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**LEGAL, POLITICAL AND SOCIAL ENVIRONMENTS OF THE NON-
GOVERNMENTAL SECTOR OF ARMENIA**

MPHIL THESIS

BY

ARGINE NAHAPETYAN

Open University

**Sponsoring Establishment
Central European University**

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AUTHOR NO: R758552X

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TABLE OF CONTENT

| | |
|---|----|
| PREFACE | 4 |
| INTRODUCTION | 6 |
| CHAPTER 1: CIVIL SOCIETY AND THE ROLE OF NON- GOVERNMENTAL ORGANISATIONS IN THE BUILDING OF CIVIL SOCIETY AND THE DEVELOPMENT OF DEMOCRATIC GOVERNANCE | 11 |
| 1.1. INTRODUCTION..... | 11 |
| 1.2. THE CONCEPT OF CIVIL SOCIETY | 12 |
| 1.3. REAWAKENING OF CIVIL SOCIETY IN EAST CENTRAL EUROPE AND NEWLY INDEPENDENT STATES..... | 14 |
| 1.4. CIVIL SOCIETY AND POLITICAL INSTITUTIONS | 24 |
| 1.5. THE ROLE OF NGOs IN THE BUILDING OF CIVIL SOCIETY AND THE DEVELOPMENT OF DEMOCRATIC GOVERNANCE | 28 |
| 1.5.1. <i>NGOs as a Critical Element of Civil Society.</i> | 28 |
| 1.5.2. <i>The Role of NGOs in the Building of Civil Society.</i> | 31 |
| 1.5.3. <i>The Role of NGOs in the Development of Democratic Governance.</i> | 36 |
| CONCLUSION..... | 45 |
| CHAPTER 2: LEGAL ENVIRONMENT OF THE NGO SECTOR IN ARMENIA | 46 |
| 2.1. INTRODUCTION..... | 46 |
| 2.2. CONSTITUTIONAL PROTECTION..... | 47 |
| 2.3. LAW OF THE REPUBLIC OF ARMENIA ON PUBLIC ORGANISATIONS: GENERAL OVERVIEW | 49 |
| 2.4. ESTABLISHMENT | 49 |
| 2.4.1. <i>Founders</i> | 52 |
| 2.4.2. <i>Organisational forms.</i> | 53 |
| 2.4.3. <i>Foreign organisations.</i> | 54 |
| 2.4.4. <i>Registration Agency.</i> | 55 |
| 2.5. TERMINATION, LIQUIDATION AND DISSOLUTION | 56 |
| 2.5.1. <i>Voluntary termination and liquidation</i> | 56 |
| 2.5.2. <i>Involuntary termination and liquidation.</i> | 57 |

| | |
|---|-----------|
| 2.6. STRUCTURE AND GOVERNANCE | 58 |
| 2.6.1. <i>Basic requirements for governing documents</i> | 58 |
| 2.6.2. <i>Prohibition on the conflicts of interest</i> | 60 |
| 2.7. PROHIBITION ON THE DISTRIBUTION OF PROFITS AND ASSETS..... | 60 |
| 2.8. NGOs' ACTIVITIES..... | 62 |
| 2.8.1. <i>General activities</i> | 62 |
| 2.8.2. <i>Public policy activities</i> | 63 |
| 2.8.3. <i>Economic activities</i> | 64 |
| 2.8.4. <i>Fund- raising activities</i> | 65 |
| 2.9. REPORTING..... | 66 |
| 2.9.1. <i>Internal reporting and supervision</i> | 66 |
| 2.9.2. <i>Reporting to supervisory organ</i> | 67 |
| 2.9.3. <i>Reporting to and audit by tax authorities</i> | 69 |
| 2.9.4. <i>Disclosure or availability of information to the public</i> | 69 |
| 2.9.5. <i>Sanctions</i> | 70 |
| 2.10. TAXATION | 71 |
| 2.10.1. <i>Income Taxