community and, as a member of that community, it owes that community certain obligations and responsibilities that it must pay back. And that was, essentially, in very oversimplified form, the argument that won the day and allowed charitable contributions by businesses. This same argument may be helpful in various settings when organisations are lobbying to help make this deduction available to VOs.

The other tax-related issue that will come up is the one about business activities. As VOs look at fundraising beyond individual contributions into events and other activities, or perhaps making a shop in the organisation to sell goods (as Oxfam does around the world), it is inevitably going to come up: What is the difference between related and unrelated business activities?

The following four points may serve as a summary of many of the very interesting questions that were raised this morning.

Perspectives of Constitutions, Bills of Rights, Laws, and Policy in South Africa

Pius Langa

Everything we have heard so far, of course, points to the need and importance of a vibrant voluntary sector. Its importance lies in its significance to democracy itself, in addition to the obvious benefits to the people involved in it and the services offered to the community. After all, the test of a democratic state is the extent to which it tolerates and allows dissent and potential dissenters and guarantees and protects their right to such dissent. VOs have a tradition in some countries, particularly in South Africa, of presenting a challenge to the laws, policies, and practices of those in authority.

I would agree with Professor A.M. Eya Nchama, who, in a discussion on the role of human rights of NGOs, observes:

"...any governmental...agency...that excludes the activities of NGOs will have difficulty in dealing with the promotion and protection of human and people's rights. The political, economic, commercial, strategic, or ideological considerations of states prevent governmental organisations from taking charge of individuals and peoples...the only way of promoting and protecting human and people's rights is to prepare laws and standards that allow NGOs involved with human rights to operate legally..." (Human Rights Bulletin 90/1, United Nations, "The role of the nongovernmental organisations in the promotion and protection of human rights.")

The remarks are, of course, applicable to other VOs as well, in addition to the human rights ones. What it requires is that the laws of the country must be so structured that they create space for VOs, not just to lead an existence that is dependent on the good offices of some government authority or other. The organisation must have a law-guaranteed right to exist and scope to function.

Ideally, there should be a relationship that is more than one of an uneasy coexistence between the VO and the government or organs of state. The tradition in South Africa is that the authorities only feel obliged to receive representations from statutory bodies. There is no tradition of according any recognition, albeit informal, to nonstatutory or voluntary structures--notwithstanding that they may be elected and therefore representative of a constituency. This is obviously unsatisfactory.

We know that all governments have to grapple with the real temptation to grasp maximum control of everything. Governing under totalitarian conditions has enormous attractions for those in power everywhere, not just in South Africa. The new South African constitution must ensure that those in power will find it

impossible to succumb to the temptation. However, a future government in South Africa, if it is to address properly the legacy of inequities and imbalances of the past, must necessarily therefore have powers sufficient for the purpose. Otherwise, the passage to a democratic state may mean nothing, in practical terms, to those who have been fighting for deliverance from oppression. The reconstruction necessary nationally may mean that the people only achieve an empty deliverance.

Now, in order to achieve the correct balance between the power to facilitate changes and to resist all temptation to grasp power, it is necessary that the community take part in the constitution-making process in order to bring forth a constitution that comes from the people themselves. It is appropriate that we are addressing this question today here at this stage in South Africa's history. All the sectors of the community must be involved in constructing that constitution. That way, the constitution, in a South African context at any rate, would truly reflect the sovereignty of the people.

Of course, the present South African Constitution has no Bill of Rights. What it has, however, is a pretty-sounding preamble that translates itself into nothing in terms of the promotion and protection of fundamental human rights. It commences by proclaiming "...humble submission to Almighty God..." I make no further comment on this aspect.

It then goes on to declare a solemn awareness of the necessity to pursue certain national goals. It constitutes the entire bill of rights of the South African constitution and takes about two seconds to read:

To uphold Christian values and civilised norms, with recognition and protection of freedom of faith and worship;
To safeguard the integrity and freedom of our country;
To uphold the independence of the judiciary and the equality of all under the law;
To secure maintenance of law and order;
To further the contentment and the spiritual and material welfare of all;
To respect and protect the human dignity, life, liberty, and property of all in our midst;
To respect, to further, and to protect the self-determination of population groups and peoples;
To further private initiative and effective competition.

And that is the end of it.

One wonders, in the light of everything we know about the South African government and what it is doing at the moment, what is meant by the sentence: "To respect and to protect the human dignity, life, liberty, and property of all in our midst...." It is to be noted that the preamble carefully omits to mention other freedoms, including the "freedom of association and assembly." One searches in vain for any sign of an intention in the Constitution to recognise the right to existence of the voluntary sector. To date, the government has maintained a deafening silence on the issue.

This, of course, accords with the manner in which the government has treated this sector, in spite of the fact that the law actually allows this sector to exist.

Government policies were a direct antithesis of a freely operating voluntary sector. Repressive laws were used ruthlessly to strangle this sector, concentrating not just on political organisations, but also on a variety of interest groups. Methods of dealing with organisations, in terms of the laws of the country, ranged from:

- Outright bannings;
- Restrictions on all activities, while allowing the organisation to exist on paper;
- Restrictions with regard to specific activities (e.g., prescribing that an organisation that was created in order to care for the aged can do everything else except care for the aged); and
- Restrictions on receiving funds.

Government policies led to the harassment of many other organisations and groupings, and those that survived had to operate in a completely hostile climate. Organisations targeted, using laws on the statute book, were a host of community organisations; namely, extraparliamentary political bodies, civil and residents associations, rural bodies, women's organisations, youth organisations, student bodies, sports bodies, trade union formations, media workers, and professional bodies.

Some organisations were able to carry on, simply because they were big and influential enough internationally. There was a love-hate relationship between the South African Council of Churches (SACC) and the government (the SACC loved the government, and the government hated the SACC), but the SACC survived because the government simply could not risk creating the perception that it was engaging in a war with the church.

But the legal threat was there; a full array of laws were used. The Internal Security Act was the principal legislation supplemented by others such as the Affected Organisations Act of 1974, which was used against the National Union of South African Students (NUSAS) and the United Democratic Front (UDF) in 1988, and the Disclosure of Foreign Funding Act of 1989. The last was clearly intended to intimidate not only recipient organisations but those international busy-bodies who supplied the funding.

But what of the future? It is clear that provision must be made in the Constitution and the Bill of Rights for the strengthening of democracy by the promotion of the voluntary sector. Not many organisations have come out with a programme of how they intend to achieve this. The ANC's policy document ("ANC Policy Guideline for a Democratic South Africa," as adopted at the National Conference, 28-31 May 1992), however, expresses itself as follows:

Our Constitution shall guarantee the space for civic bodies, trade unions, and the numerous other organisations that people create to deal with their every day problems and aspirations. These are the institutions of civil society which are crucial if we are to have a deep and thorough democratic order.

Further, when dealing with local government, it states:

Democratic local government is more than just having the right to vote in a local election. It also includes facilitating the creation of a strong independent civil society, a high degree of accountability, transparency and the right to participate in decision making processes which affect communities between elections.

Second, local government will have the right to negotiate the delegation of certain power to particular bodies involving organs of civil society. Besides giving scope to the involvement of civil society, the ANC envisages that local government will play an active role in promoting institutions of civil society, particularly associations of disadvantaged sections of society. This could be done by giving support and resources to such organisations.

In the revised version of the draft Bill of Rights (ANC Constitutional Committee, May 1992), Article 5 goes a little beyond merely guaranteeing the right to exist, and I read:

There shall be freedom of association, including the right to form and join trade unions, religious, residents, students, and social and cultural bodies and to form and participate in NGOs.

Legislation shall provide for the right of such associations to be heard in appropriate cases before any action is taken or measures proposed by any public or private body which could directly affect the interest of members of the association.

One hopes an ANC-inspired Constitution would follow this to its logical conclusion by ensuring the life of the VOs through financial grants and appropriate tax benefits. It is one thing just recognising the existence of the voluntary sector; it is another actually promoting the kind of climate in which this sector will thrive and make the kind of contribution that will be needed to enrich our society. It is in this spirit that the ANC, again in its policy guidelines document, draws specific attention to "special measures...necessary to advance the interests of the most disadvantaged..." and "...special mechanisms...necessary to advance and monitor affirmative action programmes."

Some of the measures and mechanisms must necessarily be the establishment of VOs and recognising them, special interest voluntary structures concentrating on issues such as gender discrimination, workers rights, the interests of the disabled. The guidelines, for instance, propose recognition for a Charter of Human Rights for Women to supplement the Bill of Rights. Such a Charter would spell out in detail the full range of rights for women, highlighting the rights of which they have been deprived as well as the means whereby they will realise them.

Similarly, a Workers Charter is provided for that would also supplement the Bill of Rights and set out those rights that workers throughout the world have gained for themselves. The ANC has also proposed that provision be made for enforcement mechanisms in the human rights sphere; namely, a Constitutional Court, a Human Rights Commission, and the creation of an Ombudsperson. It is inconceivable that

these institutions can function properly without lively interaction with a variety of VOs representing special interests. For example, the Human Rights Commission will have to entertain complaints emanating from special interest groups--the voluntary sector--that will draw attention to these violations.

But, of course, constitutions and laws can only create space. It is the ability and enthusiasm of those organisations to occupy and make use of that space that counts in the long run. In the final analysis, it is the people themselves who will safeguard their special interests. The law will simply supply the instruments.

Restoring Civil Society in Hungary

Peter Balazs

Thank you for the opportunity to talk to you about democratic reforms and human rights programmes in Hungary. Prior to the democratic changes, Hungarian legislation focused on the limitation of assembly rights except for leisure time clubs. Political activity was not welcome in those clubs and the establishment of parties and trade unions was not legalised.

There was a small chance though. Following the Constitution in 1949, the concept of "social organisation" has come into being as an umbrella concept for all nontraditional organisations. The same concept allowed for the formation of the Association of Young Democrats in 1988 or the Democratic Trade Union of Research Workers.

A special feature of the Hungarian society is the presence of separate legislation for parties and social organisations. A new feature of our social life is that chambers of various fields are being formed; e.g., Medical Chamber, Chamber of Journalist, etc. But these new formations have not yet found their right place in society and efforts to force every citizen to join one of these organisations have to be curbed. In the development of Hungarian democratisation, it was a significant milestone when a new civil code was enforced in the 1970s and new parts of the Constitution were declared in 1990. The new civil code arranged how to set up foundations and associations, what the main benefits areas are, and what support is given by the government.

In general in Hungary we can speak about freedom of speech, freedom of thought, and freedom of assembly. The Republic of Hungary recognises that respect and protection of those rights is a primary obligation of the state. Every human being has the innate right to life and dignity and no one may be deprived of those rights. No one may be subject to torture or to cruel or inhumane treatment or punishment, and it is forbidden to force a medical or scientific experiment on human beings without their consent.

The article on free movement is very important nowadays. The foreword says that, except for some cases defined by law, in the territory of Hungary there is free movement and the right of choosing his or her place of residence, including the right of leaving his or her domicile or the country. Foreigners staying in Hungary may be expelled from the country only on the basis of decisions in accordance with the law.

Everyone has the right to the freedom of thought, conscience, and religion. This right includes the free choice or acceptance of religion and any other conviction according to one's conscience and the liberty to accept or refuse a religion or to teach one's convictions either individually or together with others publicly or in a closed circle.

The church function is separate from the state, which is important now. Everyone has the right to the free declaration of his views and opinions and has the right of access to information of public interest and the freedom to disseminate such information.

Hungary recognises and protects the freedom of the press, and the right to peaceful assembly and guarantees its practice. Everyone has the right to set up organisations for purposes not prohibited by law and to attach to such organisations. There is only one restriction: For political purposes, no armed organisation may be established on the basis of freedom of association.

The next topic is an important one. Hungary guarantees the equality of men and women with regard to all civil, political, economic, social, and cultural rights. Special rules ensure protection for women and young people in the performance of their jobs.

The national and ethnic minorities are granted protection in order to ensure opportunities for their participation in public life and to enable them to foster their own culture, use their mother tongue, receive school instruction in their mother tongue, and use their own names pronounced in their own language. The laws also ensure representation in the Parliament for national ethnic and minority groups.

Finally, all persons are guaranteed human and civil rights without discrimination on account of race, color, sex, language, religion, political, or other views, national or social origins, or any other grounds. Any such discrimination against persons is strictly punishable by law.

This is the legal framework dealing with human rights, freedom of speech, and so on. But the actual practice might sometimes be different. So the civil society has to adapt to living in the way that is written down in the Hungarian Constitution.

Legal and fiscal aspects

As mentioned earlier, in 1987 a new civil code was enforced with strict rules for setting up foundations and associations. The procedures have now been legalised, and it is quite easy to establish new foundations and associations.

The following are some specific constraints as well as benefits for NGOs:

- There is a possibility to apply for a subsidy from the state budget once a year for every NGO. A special committee of the members of Parliament make decisions about who will get the money and who will be refused;
- Both individuals and legal entities enjoy the same indirect tax benefit (i.e., a deduction from taxable income). Only money contributions are entitled to these benefits; securities and other services are not;
- There is no other way to get tax deductions for donors; a donor cannot make a donation instead of paying taxes;
- Recipients of grants, subsidies, etc., do not pay personal income tax on their grants, subsidies, etc.;
- Payments out of funds of hard currency are totally exempt from any tax-

- paying, except for salaries and wages paid out of funds;.
- Another benefit is that the donations of equipment and machinery, which are to be used by a foundation, are duty-free.

Moreover, the legislation relating to nonprofit organisations is, in the near future, on the agenda in the Hungarian Parliament. The Hungarian Centre for Foundations is taking part in the preparation of the legislation.

The Research Institute for the Hungarian Economy has set up a nonprofit research group with the main aim of preparing legislation for nonprofit organisations. That group is supported both professionally and financially from the United States. The group is monitoring existing nonprofit organisations in Hungary to be able to make proposals for legislation. Certain partial results of their findings are published from time to time in Hungarian and sometimes in English, too.

Assistance to NGOs

We have some foundations in Hungary whose goal is to give assistance concerning human rights to civil society. One of those foundations, and the Academy of Science, publish the periodical "Acta Humana" in English, which deals with human rights programmes in Hungary and in Europe.

We have a new benefit in making contact with the United Way, which means that if Hungarian-born citizens living in the United States or Canada want to give donations to Hungarian foundations, they can receive a tax deduction if they give the money through the United Way.

Synthesis

Frene Ginwala

Given the very different starting points of the speakers, I am not going to try to integrate, but am comparing South Africa, on the one hand, with a kind of collective approach to the Eastern and Central European countries on the other.

Freedom of association

In the Eastern and Central European countries, constitutions and laws that allow VOs and guarantee them rights of freedom of association, assembly, access to the media, and so on, are there in theory, but other necessary elements are missing; e.g., the absence of a legal framework and favorable economic conditions. There was debate about different approaches of governments and whether they are deliberately creating obstacles to VOs, or whether it is just that they are unfamiliar with VOs and do not know how to regulate them.

In South Africa, there is no political or policy environment and no legal or constitutional guarantees for VOs for such rights as freedom of association, assembly, and access to the media. The laws create an environment in which it is possible for VOs to form associations legally, but also to experience controls on the functioning of the associations.

And so, one has these two different kinds of systems that give rise to different kinds of problems.

Problems of transition

In the Eastern and Central European countries, these problems include implementation, a lack of clarity of the position of the VO because of a mixture of old and new laws in place simultaneously, and attempts to interpret old laws in modern circumstances. Legislation has often been hastily drafted and passed without appropriate consideration. Is it just the problems of the laws or problems of cooperation between governments and VOs on these particular issues of getting the environment right?

As to South Africa, it is significant, and reflective of the society, that the South African presenter [Geoff Budlender] used words like "policing" and "patrolling borders." There are controls on the existence of VOs (e.g., they can be banned) and on their area of operation (i.e., to stop competition). For many VOs, international links provided some protection against banning.

Fundraising and taxation

There seems to be no clear restriction in the Eastern and Central European

countries on receiving donations/gifts or fundraising. In some countries different rules apply to "foundations," which fund projects, and "associations," which implement them. There are limited benefits for giving to VOs. In some cases, there are exemptions and tax deductions for donations. There are problems when it comes to commercial or profit-making activities, as well as when the VOs supply services for a fee instead of free.

In South Africa, VOs need permission to collect and to receive funds. In addition, there is a tax on donations, which makes it more expensive to give than to spend. There is tax exemption, but problems will arise as VOs engage in commercial/income-generating activity, especially as VOs move to developmental activity as distinct from charity work.

Culture of philanthropy

This culture, which exists historically in the Eastern and Central European countries, is now being encouraged but the disintegration of the economies means that there is little money to give. The only domestic source of funding for VOs is government grants.

In South Africa, there is no culture of philanthropy in the ruling culture nor in the corporate sector, although international companies engage in "social responsibility" programmes. In the popular culture, sharing and community effort have a long tradition, hence the development of a vibrant voluntary sector.

Foreign funding

In both the Eastern and Central European countries and South Africa, there is great dependence on foreign funding.

Relations with government

In the Eastern and Central European countries, levels of cooperation with governments varied. In some cases, there is active dialogue between VOs and governments for establishing new regulations or for implementation of rules.

In South Africa, the government sees VOs as a threat. Hence, there is no cooperation. Also, as part of the resistance, VOs are reluctant to cooperate with the government.

Problems and recommendations

In some Eastern and Central European countries, the concept of VOs is unknown and, because they are not recognised as a specific category in law, no priority is given them. The VOs experience difficulties because the citizens do not yet have confidence in democratic values. They do not engage in lobbying or advocacy and

there are no legal institutions nor a culture of challenges in the courts. They are developing a legal framework for common procedures and statutes. It is important for VOs to build local expertise. There was no continuity on the need to register VOs, but agreement that there should be minimum regulation and, on the part of VOs, public accountability and transparency. Lawyers should not be allowed to make money out of sophisticated procedures. In some countries, such as Bulgaria, VOs related that the cultural rights of some minorities have been forbidden.

In South Africa, in addition to freedoms of association, expression, and access to the media, there is the need to add the franchise as an essential base for VOs to function. There should be no power to ban VOs nor should it be necessary to register them, but it is important to demand accountability and transparency from VOs. Misuse of publicly collected funds should be a criminal offence and there should be no discretionary powers in allowing tax exemptions. The new Constitution and Bill of Rights should recognise the role of civil society and demarcate its functions/areas of operation, but, while laws and constitutions create space for VOs, it is up to the VOs to use that space and extend and consolidate democracy. Given a prohibition on racism and sexism, cultural, religious, and other rights can be exercised subject to these provisions.

Session IV:
Building Institutions

Introduction

Alan Phillips

This afternoon's session on building institutions in voluntary organisations deserves a text that recalls the evangelical pioneering spirit of many voluntary organisations and their leaders: "Prepare to meet thine end!"

We have agreed the importance of a vibrant third sector of voluntary organisations, but, within that, how indispensable is each voluntary organisation and each leader?

This question must, first and foremost, be considered in the planning role of an organisation. Planning is a concept that, I would argue, is essential for all organisations however large or small they may be. In large organisations, it is given the grand title "strategic planning," but it is capable of providing us all with a solid foundation for future work.

This activity demands information, and, more importantly, an understanding of the society and the environment in which an organisation is placing its work. This is particularly difficult to anticipate when there are changes from a total command economy to the possibility of an unrestricted free market, or when there are possibilities of a plethora of alternative economic systems within this spectrum. An understanding of the voluntary organisation's own history, expertise, and perception by others is essential, while an appreciation of like-minded actors must be part of this planning.

How necessary is your organisation? How much does it duplicate other bodies? Who are its natural partners? Does it have rivals or enemies through unnecessary competition? How does it cooperate with others? What kind of voluntary organisation is it? Can it be characterised as one that delivers a service or is it one that campaigns for changes in the policies of others? (These categories are not mutually exclusive, but, in practice, voluntary organisations tend to fall into one of these two categories). Is the organisation a mutual aid society by and for the benefit of its members, or is it an external agency offering expertise and resources? Does the organisation really create empowerment of new actors within the democratic process or does it create a new dependency to justify its own needs?

Effective organisational planning demands a reexamination of objectives to see if they remain relevant and this should lead to establishing priorities. The temptation is always to have too many priorities, reflecting a new expression of our own indispensability. This analysis then leads readily into planning the nature of the work, the modalities, and the goals. The plan would include the basis of the accountability of the organisation and how it intends to promote itself to the outside world.

The process of strategic planning is as important as the content. It should involve all relevant participants in the organisation. A major danger exists if plans are only produced by a small funding group or a founder and not genuinely shared. Not only is this the antithesis of the "democratic process" that should be fundamental to all voluntary organisations, but it is likely to lead to immense internal problems and even sow the seeds of the destruction of the organisation.

It is at the latter stage of the planning that the potential resources of the voluntary organisation should be analysed and, if necessary, the initial planning be moderated. The potential resources include the future membership, an improved board of management, staffing and staff training, premises, and prospects for fundraising.

From my own experience of developing plans for three organisations, whose staff ranged from a four to 35 to over 200, which initially faced financial disasters, it is crucial to develop a good strategic plan before fundraising. There are many pressures to fundraise instantly, but the weakness of projects will soon become apparent if they are not set within the framework of a long-term plan. Additionally, it ensures that the issue of whose funding may be accepted can be judged effectively and it helps avoid being seduced by funds away from the organisation's primary mission with the "tail wagging the dog." It provides a base on which to educate the donor, to argue for a continuity of funding, and for donors to assess the limitation of risks they are taking.

This is a time-consuming task, but one that is essential as are reviews of the strategies, when the environment changes, which in Western organisations is normally every three-to-six years. However, in a rapidly changing political or economic environment, this period may need foreshortening. A review of strategy can be a painful process if the funders and originators of the first plan did not share it with others, who may see this new plan as a rejection of their ideas and vigorously resist it. I have seen many major battles around this, where the only way forward was the metaphorical killing of the founders as they had not prepared to meet their end and did not recognise the limitations of their perspective.

There is an old Hungarian proverb that all leaders of VOs should remember: "The graveyards in Hungary are full of indispensable men."

Building Institutions in South Africa

Wallace Mgoqi

A democracy is characterised, among other things, by what de Tocqueville observed and admired: "...the habit of setting up free, spontaneous associations for every conceivable purpose." [1] Having explored the functions of voluntary organisations in fostering democratic development, and having shared country profiles, similarities and differences and the challenges facing our respective countries/regions, and having examined the importance of an enabling environment in terms of legal and other policy frameworks required for a vibrant voluntary sector, we now have to understand, more concretely, what building institutions means.

I want to suggest that building institutions has to do, among other things, with organisational capacity for development. Organisational capacity itself consists of both the organisational structures and potential on the one hand and the human resources and potential on the other, through the creation of development opportunities for individuals and the growth of institutions.

Organisational capacity

This has to do with the very structures/layers as laid down in terms of the foundation document of the organisation. Both form and substance will be reflected therein. The vision, mission, and programme of the organisation are articulated in relation to matters such as area coverage, population coverage, organisational, institutional, and management mechanisms, financial and other human resources, needs and their mobilisation, human potential needs and the development thereof, and the nature, spirit, and dimension of cooperation with resource-sharing agencies. All this is important for their own identity and for identification by outside sources and agencies.

Organisational capacity also has to do with how the organisation is structured and how the institution approaches its tasks. In development theory and practice, there are two approaches.

The traditional approach. This is the top-to-bottom paradigm. It is premised on the assumption that substantial development can only be initiated by individuals or units in positions of power or authority and bring about change on a wide scale. However, this characteristic, which is perceived as its strength, is also its weakness, since the grassroots, for whom development efforts are intended, are not involved in the planning process, and the benefits intended for them may either come in trickles or be inappropriate for application to their case, now or in the future.

The participatory approach. This approach is the opposite of the top-to-bottom paradigm. Its logic is that those who would benefit most from the development--the grassroots--are the best people to initiate, determine, and sustain these developmental efforts. It embodies principles such as self-reliance, social and political maturity, and self-determination.[2]

The development of human potential

The other aspect of organisational capacity involves the development of human potential within the organisation. Staff development/training is an essential process in itself on an ongoing basis for the maintenance and continuity of any organisation. It has of necessity to be predicated upon the training needs of the participants and related to the goals of the organisation in the short, medium, and long term. Evidence is overwhelming supporting the view that people, not machines, are the driving force behind economic growth. Without a growing economy and the sustenance of development infrastructure in people and their organisations, there can be no democracy. External sources of finance cannot withdraw rapidly until the process of economic recovery has taken place, if the imbalances experienced by the disadvantaged are to be eradicated.

Most grassroots organisations are crippled by lack of funds. There has to be injection of funds into them with the necessary control mechanisms to enable them to function effectively. Their will to forge ahead against all adversity requires all the support in funds that we can amass. To do otherwise can only destroy any prospects of democracy and development.

The other important dimension of this process is the promotion of participation within the organisation. In development theory, this comes in various appellations such as the Participatory Planning Process (PPP) or Learning by Participation (LBP). However, the common features are the following:

- Transfer and sharing of knowledge;
- Imparting and refining skills;
- Encouraging and developing individual and collective enterprise;
- Promoting participation within the organisation and participation in society at large;
- Critical reflection on that participation and the relation of experience to theoretical knowledge;
- Promoting and encouraging participation in the decision-making processes in relation to individual activities, the programme as a whole, and society at large;
- Promoting and encouraging participation in the planning, execution, and evaluation of the programmes within the project as a whole;
- Aiming for transformational impact, at a level of individual, group, community, and society;
- Encouraging the understanding of the context within which the organisation operates, both at micro and macro levels, in its specific and general manifestations, with respect for social and cultural values of the people served.

All these have the combined effect of peoples' having control over their destiny, as opposed to impositions from above. Here also lies the importance of the autonomy of VOs in formulating strategies independently, even of donors.

Building institutions also has to do with the development of people for the sake of the people themselves, with a view to unleashing their capacity for positively affecting their own prosperity. Addressing this intimate relationship between change in consciousness and organisations, Rick Turner says:

I must come to see the world as able to be changed. I must come to see myself as having the capacity to play a part in changing it. And I must see that my capacity to do this can be realised only in cooperation with other people. To grasp these three facts involves a fundamental shift in psychological attitude towards the world, rather than a simple change of intellectual awareness. Such a shift only occurs once I find myself involved in action. [3]

Principles underlying the participatory model. This model is predicated upon the following principles:

- The collective strength of the grassroots people. As a process of social transformation, it involves people at the grassroots as the main actors;
- The promotion of self-reliance as an expression of man's faith in his/her own abilities;
- Participation is seen as an active process whereby the people take the initiatives and action as determined by their own reflection;
- Aiming for empowerment, which can increase the collective strength of the poor to tilt the balance of power and resources in their favour;
- It is also essentially facilitative. It learns with the poor and together makes them seek ways and means whereby people can improve their socio-economic status based on their own priorities; and
- The development process does not thrive in isolation as a micro-phenomenon. It has to link up with other endeavors aimed at achieving the desired social change. [4] By its very nature it is comprehensive and holistic.

Leadership development

Institution building also has to look at the specific area of leadership development. The most important characteristics of leadership are the ability to work with others, to be facilitative rather than imposing, to listen, to value, and encourage every contribution made by participants, and, equally important, to be forward-looking and developmental in approach. Collective and rotating leadership tends to serve organisations better than individual and fixed leadership. This latter practice is more democratic since more potential leaders have the opportunity to wear the mantle of leadership. I suppose it is the reason that the presidential term is fixed in modern and progressive constitutions. [5] There can no longer be presidents-for-life.

The development of broad-based membership

It would appear that organisations with broad-based membership are more effective institutions than those that are purely service-based. This also provides opportunities for education and value formation as well as practical skills acquisition. It is also, I believe, such a "value base" that caused John Winthrop to speak of a need for a vision. He spoke of "a city on a hill in which we delight in each other, seek to make others' condition our own, rejoice together, labour and suffer together, always having before our eyes our community as members of the same body." More importantly, it is a guarantee for the accountability and responsibility of the leadership to its membership base. In a word, it promotes legitimacy.

The development of strong administrative and finance structures/policies

Certainly, the process of building institutions in civil society must also include paying special attention to developing strong administrative and finance structures/policies, based on qualities such as integrity and commitment on the part of all involved. This ensures a management capability and financial accountability of the institution to itself and to outside sources. Financing of development practitioners for the services they bring to bear on institutions is to be regarded as an appropriate investment in institutional development.

The development of a strong public relations/communications system

Effective organisations are characterised by a strong public relations/communications system, which tells the world what they are doing, how they are doing it, and why. Such a system invites support locally, regionally, nationally, and internationally, in human and material resources. It also helps public image-building. It has the additional benefit of linking the institution with others locally, regionally, nationally, and internationally. Networking can only help organisations to be more effective and efficient.

The development of a clear fundraising/funding policy

Practice seems to indicate that those organisations with a well-developed fundraising/funding policy in place do better than their counterparts. It enables them to determine which of their programmes could rely on grants and which could be self-sustaining, by, for example, generating their own income.

This latter form of support has had some interesting experience. A report of the Ford Foundation, Investing for Social Gain through Program-Related Investments (PRI), Capacity-building for Individuals and Institutions, has this to say:

The form of a PRI (getting and repaying funds under disciplined terms) is particularly appropriate for nonprofit organisations and community development projects, which place great emphasis on self-help and self-sufficiency. A foundation grants officer says, "People learning how to manage and pay back is a social return. You get a different quality of experience paying back a loan than you do from managing a grant. Successfully managing a loan provides a nonprofit group another set of experiences, adding to its skills and record. The development of skills, attitudes, and management disciplines needed in revenue-producing enterprises can be particularly important for groups engaged in community development." Says one PRI recipient: "Developing a business plan helped us change our thinking about our organisation from social service provider to self-sufficient economic development entity." [6]

It is when VOs enjoy sufficient autonomy that they would be able to adopt appropriate financing policies and stratagems. The state, the private sector, and external donors have to be supportive of this autonomy by being flexible in their financing policies.

The development of cooperation between governments and VOs

Where there is strong and structured cooperation between the government and nongovernmental organisations, more is achieved through joint efforts. A statement from Philippine Development bears testimony to this:

Under a cooperative atmosphere, NGOs could discover unprecedented opportunities for improving management and technical capabilities and could become more effective in increasing their assistance to their target constituents; the government, on the other hand, would be able to deliver its basic services to the people more efficiently. [7]

This publication also mentions that at the time it came out in 1990, there was a draft bill aimed at achieving cooperation between the government and NGOs entitled An Act Enhancing the Role of Independent People's Organisations and Providing Mechanisms for Their Effective and Reasonable Participation in the Executive Branch of Government. [8] Serious thought has to be given to strengthening VOs, particularly in South Africa where VOs operate in a hostile socio-legal environment. A more enabling environment must be put in place for VOs to flourish to their full potential. An enabling environment should include, among other things, guidelines on government-NGO cooperation, simplified establishment and registration procedures, and tax relief in respect of charitable donations.

Human rights

Building institutions cannot be complete without every institution in civil society making its contribution towards the promotion and protection of human rights. This area can no longer be the sole preserve of lawyers and lawyers' organisations. From organisations catering for the needs and rights of the unborn child to those serving the needs of the elderly, there is a place for all. In the areas of human rights education, promotion and protection, across the entire spectrum of human existence, there is a place for us all.

Gender question

Most societies in general, and in the African society in particular, have an obligation to place the gender question on the agenda for its active promotion, until women can take their rightful place in society. It has to be at the centre and not the periphery, lest history judge us all harshly. The work environment must be affirmative and give women a preferential option.

Democracy

Just as human rights must find a place on every institution's agenda, so should democracy as we understand it today. Democracy and democratic practices can flourish only in the context of educated and informed citizens. Education therefore both formal and nonformal should be the tool for promoting the democratic ideal.

Finally, the veteran in the field of VOs, James Joseph of the Independent Sector in the United States, says:

Building and rebuilding benevolent communities will require a set of values that emphasise connectedness, the interdependence of sections, the interdependence even of strangers, commitment, the staying power to grapple with a problem until its solution is in hand, compassion, the transformation of consciousness that moves from a passive altruism to active engagement, and of course capability. Capability to feed the hungry, heal the sick, and house the homeless while at the same time providing outlets for artistic capability and eliminating the conditions that cause some communities to be without jobs or justice.[9]

Many a government in Africa that replaced its colonial predecessor has not lived up and adhered to democratic principles and practices as would have been hoped for, despite all the explanations proffered for this abominable state of affairs. The situation can be remedied only by the existence of a strong nonracial, nonsexist, nonexploitative, and democratic institutions in civil society. The moment is now or never.

No one could pretend that this list of what could be done to help in building institutions is complete. Offered as a basis for taking the discussion further, it is my humble contribution to the debate.

References

1. Barzun, Jacques, The Theorem of Democracy, Dialogue Number 88, 2/90, page 7;
2. Philippine Development, Vol XVII No. 2, April 1990, page 10;
3. Matiwana, M., Walters, S., and Groener, Z., The Struggle for Democracy – A Study of Community Organisations in Greater Cape Town from the 1960s to 1988, page 35;
4. Philippine Development, Vol XVII, No 2. March-April 1990, page 12;
5. Article 29(3) of the Constitution of Namibia;
6. A Ford Foundation Report, December 1991, page 55;
7. Philippine Development, Vol XVII, No. 2, March-April 1990, cover page;
8. Ibid, page 9;
9. Joseph, James, Stuman Service Initiative Conference Address, 1988, pages 6 and 7.

Building the Institutions of Civil Society

Piotr Konozewski

We are in the part of Europe that is in a period of transition. But if you think of the range of changes we face, you should think about the revolution we have here at this Workshop. As you may not be aware of revolutions, whether "velvet" or "bloody," I would like to remind you of those who are "behind" today's meeting. Those who were killed and who suffered in South Africa, Poland, Hungary, Bulgaria, Romania, and Czechoslovakia. Revolutions destroy institutions.

I would like to speak about the institutions of civil society in contrast to state institutions and nonprofit organisations. I think that the institutions of civil society are of fundamental importance to building democracy. Remember that in Poland it is a new concept with which we are dealing. I would like you to understand that, for many people, democracy means "my rights" rather than "their rights." As you can see, it is a very limited concept of democracy. Therefore, I think that it is crucial to build institutions of civil society. Institutions built by the people, for the people.

When one wants to have a for-profit institution, you just have to invest. For better or worse—invest! When you want to have a new state institution, all you have to do is take some money from the budget and the administrative institution is ready. But it is very difficult to establish nongovernmental, nonprofit VOs, especially in the case of Poland, where neither the state nor business sector is well developed nor is there a public awareness of the third sector.

Our friend from Bulgaria questioned the use of the term "third sector." I think it is very meaningful, since the term "third sector" covers, in fact, the two main problems we face: The first is being nongovernmental; the second, working not-for-profit.

These are questions we have to be concerned about when we want our institutions to be part of civil society. It is always very important (and Morten Kjaerum said it yesterday) that NGOs are between the market economy and the state. I want to add that in our part of Europe it is even more complicated, because we are between numerous social needs and demands and the impossibility of the state. But I think that it is extremely important that the close links with any of these two not just could be, but are, essentially dangerous for NGOs.

I think that the independence and autonomy of VOs are most important, especially when the divisions are not clear, when people who are one day members of our boards could be members of the government the next day. It is very helpful to have friends in the parliament and in the government, but let them be there with their own policy and let us stay here with our own policy. I am stressing independence and autonomy from the state and not fighting against the state. We are in a difficult period of transition and we have to cooperate.

When I speak of institutions of civil society, I think that there are two important issues to be mentioned:

First, we should speak about the goals of the institution. In the case of civil society, it is crucial that the goals of the institution are recognised as important ones by the public; that the public accepts these goals as important for society. It could bring some tension between the goals of the VO and the public. For example, the Batory Foundation does not support applications from individuals; we believe that it is far more important to work with wider social groups. It could be seen as not serving social needs directly.

Second, we talked yesterday about the acceptance of the VOs by the public. I think that the acceptance is well expressed by not using the VOs by the public, since it is obvious that if VOs solve your problems, you may want to use them, but I think the acceptance should be expressed by the amount of support given to VOs by the public. It could be expressed by giving money, time, or skills. There are many reasons why people are still not aware of the importance of VOs and do not accept them very much.

I want to speak briefly about the threat to VOs that comes from the market economy. The first reason is that, while the market economy is still at a very early stage of its existence, I can already see some influences on VOs. The market economy is based on the term "profit," while VOs, I hope, are close to the generosity of the people. There are some signs of influence of the market economy on VOs. People are still more eager to get than to give.

Building institutions by civil society

Now I would like to show you the difference between the institutions of civil society and those that are established by the state. They are both called "foundations." The first one is the foundation of a particular grammar school. Let us call it "A." The state is no longer able to run the school and the parents face problems. Most importantly, they have to identify the problem; then they set up a foundation. The second example is the Foundation established by the state, called Foundation to improve national education. Let us call it "B." It has the same legal status and the same benefits. I would like to point out the differences to stress the importance of building institutions of civil society rather than institutions of public administration.

Foundation A serves a minority group, a group of those who cannot afford to pay for better schools and who cannot move to find the better schools.
Foundation B serves the nation, which means--nobody.

Foundation A is changing the ownership structure. The Foundation runs the school. In fact, the people are responsible for the school. It is very important that the state-owned school is run by a public foundation. Foundation B changes nothing except the curriculum of the school; it does not improve the work of the school.

Those who set up Foundation A are active, they feel responsible, they are able to solve the problems themselves, while in the case of Foundation B, those who work there are able only passively to implement the new programmes.

Foundation A requires cooperation among people and organisations, while Foundation B can feed people with commands and orders.

Foundation A acts at the local level and is familiar with local problems and possibilities. Most of the local people know the foundation, its goals, and the people who run it. Most of them would be eager to support the foundation. Foundation B is a national one and most people do not know its goals nor the people who are involved in the Foundation. It is very possible that the local communities would not benefit from the activity of the Foundation.

Foundation A has to raise funds rather than get funds. Foundation B would get most of its funding from the state budget. It would not have to look for matching funds. Those who run Foundation A know that the amount of money they have depends very much on themselves. Therefore, they would spend very carefully, trying to use volunteers, doing many things themselves. Foundation B would not care very much about the money, as it is supplied by the state budget. It would not care very much about how much it spends.

Foundation A has a very focused goal, which is to run the school, while Foundation B has very ambitious goals. The wider the goal is, the less it means for the people.

The above shows that it is important to work within civil society and to be aware of the influence coming from the state. In many cases, the state uses the term "foundation" for its administrative goals. For example, there was a foundation established in Wrocław, in the South West of Poland, set up by the local police, and the local administration gave "grants" to those who would inform about tax abuses.

I have noticed that the problems you face in South Africa are similar. I found in the annual report of an NGO in South Africa a description of tensions within the sector. Democracy versus bureaucracy; education versus propaganda; activism versus critical thinking; theory versus experience; and participation versus passive acceptance. I think those tensions describe the situation also in emerging democracy and the third sector in Poland.

Internal Dimensions of Institution Building

[Report from a "break-away" session]

Phuti Tsukudu

The discussion focused on many issues, but I will try to focus on what might have been the key points. We were a very small group.

The first important issue discussed was NGOs as a training ground, but the question that was raised was training ground for what sector. The third sector? If not for the third sector, for what sector are NGOs a training ground? And we did not quite resolve that issue except to say that we need to be training ourselves for the NGO sector and not for other sectors. (I think that debate was highly influenced by the fact that there was very little representation from South Africa. If we had had more representation from South Africa, we might have had different views relating to that topic.)

Second, the question of getting money for training came up and the difficulty that NGOs have in getting funding for training. Training costs not only money, but time. How do we begin to influence donors to realise that it is important to have skilled, professional staff and that there is a demand now for NGOs to be professional and to have expertise. How do you begin to gain both expertise and professionalism? One of the ideas we discussed was that one way to gain expertise and professionalism is by hiring experts. When you can hire experts, you must make sure that when they leave, they don't leave a void, but put some strategies in motion so that they transfer skills to those within the organisation.

Looking at the issue of hiring experts, we talked about using consultants and, at the same time, integrating them with the staffs of NGOs working within the same field by pooling their resources. That could be one way of addressing the new demand for NGOs to be professional and gain expertise. When we look at the issue of training, it shouldn't always be limited just to those who are in leadership positions, or working in the programme, but it must be training for all the staff, those that are in administration, so that people can be aware of the issues that the organisation is facing and can begin to gain knowledge about the concepts that the organisation is using, in order to create motivation and commitment to the whole organisation.

Third, we raised the issue of the debate over ethics for NGOs. We need to begin to develop common ethics for those working in NGOs.

Fourth, we discussed the issue of the separation between third and second sectors. The concepts that have been used in the second sector tend to have been rejected in

the third sector. Concepts like strategic planning and efficiency. The question was raised as to how we begin to make our work much more effective and efficient by beginning to embrace some of those concepts on our terms, which we have rejected in the past.

Last, we did not have time to look at the issue of affirmative action, nor did we have time to debate the issue of smaller NGOS. Can they afford to train their own staff? We said that maybe, by looking at the whole question of integration of NGOS working in the same field, we could address the issue of smaller NGOs not having the time to train the staff.

Also, in our debate, we said that the nature of the development of NGOs is highly influenced by the context in which they develop (political, cultural, and economic) and, therefore, if we look at the internal dimensions of building the capacity of those NGOs we need to look at the organisation, the policies, the structures, the management styles. Then, we should look at individuals within those organisations--their knowledge base, their understanding, their skill level, and their attitude--so that, developing their capacity in those two areas, they may be responsive, either proactively or reactively, to the changing context in which the NGOs find themselves.

External Dimensions of Institution Building

[Report from a "break-away" session]

Jan Pakulsky

My impression of our discussion was that a number of ideas came up in a limited time. It was quite exciting and difficult to discuss them in a constructive way. I would encourage other members of our group (which was a big one of 20 members) to complete my remarks. Please excuse us if our discussion seems slightly unsystematic.

We managed to focus on two issues. The question of the relationship between VOs and the state and the question of funding.

The relationship between VOs and the state

At the beginning, we engaged in a quite interesting, quite philosophical discussion about the whole issue of who is setting values. What are the responsibilities of the state? What are the responsibilities of society? And, in this sense, we tried to derive some ideas and conclusions from the relationship between VOs and the state.

We concluded that there is great potential, especially for Central Europe, for the relationship between the state and voluntary organisations, quite often to the detriment of the VOs. The VOs are frequently in a vulnerable situation vis-à-vis the government, and, in a way, has a small bargaining position with the government. This has clear implications for the kind of activities in which VOs engage, in that quite often (as in the presentation about the United Way in Hungary) we are told that organisations carrying out some kind of service-providing activities for the state are not willing to engage in advocacy activities, which is striking.

Let me remind you that it was clearly indicated by our Polish speaker, too, that we have expected that VOs, at least in Eastern and Central Europe, are not in a position to engage in a full-fledged advocacy role. However, our Polish speaker this afternoon gave us some encouraging examples of VOs engaging in advocacy. In the area of environment, there has been some success with the government.

Coming back to our deliberations, we have focused on different factors that have determined this relationship between the state and the VO. We tried to identify ways VOs can improve their position vis-à-vis the government. I will try to draw up a list of the different ways that were mentioned, in random order:

- Securing the accountability of VOs;
- Linking up with other initiatives and not acting in an isolated fashion in society;
- Making sure that the VOs improve their legitimacy with all sectors, including the state;
- Seeking stronger roots within its own society (here, we can make comparisons with movements in the West like Greenpeace; international networks do not operate well here);
- Linking up with prominent personalities who would associate with one's organisation;
- Engaging in professional public relations, putting energy and resources into setting up one's own image vis-à-vis the society and the state;
- Securing good expertise within the organisation and building up competence;
- Looking for good local and international allies, trying to coordinate one's voice with other NGOs vis-à-vis the government in a manner of regular consultation;
- Diversifying sources of income, bearing in mind that in Eastern and Central Europe, as far as domestic sources of funding are concerned, the government remains the best source of income for the large majority of NGOs;
- Praising the government when it does good things and trying to build up a constructive dialogue and not only be a watchdog and a critic but giving positive feed back on the part of the society;
- Linking up with the media;
- Getting the legal framework set up;
- Drawing the lines of competence and dividing VOs' competence with the state's.

Those are basically the ideas we produced, aimed at changing the position of the VO vis-à-vis the government and improving the legitimacy of the VO vis-à-vis the government, so that the government has to rely more on the people representing VOs.

Funding

Moving to funding, including domestic funding, we concluded that governments remain the main source of funding. Of course, there is a risk in relying on one source and the risk of "penetration" of a political body within VOs, especially in a very unstable political climate. We still concluded that, under the circumstances, we must be prepared to make some compromises. There is not much room for manoeuvring because, to a very large extent, we have to draw on those funds. At the same time we must try to maintain our independence on key issues that have a strong political flavour.

The raising of funds in Eastern and Central Europe it is still quite limited. This may be changing, but it is usually in the form of small grants. Income-generating activities on the side can be a substantial source of income for NGOs. As to general public donations, the lack of tradition of philanthropy, added to the economic setback over the last few years, do not make it a source we can count on in the future.

And so, coming back to the general situation, as far as domestic funding is

concerned, again, we have to face the government, which brings us back to the first point that was mentioned, the relationship with the state and the kind of ways, the tricks we can play, to build up legitimacy and strength vis-à-vis the government and the society as a whole.

Moving on to other issues, there was also mention of the relationship with international organisations and dangers in supporting different NGO activities. This may be something of a futuristic discussion, but, indeed, there are a number of important agencies that do consider direct funding for NGOs. In Central Europe, this is already being done in development work.

Synthesis

Alan Phillips

Let me try to draw some issues together. We have had some consistency in the discussions and presentations of some of the points that were emerging in discussions yesterday and were developed this afternoon.

Throughout our two days of discussions, we have seen the different origins and environments for VOs in South Africa and in each Eastern and Central European state. There have been many differences, but there is an unanimous view of the value to the democratic process of a vibrant voluntary sector. We have seen the different types of institutions there may be and the need to distinguish between service and campaigning organisations and between mutual aid and external support bodies.

It has been argued that if institutions are to be built on firm foundations, there needs to be careful thought and planning. We should be prepared to embrace on our own terms valuable tools from other sectors, such as strategic planning, though we need to take care not to mystify or exclude people through technical language. Time and again we were reminded by speakers and contributors from the floor of the importance of assuring that the process is democratic in style.

VOs need to develop a common ethic and must not be hypocritical in demanding standards of the governmental and profit sectors that they are unable to fulfill themselves. Further, VOs must be transparent, accountable to their members and supporters, practice and monitor equal opportunity policies, and ensure that there is a pluralist approach in their decision-making and programming. This includes the membership of the governing council, the staff at all levels, and as far as possible those who benefit from their services, actions, and their outreach. If specific VOs are serious in their attempts to promote democratic pluralism, they need to be sensitive to "over representation" that may lead to the marginalisation of other VOs and their issues.

The particular problems of growth in VOs require trying to understand the peculiar demands of change and the dangers of loss of talent and experience. As governments change, some VO staff will move from the voluntary sector into the government sector. This needs to be anticipated and redressed.

Issues raised on VO style included the need for self-reliance, the dangers of dependency, the importance of empowerment, and the difficulties of the top-to-bottom traditional structures. Participation, the change from passive observers to active engagement, does become possible as democratic space becomes vacant, but it also demands different psychological approaches with an acceptance of responsibility.

A discussion on fundraising posed the dilemma of creating a dependency on external sources and raised questions on how widely VOs involve their members in the process of fundraising, so that it can become part of the educative process. Technical issues, such as the importance of good financial management, were analysed. Participants emphasised the need for VOs not to move from one popular issue to another, but to develop "staying power" to influence attitudes and environments in order to change the root causes of the particular problem that is being tackled.

Different styles of constituency emerged, the requirement of leadership development, the importance of the accountability of VO programmes to members, and the importance of public information and education. If the third sector is to be involved in a democratic process, it can only flourish in the context of educated and informed citizens, and hence it is a specific responsibility of VOs. Techniques of strengthening that VO constituency were explored and these include seeking allies within or outside the state and organisations acting in unity.

Education and training were two recurrent themes. Needs in training should embrace not only all staff, but also volunteers, and the range of options suggested include exchange of staff, sharing experience and good examples, bringing in experts, sharing expertise among organisations, and integration of some groupings of organisations. Others stressed are the value of consultation, the need for better understanding of planning, financial and basic management, and marketing, fundraising, and computerization. The education, training, and development of the governing board should not be forgotten. In our wide-ranging debate, we recognised that.

The relationship between the state and voluntary organisations is a crucial ingredient in democracy, posing the question of who sets the values. We are reminded that the U.N. Charter, in its great wisdom, begins, "We, the peoples..." and not "We, the States..."

A series of proposals emerged acknowledging that there could be a dynamic tension between the state and VO sectors that may often present short-term difficulties, but could act as a source of creative energy for the long term.

There needs to be better education of local and central governments on the nature of voluntary organisations, their needs, and how they can be effective cooperators. Conversely, education of VOs on the methods of government may also be helpful, since the unfamiliarity that exists between the two sectors and the limitations of each sector can be misunderstood and can lead to unnecessary distrust.

Governments should promote an environment where lobbying is seen as democratically important, with a clear and constructive purpose for many VOs, giving voices to the voiceless. VOs should seek to recognise successes as well as failures in state activities, if their critical evaluation is to be full and honest.

The government should find mechanisms for funding VOs without directly or indirectly threatening their independence and vibrant role. Similarly, VOs need to

be sensitive to the size and nature of outside funding, including government funding, that may compromise their independence. It is important for VOs to diversify their funding sources and to take great care to maintain their independence and avoid distortion in the objectives and the work. However, the paucity of alternative sources of funds with declining economies leave few choices for many VOs, who require guaranteed, long-term funding to build sustainable projects. In spite of our desire to see cooperation between VOs and the state, we agreed that VOs should not assume activities that are the legitimate responsibility of the state. The state should help VOs to gain access to the media to improve their prospects of strengthening knowledge and information on the role of VOs.

The voluntary sector is a crucial actor in the democratic and political process in society; nevertheless VOs should not be seen essentially as a career path to macro state politics. The voluntary sector has an inherent value in itself in the politics of change and involvement, empowering people and sectors of society through strengthening their confidence and competence.

We heard that power can corrupt and absolute power corrupts absolutely. This is as true in the state and profit sector as in VOs. If institutions are built that share power rather than seek power, they may advance the emergence of a broader democracy.

Session V:
Networking and
Follow-Up Activities

An Ecological Network in Czechoslovakia

Vojtech Kment

I am from the Association for Easy Connection. The aim of AEC is to support the communication and information transfer among NGOs through computer networks and telecommunication technology.

The Easy Connection Net (ECN) is a computer network dedicated to nonprofit NGOs. ECN is not designed in the fashion of service relationship between the provider and the customer, but is rather self-structuring and self-maintaining. The nodes are operated by the users themselves. AEC operates the main node in ECN called Econnect, which provides many services for the ECN as well as for the public users through Econnect BBS. The general mission of AEC is to provide the support to all kind of not-for-profit NGOs. We initially decided to support mainly ecological organisations; funding sources were available only for ecology. Another reason is that eco-NGOs are the best organised and most active NGOs in Czechoslovakia now. The initial donation was provided by the Czech Ministry of Environment through the Green Network Foundation in 1990.

Through ECN there may be created so-called "virtual" networks from the ECN-users, working within the same field. This is a concept also used by other specialised interest groups. Today there is a virtual network, Green Network, available to the users of ECN, which includes 95 percent of ECN users.

On an international level, there is the general NGO network, which is operated by the members of Association for Progressive Communication (eg., GreenNet in London, EcoNet/PeaceNet in the U.S., WorkNet in South Africa). ECN is connected to this worldwide network via the Econnect node.

In fact, the ECN is based on the FidoNet computer technology, which was selected after a study of the telecommunication facilities in Czechoslovakia and consultation with GreenNet in London. This technology is also the one that is cheap enough, which is the crucial demand in the NGO environment, in order for NGOs to stay independent. The ordinary IBM PC with 5 MB free space, any modem, is enough to connect you to ECN.

ECN services comprise E-mail inside ECN as well as in the whole APC, electronic conferences in ECN and from APC, file transfer inside ECN and applications built over these basic services. Besides ecological conferences, we are also concerned with topics like Eastern Europe or the war in former Yugoslavia. The new service on Econnect node is the gateway from the Czech Hydro-Meteorological Institute, where we receive data about air pollution.

People working in NGOs are usually not technically skilled. Most of our effort is done in the organisational and technical support of the users. We advise the users on how to install software, what kind of hardware is suitable to buy, etc. We conduct group training and individual consultancies. We also write and translate different kinds of manuals, prepare some pre-configuration of software, and sometimes we also install software.

We have now built up a living network and have gained a lot of experience from it. As I mentioned in the beginning, ECN is a decentralised network. E-mail allows us to increase the rational communication capabilities of human beings. From a philosophical point of view, I consider this very important especially for NGOs, because of their horizontal structures. Such a tool of communication is therefore necessary to coordinate their efforts.

We might be able to extend our services to all kinds of NGOs (we do that exceptionally already) when we are not financially limited to ecological NGOs.

Cooperation among Ecological Groups in Poland

Katarzyna Klich

Being from a Polish ecological NGO, my experiences in the field of community activity are connected with people activity, the question of environmental protection, and cooperation among regions in Poland.

During this workshop we have discussed the definition of human rights organisations. Some ecological groups are working for causes such as the protection of animal rights and the protection of nature, but in one of the most polluted regions of Poland I am working for the protection of human health.

The hazards for human health are so high that our main task is to create conditions in which human beings can live with dignity. The main problems are air pollution, food contamination, and the impact on health of environmental degradation. The region I come from in South Poland, Upper Silesia, is one of the most polluted areas in Europe (four million people are heavily affected by environmental hazards) and perhaps in the world.

In our work for the protection of human life, we take care of the biological components as well as the specific quality of human life. The goal of ecological activity in biological terms is to create conditions for the survival of individuals and the preservation and development of the human population.

We believe that people have the right to live in a healthy environment and that women and children especially have this right. We think this is a priority. Children's health is affected even before they are born, due to the state of the environment in which pregnant women live. For example, heavy metals have been discovered accumulated in the placenta. In fact, people living in such environments get very little help from the state, almost nothing, especially now during the Polish economic crisis. So there is important work to do for VOs in such cases.

In the first case in Polish history of ecological refugees, one family from Upper Silesia fled to Sweden two years ago and tried to stay in Sweden because they were so affected by the environment that they argued that they had the right to live in a clean environment. Of course, the better policy is to change the situation in the region than to think about getting people to other parts of the world.

Decentralisation

I am aware that similar ecological problems exist in Northern Bohemia in

Czechoslovakia, in Romania, and in the eastern part of Germany. What is needed would include special rights for the region and special tax laws for creating possibilities for more efficient work, clean technologies, regional networks of active governmental and NGO groups and, of course, help from the outside. I also think that cooperation among the regions in Europe is very important. The power of Europe can be the power of the regions in that regions find similar topics for cooperation.

It is very sad that people are willing to sacrifice regions. This creates a need for more efficient work of NGOs on behalf of the poor regions, which have very few possibilities for sustainable development. When the worst technologies exist, they are difficult to control, so NGOs have to be stronger.

Networks

Now I want to say something about networks. Some networks have started in Central Europe. I know about ecological organisations particularly. We have some contact with Northern Bohemia and other areas in East Germany. Cooperation has started now among regions; i.e., in the industrial, heavily polluted Polish Upper Silesia and Karvina, a region in Czechoslovakia, in which regions are planned an international project for cooperation between governmental and NGO structures. Moreover, we have some contacts with environmental protection agencies in Pittsburgh (United States), Eastern Germany, and have received support from the World Bank, the European Bank, and international NGOs.

We have established contact with regions that had similar problems many years ago, with much experience in this area, but such contacts have only begun. Common campaigns among different NGOs is extremely important for such regions. We have had some successes. It makes the work much more efficient to try influence, at the same time, in different ways, governmental structures in Central Europe. The responsible NGO for this work is Greenway, which is a very active organisation. At the same time, it is an opportunity for the exchange of experience.

International court

Finally, I would like to describe an idea that arose a few months ago. There are many ecological cases that should be considered, in my opinion, as crimes against the human population. These cases should be discussed and tried in courts at an international level, before an international tribunal. The same idea has also been suggested at the recent Rio Conference on the environment.

Response to questionnaire: Poland

Katarzyna Klich

Short history

Before 1980, the year of the emergence of "Solidarity," the independent worker's protest, the landscape of VOs was nonexistent, because there was a lack of legal independent organisations. Information concerning limitations on human rights was kept secret (including information about ecological disaster regions).

During the last few years, there have been numerous ecological groups created for solving local problems. There are estimates that there were 140 different ecological independent organisations in Poland in 1991. Some of them are very small and they do not have influence on regional and national policy. The difficult economic situation is the reason for not using the rights to the creation of nongovernmental organisations. There are difficulties in getting volunteers to work in their free time.

An example of a VO is the Polish Ecological Club (PKE). It was founded on September 23, 1980, in Cracow during the first Solidarity movement, by scientists, physicians, journalists, and other persons aware of the Polish ecological crisis. PKE is a nonpolitical, nonreligious, environmental organisation open to all adult Polish citizens who recognise its declaration and statutes. PKE aims to create a new environmental strategy based on respect for human and natural resources. It was the first such organisation in Poland, recognising from the beginning the social nature of environmental problems. PKE was officially registered on March 15, 1981, breaking the barrier of silence surrounding environmental problems in the country. After the first success, the campaign against Skawina aluminum plant near Cracow, PKE set up 17 branches throughout Poland.

During martial law, some local branches were closed and their members persecuted. Those that remained active concentrated on PKE ideology and prepared numerous publications contributing to the growth of ecological awareness in society. The most essential activity was the creation of the concept of "Eco-Development," stemming from a conference organised by PKE in 1986. PKE introduced Eco-Development at the Polish roundtable talk on ecology, which took place in March/April 1989. Out of 14 participants from Solidarity, five were from PKE, including the chairperson. The concept of Eco-Development was adopted as the first point in the protocol of the agreement between the government and the opposition. The document addresses five areas of activities:

- Pro-ecological activities in economic processes (incorporation of ecological goals into social and economic goals and the country's development plan);

- Regulation of laws concerning legal, economic, and environmental aspects;
- International cooperation;
- Social system for the protection of the environment;
- Interventions.

By the third National Meeting in 1990, PKE had 4,000 members in 17 branches. PKE has helped the country to recover from the ecological damage caused by the Stalinist model of industrialisation, but now it must be vigilant for new threats of dangerous technologies.

One of the branches of the Polish Ecological Club was created in Upper Silesia, the industrial agglomeration that is the most polluted region in Poland. High concentration of industry and poor technologies have created extremely high pollution, as well as concentrations of some toxic substance that are probably unique compared to the rest of the world. About four million people are exposed to this contaminated environment. The average length of human life in this region is about two years shorter than in other parts of Poland.

The activity of the Polish Ecological Club, Upper Silesia Branch, is concentrated on the following projects: Preparing reports on the pollution in southern Poland; a campaign on energy saving; alternative sources of energy and so on; organisation of tested, nontoxic food (without heavy metals) for this region, especially for high-risk groups like small children; waste management workshops; sociological education; information service to local authorities, journalists, foreign visitors, etc.; participation in administrative and legal procedures in cases of the biggest polluters (information prepared on the basis of materials and reports of the PKE).

Links and networks

There are different links and networks between ecological groups. The informal links are very important and full independence is equally important for each organisation. There are examples of common activities such as campaigns on regional levels (for example, on Earth Day), or common campaigns against the threat of pollution (e.g., plans to build a nuclear power station in North Poland).

The Polish Ecological Club has many contacts with different ecological organisations, among them with the Dutch Milieudefensie, German BUND, Swedish NGO Secretariat on Acid Rain. PKE has been a member of the Friends of the Earth International for the past few years.

The Upper Silesian Branch of the Polish Ecological Club is involved in the "Silesia programme"—an ecological programme for governmental and nongovernmental structures from Upper Silesia (Poland) and Karvina–Ostrava Region (Czechoslovakia). The ecological organisations from the western and southern parts of Poland cooperate with organisations from south western Germany and northern Czechoslovakia.

Economy

The well-established VOs do not receive ongoing funding. They try to engage in business activities in order to raise funds and use money from private foreign funds. The support from the state is very little or does not exist. Private national foundations are very young and they support nongovernmental organisations only on a very small scale. It is nearly impossible to get money from national companies and only if it is connected with their advertising. Many of the activities of nongovernmental organisations are limited by the lack of money.

National and local policy

People are very often not aware of what influence the nongovernmental organisations could have on national, regional, and local policy. This can be observed in the lack of participation in nongovernmental structures for the last two years. The reason is probably due to the hard economic situation and the challenges faced in the midst of economic transformation within Poland. The press recognise VOs, but only a few journalists are in close contact with VOs. There are some discussions on the "ethics" of VOs, but actually the topic of fundraising techniques seems to be more important.

European Consultation on Refugees and Exiles (ECRE)

Philip Rudge

ECRE is an international NGO human rights participatory network. It can also be described as a "nonorganisation" (and I will come back to that).

Objectives

There are three objectives. The first is to promote a liberal and humane asylum policy in Europe for persons fleeing persecution and threats to life and liberty from wherever in the world. The second objective is to make a coherent European governmental response to the global refugee problem. And the third objective is to promote a strong NGO voice in Europe at a time of serious crisis in humanitarian solidarity at the governmental level and at the level of public opinion.

Participating agencies

ECRE was founded in the mid-1970s by half-a-dozen agencies working in the refugee field that just decided to get together to compare notes. There are now some 60 participating organisations. We tend to use the word "participants," though some people use the word members. If you are a "nonorganisation," you can have participants.

There are some 60 organisations involved. Who are they? All the national refugee councils are members, and those councils are often umbrella organisations themselves with large numbers of members; second, the large national and international agencies; church-based, assisting organisations; the Red Cross in certain countries. So it is a very heterogeneous membership.

Criteria for participation

What are the criteria for participation? You must be in a European country and, so far, that has meant a West European country. Second, you must have a major, if not exclusive, interest in refugee assistance or in the public advocacy of the right of asylum. We do have a category for people who don't conform to that; in other words, who are not European or are not principally interested in that issue (i.e., the U.S. Lawyer's Committee is a participant in ECRE).

Structure

The structure is very simple. There is a plenary; there is an executive committee; and there is a secretariat. The plenary is all the participants; the executive committee consists of six or seven people representing regions of Europe; and the Secretariat is based in London, a small office that is my responsibility. Every year the plenary agrees the Activities Plan after a process of consultation. It then agrees the budget, which it has a moral commitment to meet every year and generally does. So the vast proportion of our income is from the members, which is the central to the sense that ECRE belongs to the participants. We may generate money for a specific project from elsewhere.

Method of work

The work ethos is information, research, advocacy, exchange, and consensus. Those are the key words that describe the ethos of our work. Briefly, twice a year all the agencies meet together, produce country reports, and discuss the business of the network. So we have a continuing history of refugee policy, new refugee groups, government reactions, and what we are going to do about them. Second, we have specialised seminars on specific issues (for example, refugee women, refugee children, elderly refugees, legal questions) that are often organised by a lead agency. In other words, it is not my job to organise everything from London; one of our member agencies will be the lead agency on behalf of ECRE on a specific subject. Our Danish colleagues, for example, led our whole analysis of airline sanctions, the punishing of airlines carriers for carrying undocumented people.

Third, we promote other networks. We have established at the request of individual lawyers a European legal network on asylum. The acronym for that is ELENA (European Legal Network on Asylum) which has its own programme of seminars, exchanges, and contacts. There are some 1,500 to 2,000 people touched by this networking activity, which developed because they asked for it. A second network we have is called INFODOC (Information and Documentation Network), where we are eager to raise the whole technical level of the handling of documentation related to our field.

We produce a book, which is a comparative analysis of asylum procedures in twenty European countries, and I hope we can add Eastern Europe to that soon. We provide a documentation service on a monthly basis to all our member agencies. We gradually are producing policy documents as well.

We have a representative function both internationally and nationally. The notion here is that by getting an international consensus together, through the network, our member agencies, who operate principally on the national level, will be saying more or less the same thing, vis-à-vis their governments, on the national level, while it is my job to represent that consensus at the level of the Council of Europe, the Parliament in Brussels, CSCE [Conference on Security and Cooperation in Europe], UNHCR [U.N. High Commissioner on Refugees], or whatever intergovernmental system with which we are concerned.

Finally, the Secretariat itself in London is obviously a switchboard, an exchange place, and a resource available to all the member agencies.

Policy

How can you have a policy if you are a forum? How can you have a policy if you are a network of autonomous organisations? The answer to that is you can have one, but you get it through a process of consensus. And the key is consensus for this. You cannot, therefore, rush it. It takes a maturity of style. It has taken a long time for the ECRE agencies to develop a maturity of style so we can raise a consensus. It depends on personal confidence; it depends on familiarity with each other and each other's situation; it has to pay due regard to national differences. However the case, thanks to the maturity of the people concerned in it and the information level we have achieved, you can establish a consensus to which, in the nature of consensus, most people adhere. But it is not binding on anybody.

Motivation

I just want to reflect briefly on why it is an interesting model and a very enjoyable one for which to work. First, it combines good ideas and insights from a wide range of historical, cultural, legal, and political traditions. That is a positive virtue, it seems to me. Second, in a hostile environment, which I'm afraid the refugee policy environment is these days, it brings colleagues together in the same field; it steps up solidarity; it reminds people that they are not working entirely alone. Third, it is informal and nonbureaucratic. That is a distinct virtue. You can be very widespread but be minimally bureaucratic. Fourth, it has a very wide reach into civil society and, as I have suggested earlier, through the umbrella nature of many of its member agencies. Fifth, it is very cheap to run. Sixth, it gives an international sense to national agencies. It fights against chauvinism and the nationalistic view and it gives an international sense to what is, after all, an international problem.

However, it is open to infinite demands. I speak from the heart here. Our telephones can ring and any of the member agencies can be on the other end with any number of particular requests. So there is a vulnerability, unless you are careful, to infinite demands. It is also very important to ensure that, while the Secretariat is very busy, it does not forget the roots--that it deliberately nourishes the roots of the membership.

Expectations

Because of the work of all these people in this network, over the years, its voice is taken seriously in the intergovernmental debate. So that means that great expectations are made of it. And that means that, once you start raising expectations, you have to meet them, in particular in the policy area. So we shall be recruiting a policy research officer, which we feel is essential now, and we will be stepping up our representation in Brussels.

Second, Eastern and Central Europe seems to us to be at risk of becoming a "backyard area" for refugees, due to the actions of Western European governments and their restrictive and deterrent mode just now, and therefore, we are the network of agencies that wish to avoid that and offer what support we can to colleagues in Central and Eastern Europe. We see two forms of support, training and institution-building and, it is hoped, incorporating some agencies in this region into the wider European debate.

Third, we are clearly moving, as we should do, closer to the wider human rights field of concern with contacts growing with minority rights people and with the wider human rights organisations. That is important to us to move the debate away from the law-and-order mentality of states at the moment and into the social justice area.

Finally, the test that faces us, and this is a very interesting one in the context of this meeting, is that a lot of refugee policy has been governed by the ideological cold war where a lot of policy decisions were based and dependent on that cold war ideology. That is gone to some extent now. The question is whether we can fill the vacuum through humanitarian and human rights energy.

I think a network like this, a nonorganisation, can do that.

Political Transformation of and Cooperation among Human Rights Organisations in Bulgaria

Prauda Spassova

I will talk on the importance for us of building international networks. I want to talk about the difficulty of being an NGO or VO in one of our countries. As a matter of fact, the possibility for our existence lies in international networks.

Transformation to political parties

To make this clear, I will just give some examples on how NGOs developed in Bulgaria. The most powerful human rights NGO was the Movement for Rights and Freedom, defending the Turkish minority rights. What happened to this very powerful human rights movement defending not only the Turks but also Gypsies and other minorities? With the changing political situation in Bulgaria, the Movement for Rights and Freedom became, more and more, a political party rather than an NGO. And now it is involved in the ruling coalition, which governs the country. On its way, it lost the traits of a human rights organisation. Of course, when you enter into active politics, you have to make compromises. But at the same time, Turks are leaving the country because the minority is conceived as a bloc, and nobody really cares about the life of those people.

And what has happened to Ecoglasnost? Ecoglasnost was one of the movements that brought democracy to Bulgaria. It was a very active movement. Many of the activists of Ecoglasnost entered politics and that brought members of Ecoglasnost into the Parliament and even into the ruling coalition. Members and representatives who are outside are now trying to regroup into some kind of a movement.

What happened to the Helsinki Watch? The founder was a candidate for the presidential election last year using a very nationalistic slogan. And that was supposed to be Helsinki Watch!

So what is the situation? Human rights VOs either dissolve or become political parties one way or another. Apart from foundations, nongovernmental institutions are very often closely connected with governmental policies (not all of them, but some of them). We cannot hope for much, not having funds for paying activists (and that is another one of yesterday's questions). We have to ask ourselves if NGOs lose professional skills in such movements? No, because we cannot work professionally in NGOs. We often work very individually, and all we can do is write some reports and monitor the situation.

International networks

The only support and way of existence for NGOs is through international human rights projects, because that is where you can get funds and where you can push through some of your programme needs. That is unsuccessful in a way because that requires a donor who has the same interests as your NGO in order to be able to do the work.

Now with the economic and political situation in Bulgaria being extremely difficult, the new government declare that they are providing human rights and perceive the human rights movement as outside politics and as potential enemies or competitors. There is no cooperation and we cannot get any support from the government, because a human rights activist questions any governmental abuses of human rights.

Recently we complained against the law of "decommunisation," even though the responsible authorities from the former government have to be punished and we have to get clear of them. But it should be done without abusing human rights again. One of the answers of ex-human rights activists, who are now in the government, was: "Communists? Are they human?" So we are all the time conceived as somebody contesting governmental policy.

Finally, the problem of racism has put on a new face following the difficult economic situation in Bulgaria. Nationalism is flourishing and the question is raised "Who is the enemy?" "The other." "Who is the other?" "The Gypsies." The unemployment rate is extremely high among the Gypsies and the Turks. Now, with giving land back to the peasants, the Turkish minority again has problems because it does not have the necessary papers to obtain the land. So it is once again left without any property.

There are always great problems. What we can rely on are international networks and training, because there is not enough awareness in Bulgaria about what human rights are. We don't really have that political culture of NGOs within our structures, though it is beginning with international training and projects, which we can trust, and in which we can be involved and regroup.

Synthesis

William D. Carmichael

Introduction

It is perhaps in order to begin this summary with the cautionary note that we have been talking about several different animals--about "networks" of many different sorts. They differ in function, in geographic scope, in mode of operation, and in the phase of the transitions in which they are operating. Some provide services primarily to the staffs of their member organisations, while others interact directly with those organisations' clientele, and still others function primarily in advocacy roles vis-à-vis governments or the community at large. Some confine their operations to a particular locality or subnational region, while others are national or international in scope. Some are professionally staffed and draw on those staffs to provide services to their memberships, while other organisations or, as we heard, "nonorganisations," are often drawing primarily on the skills and capacities of their participant groups or lead members that are in a particular field. So there are lots of different things that we are talking about here, and generalisations may sometimes be misleading. With that qualification, however, let me try to summarise some of the points that I have heard about the roles that networks can play.

Roles of networks

Two key words, or concepts, that characterise the importance of civil society or VOs are "decentralisation" and "pluralism." And each of those words, I think, is suggestive of the various roles that networks can play. If VOs are highly decentralised, and close to the grassroots in various communities, there is an obvious kind of need for communication among them for learning purposes. And, similarly, in order to realise the advantages of pluralism (in which there is not a single policy imposed from the top, but, rather, many different experiments responsive to local situations) there is an obvious need for mechanisms for sharing the natures and outcomes of these many diverse experiments.

Providing information and solidarity

We heard many different claims for the utility of networks. We heard considerable testimony, much of it only implicit, to the role of networks in capitalising on the advantages of decentralisation and pluralism. We were also reminded that networks are vehicles for sharing or gaining access to much-needed technical information in a broad array of fields--e.g., environment, refugees, and development--in which VOs are engaged. Networks may also be a welcome vehicle for assuring persons working in VOs that their work is important, and for providing solidarity, particularly when the environment is not entirely hospitable to the work of VOs.

Helping to build consensus

We also considered the role of networks in helping build consensus among groups that are approaching a common set of demands or issues. Consensus-building will never be complete, thank goodness, but networks can make an important contribution in uniting people with common objectives and helping them determine their priorities and strategies. And that observation reminds us of two other words that recurred in our discussion: The word "voice" or "advocacy." Networks are ways of increasing the effectiveness of VOs in bringing their views to bear in various settings, including the framework-setting process that we discussed earlier and getting the constitution, the basic laws, and the administrative regulations affecting the voluntary sector right.

Providing a forum

Networks can play a similarly central role in exercising "voice" on a whole host of policy arenas, e.g., environment, refugees, and community development, in which the VOs work. And they may also serve as vehicles for providing effective voice in gaining access to funding from local government sources, from bilateral foreign donors, from multilateral donors or foundations.

Reducing response time

Networks can make important contributions in reducing the response time of VOs to particularly difficult demands and they can help alerting various groups, including foreign donors, to impending crises. And they may also be the vehicles for in the needed resources, financial and other, to respond to such problems as drought or famine.

Gaining access to funding

There was another set of comments, not so much about the functions of networks, but their usefulness in gaining access to funding. Like it or not, networks are popular instruments for many funders and their fondness for networks many open doors for funding that would otherwise be unavailable to many smaller-scale, locality-specific VOs. Some of these contributions of networks, however, bring with them certain roles. Local VOs, for example, will often welcome the funding or other services that networks sometimes provide. But with those opportunities comes the possibility of increasing dependency of the networking services on outside funding. And that can portend serious difficulties when donor interest—fickle that it always is—wanes.

Easing access to new technologies

Similarly, as we were reminded in the first presentation, networks can put a wealth

of information at the disposal of VOs, but putting that information to use is often impeded by the absence of appropriately trained staff (or by changes in the relevant hardware and software) that are sometimes difficult for VOs to absorb. It is important to recognise that information can be an important tool, but it is also important not to let the related technology become an overly demanding master.

And that tool-and-master theme is the one on which I want to end. A former Ford Foundation colleague quipped, about a highly regarded network in the United States, that "It is all net and no work." And that is a sobering reminder that we all have the responsibility to look at this popular networking phenomenon with a critical eye. We should specify rather precisely what the needs are that we are asking networks to address to assess whether they are seriously addressing those needs in a cost effective way. If they aren't, we should modify them in appropriate ways, or, if I may revisit a term we used earlier, we should exercise the "velvet guillotine."

Summing Up: Civil Society Organisations in Emerging Democracies

Brian Currin

Introduction

Women and men, staffing organisations within the civil society whose main objectives are development-oriented, are generally under-resourced, underpaid, and overworked. The inevitable result is that they seldom, if ever, find time to reflect on what they are doing, why they are doing it, their structure, role, and function within the civil society, networking and how they relate to the rest of society, particularly the political sector and the private sector.

A unique opportunity to do precisely that was made possible in June 1992 by the Institute of International Education (IIE) and the Danish Centre for Human Rights (DCHR), who jointly convened a workshop in Celacovice, a country town about 40 kilometres outside of Prague. The Workshop was given the status of a satellite meeting of the United Nations World Conference on Human Rights planned for June 1993. The workshop theme, *The Role of Voluntary Organisations in Emerging Democracies: Experience and Strategies in Eastern and Central Europe and in South Africa*, succeeded in stimulating many thoughtful papers and equally thoughtful debate. The workshop, professionally facilitated by representatives from IIE and DCHR, was attended by about 40 participants from Hungary, Poland, Czechoslovakia, Romania, Bulgaria, and South Africa, as well as observers from the European Community and the U.N. Centre for Human Rights.

In an attempt to identify and give practical meaning to some of the many excellent ideas that emerged during the delivery of more than 20 diverse and thought-provoking papers and subsequent discussion, I am not going to attempt to summarise the proceedings. Each session ended with a synthesis by an able facilitator and these provide accurate summaries. I will attempt rather to tease out of the discussions problematic and contentious issues that, in my view, have an impact on the structure, role, networking, relationships, activities, and objectives of third-sector organisations. In referring to our organisations, I use the term "third-sector" advisedly. I use it because it reminds us that civil society organisations do not operate in isolation; that they are part of a whole society; that in spite of their independence from both the political society and the commercial society, healthy relationships among the three sectors, even where those relationships are conflictual, should be the ultimate goal of all of us.

Workshop programme

The workshop was divided into five sessions. The first session focused on functions

of voluntary organisations⁵ in fostering democratic development. The second session compared country profiles, looking at similarities and differences in the context of challenges facing Eastern and Central Europe and South Africa. The next session focused on the legal and policy frameworks that are required in order to foster an enabling environment for organisations in the civil society. In the fourth session we turned inwards and looked at the building of institutions, which was followed by a final session where we discussed networking and follow-up activities.

What's in a name?

As already mentioned, the conference conveners chose to name our organisations "voluntary organisations," rather than "nongovernmental organisations," because, as it was argued, the term nongovernmental organisation is a statement of what we are NOT, rather than a positive description of what we are. Although I agree with that sentiment, I also have a problem with the term voluntary organisation. It is a misnomer. These organisations are more often than not staffed by paid employees. Furthermore, the term voluntary organisation suggests something "sort of part-time" and not exactly professional. It reminds me of a friend who is running a highly effective organisation in South Africa and whose parents keep asking him when he is going to get a "proper job." Given the challenges facing civil society--development, democracy, justice, and human rights--I think what we are called is important. Promotion, image, and a high degree of professionalism are as important for our organisations as they are for organisations in the commercial sector. What we call ourselves should be descriptive of what we do and the way we operate. A conference delegate suggested civil society organisations (CSOs). That sounds very acceptable to me. However, for the sake of uniformity, I will use the term voluntary organisation (VO).

Creation and formation

The importance of initial strategic planning and the building of a sound foundation were emphasised repeatedly throughout the workshop. Strategic planning includes *inter alia* identifying the contemporary environment and being able not only to anticipate how it will change, but also having the capacity to adapt to that change. In this context, I was also struck by the importance of knowing the context in which one's organisation operates. Planning, strategy, policy, role, functions, and activities all depend to a large extent on both political and socio-economic context. It is crucial to know where the host country is, in its forever evolving history. An inaccurate diagnosis of context would undoubtedly be fatal to the viability of the organisation from the very outset.

⁵The conveners preferred the term voluntary organisations (VO) to the term nongovernmental organisation (NGO). It was felt that the term NGO is a description of what organisations in civil society are *not*, rather than what they are.

Take, for example, the theme of this workshop, *The Role of Voluntary Organisations in Emerging Democracies*. What appears to be an "emerging democracy" may not be one. We may, for a variety of reasons (propaganda, high expectations, impatience, or fatigue) be fantasising. It is also possible that your country may be an emerging democracy *de facto*, but not constitutionally. Contrary to popular expectations, that reality could result in many more years of ongoing political struggle spearheaded by political parties or liberation movements that remain firmly set within the civil society rather than the political society where they would ordinarily belong.

As long as the constituents of political organisations remain voteless and for as long as their cause includes a struggle for fundamental civil and political rights, it cannot be seriously contended that such political organisations form part of the political society. This is a very relevant question for organisations within the civil society because their understanding of the status of political organisations excluded from the democratic process and the categorisation of those organisations will have a direct impact on policy and strategy vis-à-vis those organisations that in turn have a positive or negative impact on the realisation of a "constitutional emerging democracy", which, after all, is the end objective of a legitimate struggle for civil and political rights.

Other important considerations during initial planning are:

- An accurate identification of goals and objectives;
- Consultation with the community that the envisaged project will service and/or benefit;
- Consultation with other organisations in order to assess possible overlap or duplication and to ensure cooperation;
- Assessment of required expertise and resources available in the civil society;
- Assessment of related expertise and resources in the first-sector and the second-sector;
- Assessment of possible cooperation with the political society and the commercial society and how that may contribute towards the achievement of one's aims and objectives.

Development work also requires careful planning of a policy framework. The socio-economic implications of the development must be carefully thought through. Furthermore, institutional planning is crucial since development will only succeed in a legitimate institutional context.

Role of voluntary organisations

During the past decade, the international community has come to acknowledge the close connection between economic and social development, the protection of human rights, and democracy. The previous Secretary-General of the United Nations, Perez de Cuellar, is on record as having said: "If there is no development without democracy, there can also be no democracy without development." Our role within emerging democracies is an integrated one, encompassing development,

democracy, and human rights. I think it would be helpful to reflect briefly on what development should mean in an emerging democracy. It is about changing the social power relations, which has implications for the relationship between state and civil society. Development is also about improving people's quality of life, not only by ensuring a more equal distribution of resources, but also by sharing control over the development of resources. Implicit in this understanding of development is an emphasis on empowerment and human development. This requires a serious commitment to sufficient attention being paid to training and capacity-building. Expressed in another way, development needs to be seen as a process that increases the capacity of people to address their needs and improve the quality of their lives.

State-civil society relationship

Independence of organisations within civil society should not imply conflictual relations with political society. On the contrary, everything possible should be done to ensure a healthy relationship with the state. In South Africa, and all the Eastern and Central European countries represented at this workshop, our totalitarian regimes have not only attempted to regulate our work but, furthermore, passed laws and applied policies that were aimed at destroying civil society. In all our countries, there is evidence that the state is beginning to understand the crucial role that voluntary organisations have to play in development. Our task is to move the state to the realisation that it has a major role to play in the establishment and growth of organisations in the civil society; in other words, in creating an enabling environment for our operation.

A contentious issue that was raised in the context of the relationship between the state and organisations in the civil society is whether or not we should accept state funding. In my view, the answer to that question should depend on the particular circumstance of each organisation. During the workshop, participants suggested two general categories of functions: Positive functions of a socio-economic nature--welfare, education, housing, medical care, and feeding schemes; and negative functions--monitoring the State's violation of civil and political rights.

The prime responsibility for socio-economic development and reconstruction rests with the state. The state determines policy and controls the treasury. There can surely be no objection to a healthy funding relationship between the state and voluntary organisations in this context. Socio-economic development work by voluntary organisations should be seen as complementary to the role of the state. Besides creating expertise through its hands-on involvement in socio-economic grassroots development, VOs are well placed to assist governments in implementation of national reconstruction projects, through identification of needs and consultation with communities. Irrespective of how much a government may regard itself as being a "people's government," implementation of its programmes and projects, without participation of the civil society, will tend towards a top-down approach, with its inherent disadvantages. Involvement of the civil society in socio-economic reconstruction programmes is also of benefit to VOs. It bolsters their relevance and credibility, which in turn enhances credibility of their civil and

political rights campaigning and activism that in some emerging democracies is regarded as being "disloyal" to newly elected democratic governments.

The role of the state in promoting and protecting civil and political rights was the subject of a keen discussion. Although I agree that the state has a crucial role to play in the promotion and protection of civil and political rights, history has proved to us repeatedly that politicians tend to abuse power. For that reason, the responsibility for the promotion and protection of first-generation human rights simply cannot be handed over *carte blanche* to the state and any attempt by the state to assume that responsibility at the expense of civil society organisations should be strenuously resisted. For obvious reason, VOs undertaking negative functions--policing and monitoring human rights violations committed by the state--should vigorously guard their independence. In my opinion, acceptance of state funding in this context would severely compromise credibility and effectiveness.

Policing and monitoring the state's human rights practices inevitably introduces conflict to the relationship between VOs and the state. However, we should not work from the premise that a conflictual relationship must necessarily be bad or destructive. During transition to an emerging democracy, human rights organisations have a pivotal role to play in creating a human rights ethic and a democratic culture. In order to influence the state positively, a healthy and constructive relationship is preferable. Our educative role should extend to the creation of a democratic culture that includes the nurturing of a culture of pluralism and political tolerance. The view was expressed that we can be agents of socialisation and in that process achieve a higher degree of political equality. In relating to society as a whole, we can contribute towards the creation and promotion of values and act as catalysts "in getting the environment right" by having an impact on social life.

A number of participants from Central and Eastern European countries expressed concern about the lack of motivation in civil society that followed the collapse of totalitarian regimes. We heard repeatedly how human rights activists and the society generally simply stopped contributing towards the creation and sustainability of a democratic culture and a rights culture, once a popular government had been elected. We know that a new constitution, providing for multi-party elections and the subsequent election of a popular government, is only the beginning of the construction and creation of real democracy. The process to a truly democratic society, embracing human rights values and a rights culture, is a long one that will require ongoing commitment and dedication from all three sectors of society. An important challenge facing us is to stimulate and motivate the civil society into sustaining its commitment.

Although governments are much improved through a strong presence of human rights-oriented representatives, many of whom pass through the ranks of VOs, we have the crucial task of training and nurturing a large cadre of human rights activists who remain within our own ranks and committed to working for democracy, development, and human rights from within the civil society.

Conclusion

During this workshop, I was once again reminded of the critical role played internationally by VOs in the promotion and protection of human rights and the extent to which individual states and the United Nations rely on our contribution. Having said that, however, there is no doubt whatsoever that we have the potential to play a far more dynamic and effective role in national and international campaigns against human rights violations and in democracy and development. But, to achieve greater heights, we would need international coordination, far more extensive funding, and international forums. The civil society is poised to play an increasingly relevant and constructive role in democratising the world. To achieve our full potential, we need collective support from the international community and in particular the United Nations. The establishment of an international body, given a mandate to train, coordinate, empower, enable, and network VOs throughout the world, preferably based in Geneva, duly recognised and given appropriate status and accreditation by the United Nations, would be an excellent starting point.

APPENDICES

Questionnaire for Voluntary Organisations

The purpose of this questionnaire is to give an idea of the landscape, the overall activities, and the networks of VOs in each of the participating countries, as well as collecting information concerning the state policy towards VOs and the legal framework for enabling voluntary organisations (VOs) to function in specific countries in order to provoke thinking about the kinds of laws and regulations that might better serve this purpose.

The questionnaire is divided into the following categories: The landscape of VOs; national and local policy; constitution/Bills of Rights; law and regulations; and tax incentives.

The answers would form the basis for the discussions as well as for a chapter on "Country Descriptions and Basic Data" in the planned Workshop publication, and, therefore, we are sending it to the participants in advance of the Workshop in order to be better prepared.

In many instances in Eastern and Central Europe, the policy, laws, and regulatory schemes are being reconsidered and reenacted. In South Africa, a similar rethinking is proceeding, with a view to new policy and legislation after majority rule. Thus, answers to the survey may reflect current, proposed, or newly enacted policy, laws, and regulations. Please indicate what state in the process answers reflect.

For some questions, there may be no existing policy, laws, or regulations (most of the questions concerning the legal framework parallel a published survey "Charitable Contributions in the OECD: A Tax Study"). Regarding the landscape and overall activities of VOs, it may vary from country to country how much information is available. Therefore, answers to some questions may be unknown or unavailable to the person(s) preparing the answers to the questionnaire. That presents no problem. Please consider the answers as preliminary to further work that will refine both the questionnaire and examine in more depth the answers.

I. The Landscape of VOs

The following outline (which will be a chapter in the publication) may be structured in such a way that it does not fit into the reality that exists in your country. The questions should be seen as points for discussion, but please feel free to describe the reality as you see it. Please indicate sources of information (e.g., newspapers, government institutions, VOs).

A. Short history

1. Describe, in brief, the situation and role of VOs the past decade with respect to political or social limitation, involvement, or influence.
2. What are the major recent changes in the landscape of the VOs?

B. Types of VOs

1. Which types of VOs are dominant? In which ways? (e.g., grassroots groups with no or loose organisation to well established organisations; project or advocacy organisations; affiliation to political parties or groups humanitarian, human rights, legal aid, philanthropic, social care, health, education, ecological, refugee, consumer issues, minority).
2. Does there exist any statistics or research projects on the number and growth rates/closing down of VOs? If not, is it possible to indicate some estimates?
3. Could you describe a typical humanitarian or human rights VO and its activities? A typical social care, health, consumer rights, or educational VO and its activities? A typical ecological VO and its activities.
4. Could you describe the three most dominant or promising VOs and their field of work?
5. Which other aspects of the activities of VOs ought to be described?

C. Links and networks

1. Are VOs building national links and networks? Which VOs and in which ways (e.g., informal links, forming federations, common education activities)?
Are VOs building international links and networks? Which VOs and to which countries and regions in the world?

D. Economy

1. How are the well established VOs typically funded (e.g., state, municipality, foreign states, private national, or private foreign funds)?
2. Do VOs engage in business activities in order to raise funds?
3. Please describe some typical ways VOs raise private funds in your country.

E. General questions

1. What are the major problems VOs are facing?

2. How in general does the public view the VO? Are people aware of what VOs are and the type of work they are doing?
3. How in general does the press view VOs? Does the press describe VO activities and in which way? Do journalists assist VOs in PR activities or the like?
4. Do VOs discuss among themselves questions like the "ethics" of VOs, fundraising techniques, or public accountability?
5. From which kind of internal or external backup could they benefit?

II. National and Local Policy

For each answer, please indicate sources of information or indicate if answer is based on your own organisational experience.

A. Government policy

1. How does the present government consider the role of VOs?
2. Do the government or single state departments do anything to promote the activities of VOs? Through policy statements? Through economic support or state funds? In other ways?
3. Do the government or single state departments cooperate directly with or provide VOs with service contracts? If possible, mention a typical example.
4. Do the government or state departments cooperate with, hear, or take advice from VOs?
5. Does the government seek to restrict the activities of VOs in any ways?
6. Do the government bodies favour cooperation with state-controlled organisations?
7. What position do government authorities take regarding the formation of VOs? For example, do government authorities facilitate or interfere with the formation of VOs?

B. Local administrative policy

The questions on the government policy are for the main part repeated here. It is by intention, because in some countries there is a difference between the state and local policy carried out.

1. How do local administrative bodies consider the role of VOs?
2. Do local administrative bodies do anything to promote the activities of VOs? Through policy statements? Through economic support? In other ways?
3. Do local administrative bodies cooperate directly with VOs? If possible, give an example.
4. Do local administrative bodies take advice from VOs?

5. Do local administrative bodies seek to restrict the activities of VOs in any ways?
6. Do the local administrative bodies favour cooperation with state-controlled organisations?

III. Constitution/Bill of Rights

- A. Is the freedom to associate or right to assembly guaranteed by the Constitution? By a Bill of Rights?
- B. Is free speech guaranteed?
- C. Is freedom of the press guaranteed?

If answer(s) is/are "Yes," please give relevant source and quote language in brief.

IV. Laws and Regulations

In some countries, VOs are organised as "nonprofit" or "not-for-profit" corporations. In some countries, VOs are organised under "trust" laws. In some countries, VOs are organised under laws authorizing "civil associations."

- A. How easy or difficult is it to establish a VO?
- B. What are the laws of your country governing the organisation and operation of VOs?
 1. Is there a central registration system? If yes, will a VO be de-registered if it is closing down?
 2. Must VOs be organised and operate as not-for-profit entities?
 3. Must they demonstrate to any regulatory body or bodies that they are organised and operated to serve "public" rather than "private" purposes?
 4. Are there other reporting or regulatory requirements with which VOs must comply?
 5. If so, what is the regulatory agency and what is the definition of "public" purpose?
- C. What financial incentives (other than those associated with income taxation) exist for establishing VOs? Or certain types of VOs?

V. Tax Incentives

- A. Tax treatment of VOs
 - a. Qualified recipients and VOs
 1. Describe the types of persons, legal entities, or institutions

(VOs) that qualify as recipients of a charitable contribution; i.e., one that results in a direct or indirect income tax benefit to the donor.

2. Must recipients of a qualifying charitable contribution be registered with, certified, or approved by government authorities?
3. Are certain types of organisations precluded from being recipient of a qualified charitable contribution? For example, are they precluded because of their political affiliation or advocacy activity?

b. Permitted activities of qualified VOs

1. Describe the types of activities in which a qualified VO may engage.
2. Are there specifically listed activities in which a qualified VO may not engage?
3. Must the activities of a qualified VO be restricted to a certain class of beneficiaries or to a certain locale?

c. Use of funds

1. Does the law specify the manner in which funds received by a qualified VO must be used?
2. Does the law impose any tax on investment income received by VOs of qualifying contributions?
3. Is a qualified VO required to use a specific percentage of its receipts annually in connection with its qualified activities?

d. Tax treatment of recipient

1. Describe the income tax consequences to a qualified VO upon the receipt of a contribution.
2. What are the tax consequences if a VO engages in profit-oriented activities?
3. Describe any municipal or other nonincome tax benefits available to a VO.

B. Treatment of donors

a. Qualified donors

1. Describe the types of persons, such as individuals, corporations, foundations, or other legal entities that may receive tax benefits from making a qualified contribution to a VO.

b. Nature of contribution

1. Describe the types of contributions that qualify the donor for a tax benefit. For example, can the gift be in the form of cash, securities, or services?

c. Tax benefits

1. Describe the direct or indirect tax benefits available to a donor. Is the donor allowed a tax credit or deduction?
2. Can a taxpayer make a contribution to a qualified VO in lieu of paying taxes?
3. Describe any municipal or other nonincome tax benefits available to a donor.
4. Are charitable contributions exempt from gift taxes?
5. Are charitable contributions exempt from death or estate taxes?

d. Officially sponsored contributions

1. Does the government provide any fiscal incentives to engage in public interest activities? For example, can gifts be made to educational institutions in lieu of a compulsory payment to a government-sponsored training program?
2. Are there any compulsory payments made through the tax system that are aimed at collecting funds for a particular organisation (such as a church tax)?
3. Do government authorities provide matching contributions?
4. Do private individuals or corporations have matching programs?

e. Miscellaneous

1. Are there any important aspects of the treatment of donors, recipients, or contributions not covered in the above-mentioned questions?
2. Are there any recent changes, trends, or patterns in the legal or fiscal regulation of donors, recipients, or contributions that should be noted?

VI. Literature

Please add relevant literature (if any at all) on voluntary organisations in your country. Please indicate title, author, publisher, year of publication, and language.

Conclusions to the United Nations World Conference on Human Rights, June 1993

[edited version]

Conclusions

Representatives from 25 Eastern and Central European and South African nongovernmental organisations met in June 1992 to discuss the role of NGOs in emerging democracies. The participants came up with the following conclusions:

The interconnectedness between the respect for human rights, an open civil society, and the existence of a well-established democracy was implicitly acknowledged by the participants, and there was an unanimous view of the value to the democratic process of an organised civil society.

The existence of well-functioning NGOs is certainly in itself evidence of at least minimal respect for such basic human rights as freedom of expression, freedom of assembly, and freedom of association. Some NGOs explicitly have among their tasks the defence of human rights issues and are thus important promoters of the respect of human rights standards.

In periods of transition to democracy, the need for organisations to defend the basic rights of the people, civil and political as well as economic, social, and cultural rights, is urgent. However, limitations on governments, as well as on NGOs, constitute barriers to the creation of the optimal conditions for such organisations to emerge in periods of major political and societal change.

To ensure the continuing progress of democracy, it is a precondition that the establishment of NGOs is not only made possible but indeed facilitated by governments. In order to do this, the meeting agreed that the following steps should be taken:

- In accordance with the Universal Declaration of Human Rights, articles 19 and 20, the right to freedom of expression, freedom of assembly, and freedom of association should be included by the governments in their constitutions;
- Governments should promote an environment where lobbying is

seen as democratically important, with a clear and constructive purpose for NGOs;

- NGOs should have access to participate actively in the constitution-making and law-drafting process when it comes to setting conditions of importance for the legal, political, or economical framework of NGOs;
- Governments should promote a legislative framework in which NGOs can operate. In the field of tax regulations, the need for clear and appropriate legislation is particularly urgent.
- It should be possible for NGOs to choose between a variety of possible legal forms. There should be no requirement of registration of NGOs, unless this is related to a functional need.
- Governments should increase their knowledge of the nature of NGOs, their needs, and how they can be effective counterparts. Conditions for a constructive dialogue between NGOs and the political sector should be established.

Introduction

The Institute of International Education (New York) and The Danish Center for Human Rights were in June 1992 the coorganisers of the Workshop entitled *The Role of Voluntary Organisations in Emerging Democracies: Experience and Strategies in Eastern and Central Europe and in South Africa*.

The purpose of the workshop was to provide a forum for representatives of 25 NGOs from the two regions to discuss the functions of NGOs in furthering democratic development. Representatives of Western NGOs, such as European Consultation on Refugees and Exiles (United Kingdom), Minority Rights Group (United Kingdom), British Charities Aid Foundation (United Kingdom), Centro Informazione E Educazione (Italy) and Save the Children (Denmark) participated as well, as did official representatives from the E.C. and the U.N. Centre for Human Rights, Geneva.

At the Workshop the following issues were specifically discussed: The functions of NGOs in fostering democratic development; similarities and differences in the challenges facing Eastern and Central Europe and South Africa; the legal and policy frameworks required for an open civil society, and the internal and external dimensions of institution building.

When discussing development in these regions, in particular in the Eastern and Central European communities, the focus of interest tends to be development in the economic and political sphere. At the Workshop the central theme of discussion was the responsibility of NGOs, as well as of the government, in strengthening the civil sphere. The interventions and the debate at the Workshop, as well as the actual events in the regions

concerned, show that, in order to consolidate and strengthen positive economic and democratic development, the creation of a strong civil sphere is crucial, in particular in fulfilling an educative task vis-à-vis the public.

The following presents the main points made at the workshop.

The functions of NGOs in fostering democratic development

Introductory observations

Although it was agreed that the differences between South Africa and the Eastern and Central European region are significant, and that the Eastern and Central European countries cannot be considered a monolithic bloc, the meeting concluded that there is a valid basis for comparison between the two regions. The key words "isolation" and "totalitarianism" were used to describe the important historical parallels between the represented countries.

Realising that the two regions, in spite of their similarities, do differ to a substantial degree, the following hypotheses were offered:

- Eastern and Central Europe is trying to get the state out of peoples' lives while South Africa is trying to get the state more responsible in the lives of the people;
- Eastern and Central Europe is moving from the command economy to the free market system, while South Africa may be moving toward less reliance on market forces and a more interventionist role of government in the economy.

It was suggested that one substantial difference between the two regions consisted in the fact that Eastern and Central Europe is experiencing a *de jure* constitutionally arrived at emerging democracy while in South Africa there is only the hope of constitutionally arriving at an emerging democracy.

The interventions and debates made it clear that, in most Eastern and Central European countries, the cooperation between NGOs and the government is closer than in South Africa. This in turn affects the conditions under which the organisations must operate.

The meeting found it important to stress that there might be problems in discussing the civil sphere, if the political sphere and the commercial/economic sphere are weak and even disintegrating.

The meeting generated an alternative to the rather negative term

"nongovernmental organisation," and the rather misleading term "voluntary organisation," namely "civil society organisation."

The nature and role of civil society and NGOs

NGOs were defined in terms of their democratic role, their nonprofit and nonstate character, and their adherence to a socially useful cause.

It was argued that NGOs perform a dual role in a democratic society. They constitute a precondition for, as well as a supplement to, the constitutionally defined political process and the formal bodies of the democratic state.

A number of common functions of NGOs were outlined:

- Articulating the demands of citizens;
- Encouraging diversity and growth of opinions;
- Being agents of political mobilisation;
- Being agents of political socialisation;
- Providing early warning mechanisms, on a national as well as an international level;
- Being a buffer against the state and against the market.

A number of potential pitfalls to the smooth functioning of NGOs were stressed:

- The underrepresentation of NGOs defending the interests of weak, but large, groups such as children;
- The domination of a few big and professionalised organisations in the landscape of NGOs;
- The cooptation of NGOs into the apparatus of the state or the market economy.

It was suggested that an important task for NGOs is to represent the citizens, not only in their relationship to the state, but also to the commercial sector.

It was stressed that NGOs face specific challenges in times of transition from authoritarian to democratic rule, mainly:

- Charting new relations with governments;
- Helping formulate new legal frameworks supportive of civil society;
- Generating policy options and public information;
- Monitoring the transition process itself;
- Providing a reservoir of talents from which new ranks of political and government leaders can be drawn as the transition proceeds.

Strong emphasis was put on the need for NGOs to ensure their own internal democratic accountability.

It was suggested that the differences in the socio-economic and political context determine the role, the function, the strategy, and the policy of NGOs.

Some urged that NGOs avoid getting too closely identified with political groupings. Political organisations compete for political power and are potential governments. NGOs closely tied to political organisations risk losing the independence and credibility required for the effective performance of the essential roles and functions that have been mentioned.

The meeting considered the notion that the relationship between civil society and the state need not automatically be either adversarial or cooperative. It was agreed that NGOs should not assume activities that are the legitimate responsibility of the state. The role of NGOs in setting the framework of democratic debate and the ensuring of the public good was emphasised.

Distinctive features for NGOs in emerging democracies

The interventions and the debates showed that all states had seen a veritable explosion in the formation of NGOs since the revolutionary changes of recent years.

The participants agreed that the very factor of repression itself had been the mobilising force for and key element in the formation of NGOs whose role would need reevaluation given the demise of the ideological underpinning of the struggle. Some questioned whether there could be sufficient human rights and humanitarian engagement with efficiency and consensus to fill the resulting vacuum.

Participants described an often uneasy and sceptical relationship between the NGOs and the authorities, press and public opinion. It was argued that this phenomenon could be explained partly by the present overpolitisation of all societal questions, as well as to the lack of understanding of the role of NGOs and the lack of trust toward these organisations.

The situation of NGOs in Eastern and Central Europe was characterised as being one in which the vocabulary of voluntarism has not yet been adopted by the people. NGOs are at the present stage looking for a role between the paternalistic values promoted by the Communist regimes that were hostile to charity or other voluntary actions, and the spirit of self-centered individualism, laissez faire capitalism equally hostile to giving and to nonprofit actions.

All participants pointed to an inadequate, evolving, and sometimes chaotic legislative framework in which they were supposed to operate. Problems of cooperation and coordination among NGOs themselves and in relation to

local and national authorities were highlighted.

It was a common theme of the session that virtually all NGOs were in need of 'management' help, be it in administrative techniques, fundraising, marketing, or computer technologies.

Many participants reported serious financial limitations and heavy dependence on foreign funding. The tax system, which is described below, may provide a partial explanation to this.

A variety of views were expressed about the advantages and dangers attached to assistance from outside donors. For some it was the *sine qua non* of their existence; for others it implied a threat of interference by unquestioned Western European values. Contributions from South African participants underlined the unhealthiness of long-term dependence on outsiders.

The legal and policy frameworks required for an open civil society

Freedom of association

In the Eastern and Central European countries, constitutions and/or laws allow NGOs and guarantee them rights of freedom of association, freedom of assembly, and freedom of expression but other necessary elements are missing such as a specific and clear legal framework and favorable economic conditions.

In apartheid South Africa there have been inadequate legal or constitutional guarantees for NGOs, and freedom of association, freedom of assembly, and freedom of expression have been severely curtailed. The laws have created an environment in which it is possible for NGOs to be established legally, but there still is substantial governmental control on their functioning.

The participants agreed upon the fact that even though the state of law differs between the countries, the freedom of association is a *de facto* reality.

Problems of transition

In the Eastern and Central European countries, problems of transition include implementation, a lack of clarity of the position of NGOs because of a mixture of old and new laws, and attempts to interpret old laws in modern circumstance. Legislation has sometimes been hastily drafted and passed without appropriate consideration.

In South Africa, the "policing" of NGOs (e.g., through control over fundraising) has characterised the situation. NGOs thus risk being banned or limited in their area of operation. International links were said to have provided some protection against banning in many cases.

It was stressed that the emergence of democracy does create new space for NGOs but does not automatically create the structures that promote dialogue and cooperation between the political and the civil sector. It was agreed that:

- The political sector should facilitate and establish conditions for this dialogue to take place;
- NGOs should be invited to participate in the draft-making process of laws and regulations whenever these touch upon issues of relevance for the conditions of the organisations.

Fundraising and taxation

There seems to be, as yet, no consistent legal framework in the Eastern and Central European countries for receiving donations or gifts or for fundraising. In some countries the same rules apply to "foundations," which fund projects, and "associations," which implement them. There are limited benefits for giving to NGOs, but in some cases there are exemptions and tax deductions for donations. Problems arise when it comes to commercial or profit-making activities, as well as when NGOs supply services for a fee instead of free.

NGOs in South Africa have experienced substantial control over the collection and receipt of funds. Taxation policies fully supportive of private and corporate support for NGOs have not yet been enacted.

Building institutions

Common principles in institution building

It was argued that if institutions are to be built on firm foundations, careful thought and planning is essential:

- The specific socio-economic and political context in which NGOs are operating should be identified in order to shape the organisations according to the challenges they will meet;
- The organisations should embrace in their own terms such valuable tools from other sectors as strategic planning, bearing in mind that the process of building the institutions should always be democratic in style.

It was proposed that the statute of any NGO should lay down the structures in which both the form and the substance of the organisation should be reflected. Two approaches as to how the organisation can be structured were outlined:

- The traditional approach, or the top-to-bottom paradigm, premised on the assumption that substantial development can only be initiated by individuals or units in position of power or authority and bring about change on a wide scale;
- The participatory approach, or the bottom-to-top paradigm, based on the assumption that those who would benefit most from the development, the grassroots, are the best people to initiate, determine, and sustain these initial efforts. This approach embodies principles such as self-reliance, social and political maturity, and self-determination.

It was also argued that NGOs need to develop a common ethic. NGOs must:

- Be transparent in their structure and functioning;
- Accountable to their members and supporters;
- Practice and monitor equal opportunity policies;
- Ensure that there is a pluralist approach in their decision-making and programming;
- Avoid the marginalisation of other organisations and their issues.

Participation and consultation with the constituency were also stressed as important elements in the institution building as well as in the every-day life of the institution.

If the civil society is to be involved in a democratic process, it can only flourish in the context of educated and informed citizens, and hence it is a specific responsibility of NGOs to educate and to inform the public. Techniques of strengthening the constituency of an organisation were explored and these include seeking allies within or outside the state, and organisations acting in unity. The need for systematic leadership development efforts was similarly stressed.

Education and training were two recurrent themes in discussing institution building. Needs in training should embrace not only staff, but also volunteers. The range of options suggested includes:

- Exchanges of staff;
- Sharing experience and good practice;
- Bringing in experts;
- Sharing expertise among organisations.

In the wide-ranging debate it was recognised that the education, training, and development of the governing board should not be forgotten.

Other fundamental elements in the institution building process were stressed as well:

- Consultation;
- The need for better understanding of planning;
- The development of a strong public relations or communication system, and of clear fundraising policy;
- Financial and basic management, marketing, and computerisation.

Starting from the position that the relationship between the state and the NGO is a crucial ingredient in a democracy, the following suggestions emerged aimed at furthering the mutual understanding:

- Improvement of the education of local and central governments as to the nature of organisations, their needs, and how they can be effective counterparts;
- Governments should promote an environment where lobbying is seen as democratically important, with a clear and constructive purpose for many NGOs, giving voices to the voiceless.

Conversely:

- Education of NGOs in the methods of government may also be helpful;
- NGOs should seek to recognise successes as well as failures in state activities, if their critical evaluation is to be credible and honest.

Pitfalls in institution building

With a few exceptions, the participants all agreed that foreign funding may be essential for the NGO's existence, due to the specific socio-economic conditions that prevail in times of transition.

Issues relating to dangers in institution building included the danger of dependency, and more specifically that of financial dependency on private as well as governmental funding. The dilemma when engaging in fundraising was said to be that of creating a dependency on external sources.

In order to maintain their independence and avoid distortion in the objectives and work of NGOs, it was suggested that they diversify their funding sources. However, it was admitted that the paucity of alternative sources of funds in fragile economies leave few choices for organisations that require guaranteed, long term funding to build sustainable projects.

It was suggested that the key word when facing the abovementioned problems is openness: openness toward the constituency, to the people that the organisation is servicing, as to where the money is coming from, and

openness in the relation between donor and recipient, in order to avoid "hidden agendas."

Participants emphasised the need for NGOs not to move from one fashionable issue to another, but to develop 'staying power' to influence attitudes and environments in order to change the root causes of the particular problems that are being dealt with.

Networking

It was agreed that "decentralisation" and "pluralism" are two key words in the creation of an open civil society and the building of NGOs. If the organisations are highly decentralised there is obviously a need for communication among them. Similarly, if the advantages of pluralism are to be realised, there has to be some kind of device for sharing the natures and outcomes of these many diverse experiments.

It was suggested that networks are vehicles for sharing or gaining access to much-needed technical information about particular fields that an organisation may be engaged in. Networks can also provide the possibility of exploiting available technology that is not readily useful, unless the activity can be linked to a wide community of organisations.

Networks may also be a vehicle for assuring a person that his or her work in an NGO is important and for providing solidarity, particularly in periods when the environment may not be entirely hospitable to the work of these organisations.

Networking can also help in building consensus among groups that are approaching a common set of demands or issues. The network can in that context play the role of bringing people of common objectives closer together in determining what their priorities are and what their underlying approaches should be.

Networks can increase the effectiveness of NGOs in bringing their views to bear on a host of processes (e.g., on the framework-setting process, establishing the constitution), as well as the basic laws affecting the civil sector. Similarly, networks are useful in providing advice on a host of policy issues on which the civil society organisations work. They may also serve as vehicles for providing an effective voice in gaining access to funding from local government sources, bilateral foreign donors, multilateral donors, or foundations.

Networks may have the function of alerting people to impending crises. They may also perform a role in helping bring in resources from outside, not only financial resources, that are necessary to respond quickly to the problems of, for example, human rights violations, drought or famine.

Biographical Profiles of Participants

Bulgaria

Dr. Mois Fayon is Director of Research at the Centre for the Study of Democracy in Sofia, an independent, nonprofit research organisation. He received his Ph.D. in contemporary history in 1991. He also has an M.A. in philosophy. His academic interests are in the field of the political and socio-cultural aspects of democratic transition. Currently, he is running a research and development project on the emerging "third sector" in Bulgaria.

Dr. Pravda Spassova works as a philosopher of art at the Institute of Philosophy in Sofia. She graduated from Sofia University, Philosophy Department. She received a Ph.D. in Philosophy of Arts from Warsaw University and in 1988/89 she was a Visiting Fellow at St. Antony's College, Oxford. In Bulgaria she has been involved in human rights activities. She has also been connected to Ecoglasnost. In May 1990 she joined the Movement for Rights and Freedom (MRF), a movement defending the rights of the Turkish minority. Since 1992 she is also connected to the Helsinki Citizens Assembly.

Czechoslovakia

Mr. Jiri Hajek graduated from the Law Faculty of Charles University, Prague. He was active in the resistance after the Nazi occupation of Czechoslovakia in 1939. He was Ambassador in London 1955-58, Deputy Minister of Foreign Affairs 1958-62, Representative of Czechoslovakia at the U.N., New York, 1962-65, Minister of Education 1965-68, and Minister of Foreign Affairs during the 'Prague Spring' 1968. Having opposed the Soviet invasion by a speech in the U.N. Security Council, he was dismissed from his post. In 1976 he was active in organising the 'Charter 77' civil rights initiative. Since 1988 he has been chairman of the Czechoslovak Helsinki Committee for Human Rights. He is now active in the movement resisting the division of Czechoslovakia.

Mr. Jiri Janda graduated from Charles University, Prague. Between 1984 and 1991 he was employed in the Ministry of Culture of the Czech Republic, from 1989 to 1991 as Deputy Director of the Secretariat of Minister. From 1991 to 1992 he was Director of 4FIO (Four Foundations International Office). Major achievements of 4FIO were coordination of the PHARE Programme, technical coordination for Charity Know How Fund (U.K.), and Institute for Policy Studies, John Hopkins University (U.S.)-Third Sector Programme. He is now the coordinator of translations at Coopers and Lybrand, Prague Office.

Mr. Vojtech Kment has been working for the Association for Easy Connection since 1991. He conducted his studies at the Faculty of Electrotechnics CVUT. He graduated with an M.S. in engineering and has worked at the Department of Computer Science. He is currently working toward a Ph.D. degree on the reliability of neural network models.

Ms. Libuse Martinakova is currently Head of the Documentation and Information Center in Prague, which works closely with the King George of Podebrady Foundation for European cooperation. She graduated from the Philosophy Faculty of Charles University, Prague. She has lived and worked for four years in Northern and Central Africa.

Mr. Vladimir Raiman is the editor of a third sector journal in Czechoslovakia. He is also the Director of the Puppet Theater PRAK and Secretary of the Czechoslovak Committee of ECF. He has studied psychology at Comenius University in Bratislava and has conducted studies as Art Director of Films at the Academy of Art in Prague. He has worked as a free-lance photographer and writer, and at the State Puppet Theater in Bratislava.

Hungary

Dr. Tamas Lovassy is the Executive Director for United Way of Hungary. He graduated from the Budapest Law School and has received a Special Diploma on International Legal Studies and Jurisprudence (Salzburg Seminar). He has been the Secretary for International Relations in the Hungarian Lawyers Association and a Research Fellow at the Foreign Service in the Hungarian Institute for Foreign Affairs. He has also been a Resident Fellow at the Institute for East-West Security Studies.

Mr. Peter Balazs is the President of the Hungarian Centre for Foundations. He graduated as a civil engineer and has worked with a design office. He has been an assistant at the Technical University of Budapest. Ten years ago, he received a degree in economics and has since been working with the Hungarian Credit Board.

Ms. Julianna Matrai is the Secretary of the FIDESZ Kabinet of Foreign Affairs. She coordinates the work of experts and works on proposals for the Kabinet decision making. She has studied pedagogy and sociology and has been involved in the democratic opposition since 1986. She has also worked in the International Secretariat of the Helsinki Citizens' Assembly.

Poland

Ms. Ewa Charkiewicz-Pluta received a B.A. in applied linguistics in 1973 from the University of Warsaw and a M.A. in development studies in 1991 from the

Institute of Social Studies, The Hague. She is currently lecturing at the Institute of Social Studies in The Hague. She is co-author of the report *Women, the Environment, and Sustainable Development*, to be published by ZED Books in 1993.

Ms. Kataryna Klich graduated in biology from the University of Silesia, with a specialisation in environmental biology. In 1986 she began welfare work with the Polish Ecological Club. She took part in the meeting of the Helsinki Committee in Poland concerning the ecological disaster in Upper Silesia. Since 1989, she has served as secretary of the Upper Silesian branch of the Polish Ecological Club. In 1990, she started to campaign in the newly opened Information Centre for Air Protection, which is a branch of the Polish Ecological Club.

Mr. Piotr Konozewski has served as chairman of the Forum of Polish Foundations since 1991. Since 1989 he has been the programme and public relations officer at the Batory Foundation. He conducted his studies at the University of Warsaw, Department of Sociology, and has worked as a journalist.

Ms. Malgorzata Pleban is the manager of programme support for Civic Dialogue in Poland. She graduated from the Applied Linguistics Department at Warsaw University. She has worked as a press assistant and in Foreign Assistance Coordination in the Council of Ministers.

Ms. Irena Woycicka is vice minister in the Ministry of Labour and Social Policy. She is an important advocate for the role of NGOs in Poland.

Mr. Jan Pakulski has received two M.A. degrees, one with specialisation in econometrics, the other in development economics. He is currently living in the Netherlands. He is the editor in chief of the YDC newsletter (English edition) and the Secretary General of YDC. He has been on various missions to Africa, Asia, and Eastern Europe, visiting projects and local NGOs. He has been a consultant to the Netherlands Government (aid and development financing), to the Council of Europe, to the E.C.-PIHARE/Red Barnet project "Support for Civic Dialogue" in Poland, and to the joint project of the Polish and Netherlands Governments in Poland. Since 1992 he has been consultant/coordinator of the Council of Europe awareness-raising programme of global interdependence and solidarity in Eastern and Central Europe.

Romania

Ms. Anca-Maria Harasim conducted her studies at the Bucharest Polytechnic Institute, the Electrical Power Department. From 1983 to 1990, she was the principal design engineer for the Studies and Design Institute for Power. Since 1990, she has been Regional Director of the Soros Foundation for an Open Society in Bucharest. Working for a nongovernmental organisation from its beginning has enabled her to break new ground in this field and to understand the general principles under which VO's are created.

Dr. Liviu Matei is Assistant Professor in the Department of Psychology at the Babes-Bolyai University in Cluj. He is a member of the Pro-Vobis Board Cluj and a co-director of the Centre for Interethnic Research. He has set up and coordinated a gypsy programme sponsored by Medecins Sans Frontieres (Belgium). He has undertaken research on NGOs in Romania in order to facilitate efforts to improve VO activity.

South Africa

Mr. Geoffrey Budlender is an attorney of the Supreme Court of South Africa and the Deputy National Director of the Legal Resources Centre, South Africa. While studying at the University of Cape Town, he was President of the Students' Representative Council (SRC), and later National Chairman of the National Union of South African Students (NUSAS). He has practised and published mainly in the areas of political trials, influx control (freedom of movement), citizenship, social welfare benefits, labour law, forced removals, and rural and urban land and housing issues. He was a member of the Law and Poverty Working Group of the Carnegie Enquiry into Poverty and Development in South Africa. His board memberships include the Legal Assistance Trust of Namibia, the Human Rights Commission, PlanAct (a nongovernmental urban services group), and the Editorial Committee of the South African Journal on Human Rights. He is also a trustee of two community development trusts established by local communities that he has represented. He was a Rapporteur at CODESA (the Convention for a Democratic South Africa) for Working Group 4, dealing with the reincorporation of the "homelands." He has held positions as a visiting lecturer at the Universities of Cape Town, Witwatersrand, and Maryland (U.S.)

Mr. Brian Currin is National Director of Lawyers for Human Rights, a public-funded, nongovernmental organisation. Before that, he practised as an attorney for ten years, specialising in labour law, human rights, and political trial work. At LHR, with 14 rural or regional offices, he has overall responsibility for a number of national projects, including the training and placement of black candidate attorneys; monitoring discrimination in the administration of justice; monitoring executions and spearheading an abolitionist lobby; a national human rights education programme; a national para-legal training programme; a legislation audit-cum-law reform project from a bill of rights perspective; a public defender programme; monitoring violence and submitting evidence to commissions on violence and involvement of third-force elements. He is a board member for the Independent Board of Inquiry into Informal Repression and a mediator for the Independent Mediation Services of South Africa (IMSSA). He has appeared regularly as a witness before the United Nations Special Group of Experts on Southern Africa, testifying about human rights violations in South Africa.

Dr. Frene Ginwala, barrister at law (Inner Temple) and D.Phil (Oxon), is head of the ANC Research Department, member of the President's Secretariat, Deputy-head, ANC Commission on the Emancipation of Women, member of the ANC Executive Committee (Pretoria, Witwatersrand, and Vaal region), and convener of

the Women's National Coalition. In exile, she worked as a journalist and broadcaster, including managing editor of "Tanzania Standard" and "Sunday News" (1969-72) after nationalisation of Lonhro-owned newspapers in the country, and served as ANC official in various countries. Prior to her return from exile in 1991, she was head of the Political Research Unit in the office of President Tambo and ANC spokesperson in the U.K.. She has lectured and published widely. Among her publications are Gender and Economic Policy in a Democratic South Africa (Open University, U.K.) and Women and the Elephant: Putting Women on the Agenda (Raven, Johannesburg).

Mr. Pius Nkondo Langa has been an advocate of the Supreme Court of South Africa since 1977. His practice consists mainly of human rights matters. He has appeared as defence counsel in many of the country's High Treason and Terrorism trials at the time when extra-parliamentary political organisations were banned. He is a member of the Constitutional Committee of the African National Congress and an adviser to the organisation's CODESA delegation. He is head of the Constitutional Research Unit attached to the University of Durban-Westville, President of the National Association of Democratic Lawyers (NADEL), and has attended and participated in numerous human rights conferences in South Africa and various other countries and in community organisations.

Mr. Wallace Mgoqi, an attorney at the Legal Resources Centre in Cape Town, was employed by the Western Province Council of Churches in the late 1970s as a community worker and interpreter among the displaced and homeless communities of the Western Cape, working with law firms engaged in advancing the position of these communities in law. In 1985, he completed a year's fellowship the Legal Resources Centre, a public interest law firm in Cape Town. He then obtained Articles of Clerkship, received training as a mediator under the auspices of the Independent Mediation Service of South Africa, and was admitted, in 1988, as an Attorney of the Supreme Court of South Africa. He has received further training in negotiation skills and mediation. In 1991, he presented a paper on Participation in Human Rights Education at a Commonwealth Africa Human Rights Conference held by NGO human rights organisations in Harare.

Mr. Rory Riordan is a civil rights activist who directs the Human Rights Trust, which was set up in Port Elizabeth to redress conditions of deprivation and suffering caused by discrimination by law, regulation, custom, or practice. He is editor of the Trust's journal, "Monitor," which promotes human rights and provides detailed political analysis on South African topics, and writes a weekly political column for the "P.E. Herald." He has published on topics such as black poverty, housing, nationalisation of industry, political reform, rise of right-wing vigilante movements in the Eastern Cape, security police maltreatment of detainees, redistribution of wealth in a future South Africa, and a wide range of human rights topics. He has delivered papers in the United States, Holland, Norway, and the U.K. He serves on the ANC's One City Taskforce and on its Housing Committee.

Dr. Mala Singh is a Professor and Head of Department of Philosophy at the University of Durban-Westville. She is founding president (1988-1990) of the Union of Democratic University Staff Associations (UDUSA); member of the

editorial board of the South African Journal of Philosophy, and executive member of the Philosophical Society of Southern Africa. She is a trustee of the Human Resources Trust and a member of the Detainee Support Committee, which provided financial and legal support to detainees and their families before it was provided by the state in 1988. Her research interest is in civil society, the transformation of universities, and the role of progressive intellectuals in South Africa.

Ms. Phuti Tsukudu, a social worker by training, is projects coordinator at the Careers Research and Information Centre (CRIC), where she has been for the last ten years. She is concerned with the needs and aspirations of youth within the work and education field and has done education and careers counselling for youth and adults and training and consultancy for community-based and service organisations. She has worked with women from squatter communities in Cape Town, doing preparatory work with them before they form cooperatives. She serves on the boards of educational and scholarship organisations like the Catholic Educational Aid Programme (CEAP) and the DETU Educational Resource Centre (DERIC). She also serves on the national committee of World University Service South Africa, a funding agency, and is part of the Gender Network Group.

United States

Dr. William E. Carmichael is IIE's Executive Director, CIS and East Central European Programs. He is also actively involved, at the Institute, in the development of a new South African-U.S. University Linkages Program. His work both in East Central Europe and in South Africa began during a series of assignments with the Ford Foundation starting in 1967. From 1981 until joining IIE's staff in 1989 he served as the Vice President, Developing Country Programs, at the Ford Foundation. He is Chairman of Africa Watch, a New York- and London-based human rights organisation a member of the executive committee of Human Rights Watch, chairman of the board of the Panos Institute in Washington, D.C., and a member of the board of the Panos Institute in London and Budapest.

Mr. Wayne Fredericks is Counselor in Residence for Southern Africa for IIE and trustee-on-leave for IIE. He has served as associate director of the Ford Foundation programme in South and South East Asia, Deputy Assistant Secretary of State (and Acting Assistant Secretary) 1961-67 (having been brought into the government by President Kennedy), Head of the African and Middle East Programme of the Ford Foundation, and Executive Director for International Government Affairs for the Ford Motor Company. He has been Chairman, President, or Director of a number of voluntary organisations in the U.S., including the Foreign Policy Association, the Institute for a Democratic Alternative in South Africa (IDASA), the Get-Ahead Foundation (South Africa), Operation Hunger (South Africa), the Near East Foundation, and the Institute of East/West Studies.

Ms. Sheila Avrin McLean is Vice President, Education and the Arts, at IIE. With a professional, technical, and support staff of 60, she develops and manages more

than 100 world educational and cultural programs. She joined IIE in 1986 as executive director of IIE's five South African programmes for black South Africans and Namibians. She has served as general counsel of the U.S. International Development Cooperation Agency, as head of a consulting firm specialising in programme and other advice to voluntary institutions and foundations, as associate general counsel for the Ford Foundation, and as an attorney specialising in corporation law with the New York law firm of Cravath, Swaine & Moore. She is the author of numerous publications on philanthropy, refugee issues, and tax reform, including the recent book *Charitable Contributions in the OECD: A Tax Study*.

Ms. Ann McKinstry Micou is Director of the South African Information Exchange (SAIE) at IIE, a project whose aim is to democratise access to information about resources relating to South Africa. The SAIE has researched and produced 21 working papers on South Africa-related donors in the U.S., Canada, Europe, and South Africa. She has served as Vice President for Communications at the U.S. Council for International Business, where she staffed the Task Force on South Africa, and as Director of Development at World Education Inc., a voluntary organisation devoted to training trainers in nonformal education techniques in Africa, Asia, and Latin America. She lived and worked for eight years in the Middle East.

Western Europe

Mr. Ian Bell spent many years working in international education and training, most recently as Deputy Director-General of the Bell Educational Trust and Director of the London Chamber of Commerce Examinations Board. In 1990, he joined the Charities Aid Foundation with the responsibility to develop CAF's work in Eastern and Central Europe. In November 1991, he was appointed Director of Charity Know How, a joint initiative of the Foreign and Commonwealth Office and a group of British Trusts to assist the development of a voluntary sector in the former Soviet Bloc.

Mr. Morten Kjaerum has been Director of the Danish Centre for Human Rights since 1991. Before that he was Head of the Asylum Department in the Danish Refugee Council and travelled regularly to areas of conflict. He is a member of the ECRE Board and the Danish Peace Foundation Board. He is also the editor of several books and articles on refugee issues. He graduated from the Faculty of Law, University of Aarhus.

Ms. Birgit Lindsnaes has been project coordinator at the Danish Centre for Human Rights since 1991. In this period she has been preparing two E.C.-PHARE projects on civil society development in Poland and Czechoslovakia. Prior to that she was refugee coordinator in Amnesty International and before worked for the Danish Red Cross. She graduated in anthropology from the University of Copenhagen.

Ms. Vanessa Saenz Moeller is a student of Political Science, University of Copenhagen. In 1991 she received the Certificat d'Etudes Politiques from l'Institut d'Etudes Politiques de Paris. She is currently a student assistant at the Danish Centre for Human Rights.

Ms. Novella Palombo has been, since 1988, responsible for the Africa Project Desk of CIES (Centre for Development Information and Education, an Italian NGO). She is also actively involved in lobbying and campaigning on issues related to civil and political rights, refugees, and displaced people and migrants. In 1985 she joined the Anti-Apartheid movement in Italy. She has also been co-responsible in the Field Projects Section of the Office of Programme, budget, and evaluation of FAO/Rome for analysis and revision.

Mr. Alan Phillips is the Director of the Minority Rights Group. His work in southern Africa began in the 1970s when, as General Secretary of the World University Service (UK), the organisation developed scholarship programmes for refugees and supported local projects. In 1982 he joined the British Refugee Council where, as Deputy Director, he was closely involved with the establishment of refugee community groups. He has helped MRG establish an education and information programme in Eastern Europe and participated in the NGO delegation to the CSCE meetings in Copenhagen (1990), Geneva (1991), and Helsinki (1992).

Mr. Philip Rudge is General Secretary of the European Consultation on Refugees and Exiles (ECRE). His work experience includes the University of Tusingen Germany; Development Aid Officer in Laos; and Senior Staff Member, World University Service U.K. He has traveled extensively on refugee/human rights/development issues in Africa, Asia, and Latin America.

Dr. Osamu Shiraishi has been a Human Rights Officer at the United Nations Centre for Human Rights since 1982. He holds a Master of Law from University of Tokyo, a Master of Comparative Law from University of Virginia, and has completed a Doctoral Degree programme on international law at the University of Tokyo. He has been a lecturer at the Tsuda Women's College in Tokyo and a Programme Officer at the United Nations High Commissioner for Refugees.

Mr. Kristian Sorensen is President of the Danish Save the Children. He is Executive Committee member of the Danish Refugee Council and the International Save the Children Alliance. He is Member of the Board of Directors of the Panos Institute in London and Adviser to the Government of Poland and of Czechoslovakia for the European Communities. He graduated from the Faculty of Economics, University of Copenhagen. He has been Deputy Secretary General of the Danish Red Cross and Chief Executive Officer of the Secretariat of the Association of Danish Lawyers and Economists. He is the author of several books and articles on economics and development problems.

Mr. Emilio Valli is programme manager for the PIARE Operational Service of the Commission of the European Communities (E.C.). Before that, he has worked for the European Development Fund's Delegation in Accra and for several NGOs in the area of development aid.

Names and Adresses of Participants

Bulgaria

Dr. Mois Fayon
Director of Research
Centre for the Study of Democracy
Lazar Stanev Str, 1
Sofia 1113
Tel. 359 2 70 10 23
Fax. 359 2 72 05 09

Dr. Pravda Spassova
Helsinki Citizen's Assembly
Ul. G. Avramov 123 A/23
1404 Sofia

Czechoslovakia

Dr. Jiri Hajek
Podebrady Foundation
P.O. Box 7
119 00 Prague 1
Tel. 42 2 55 19 74
Fax. 42 2 55 19 68

Mr. Jiri Janda
Former Four Foundations International Office
Present work adress:
Coopers Lybrand
Narodni 21
110 00 Prague 1
Tel. 42 2 2210 40
Fax. 42 2 2680 10

Mr. Vojtech Kment
Technical Coordinator
Association for Easy Connection
Bubenska &
170 00 Prague 7
Tel./Fax. 42 2 80 45 21

Ms. Libuse Martinakova
Podebrady Foundation
P.O. Box 7
119 00 Prague 1
Tel. 42 2 551 974
Fax. 42 2 551 968

Mr. Vladamir Raiman
Committee of the European Cultural Foundation
Safarikovo Namestie 6
81806 Bratislava
Tel/fax. 42 7 490 988

Ms. Dasha Havel
Director
Civic Forum Foundation
Washingtonova 17
110 00 Prague 1
Tel. 42 2 221 242
Fax. 42 2 235 8784

Hungary

Dr. Tamas Lovassy
Executive Director
United Way of Hungary
Csersznye u.1
H-1112 Budaapest
Tel/fax. 36 1 185 9675

Dr. Peter Balazs
President
Hungarian Centre for Foundations
Belgrad rakpart 24
III emelet
H-1056 Budapest
Tel. 36 1 118 1686
Fax. 36 1 131 9673

Ms. Julianna Matrai
Head of Foreign Policy Cabinet
FIDESZ
Lendvay u. 20
H-1062 Budapest
Fax 36 1 131 9673

Poland

Ms. Ewa Charkiewicz-Pluta
Wole Bye (I Prefer To Be)
Ul. M. Konopnickiej 6, Pokoj 355
00-491 Warszawa
Tel. 48 22 628 9281

Ms. Katarzyna Klich
Polish Ecological Club
Olac Grunwaldski 8-10
40-950 Katowice
Tel. 48 59 43 15
Fax. 48 58 06 79

Mr. Piotr Konozewski
The Batory Foundation and
The Forum of Polish Foundations
Ul. Flory 9
00-586 Warszawa
Tel. 48 22 48 80 55
Fax. 48 22 49 35 61

Ms. Malgorzata Pleban
Civic Dialogue NGO Programme (PHARE)
Ul. Zurawia 4, Pokoj 617
00-503 Warszawa
Tel. 48 26 935 416
Fax. 48 26 935 815

Ms. Irena Woycicka
Former Deputy Minister
Programme for Social NGOs
c/o PHARE
Ul. Zurawia 4, Pokoj 617
00-503 Warszawa
Tel. 48 22 417 340

Mr. Jan Pakulski
YDC (Youth for Development in Cooperation)
Overschistraat 9
1062 HN Amsterdam
The Netherlands
Tel. 20 614 2510
Fax. 20 617 5545

Romania

Mrs. Anca-Maria Harasim
Director
The Soros Foundation
Calea victoriei 133
71102 Bucharest
Tel. 40 0 506 325
Fax. 40 0 120 284

Dr. Liviu Matei
Department of Psychology
Cluj University
Tel. 40 5 116 101/ext. 115
Fax. 40 5 111 905

South Africa

Mr. Geoffrey Budlender
Attorney
Legal Resources Centre
P.O. Box 9495
Johannesburg 2000
Tel. 011 836 9831
Fax. 011 836 8680

Mr. Brian Currin
National Director
Lawyers for Human Rights
713 Van Erkom Building, Pretorius Street
Pretoria 0002
Tel. 012 21 2135
Fax. 012 325 6318

Dr. Frene Ginwala
Director, Research Department
African National Congress (ANC)
51 Plein Street
Johannesburg 2001
Tel. 011 330 7054
Fax. 011 333 7739

Mr. Pius N. Langa
President
National Association of Democratic Lawyers (NADEL)
P.O. Box 5807
Durban 4000
Tel. 031 301 5402
Fax. 031 304 4208

Mr. Wallace Amos Mgoqi
Legal Resources Centre
P.O. Box 5227
Cape Town 8000
Tel. 021 238 285
Fax. 021 230 935

Mr. Rory Riordan
Director
Human Rights Trust
P.O. Box 13197
Port Elizabeth, Humewood 6013
Tel. 041 559 536
Fax. 041 564 337

Professor Ratnamala Singh
Department of Philosophy
University of Durban-Westville
Private Bag X54001
Durban 4000
Tel. 031 820 2448
Fax. 031 820 2383

Ms. Phuti Tsukudu
Careers Research and Information Centre (CRIC)
P.O. Box 378
Athlone 7760
Tel. 021 637 8040
Fax. 021 633 9022

United States

Dr. William D. Carmichael
Mr. Wayne Fredericks
Ms. Sheila Avrin McLean
Ms. Ann Micou
Institute of International Education
809 United Nations Plaza

New York, NY 10017-3580
Tel. 212 984 5364
Fax. 212 984 5452

Western Europe

Mr. Ian Bell
British Charities Aid Foundation
114-118 Southampton Row
London WC1B
U.K.
Tel. 44 71 831 7798
Fax. 44 71 831 0134

Mr. Morten Kjaerum
Director
Ms. Birgit Lindsnaes
Project Coordinator
Ms. Vanessa Saenz Moeller
Student Assistant
The Danish Centre for Human Rights
Studiestraede 38
DK-1455 Copenhagen K
Denmark
Tel. 45 33 91 12 99
Fax. 45 33 91 02 99

Ms. Novella Palombo
Centro Informazione E Educazione
AlloSviluppo
Via Palermo 36
00184 Rome
Italy
Tel. 39 6 481 5620
Fax. 39 6 486 419

Mr. Alan Phillips
Director
Minority Rights Group
379, Brixton Road
London SW9 7DE
Tel. 44 71 978 94 98
Fax. 44 71 738 62 65

Mr. Philip Rudge
Secretary General
European Consultation on Refugees and Exiles (ECRE)
Bondway House
3, Bondway
London SW8 1SJ
U.K.
Tel. 44 71 582 99 28
Fax. 44 71 582 99 29

Mr. Osamu Shiraishi
Human Rights Officer
United Nations Centre for Human Rights
Palais des Nations
CH 1211 Geneva 10
Switzerland
Tel. 41 22 734 6011
Fax. 41 22 733 8671

Mr. Kristian Sorensen
Secretary General
Save the Children
Brogaardsvaenget 4
DK 2820 Gentofte
Denmark
Tel. 45 31 68 08 83
Fax. 45 31 68 05 10

Mr. Emilio Valli
European Commission
DG1 (Eastern and Central Europe)
Rue de la Loi 84, 8/16
Brussels 1049, Belgium
Tel. 32 2 235 5142
Fax. 32 2 236 6264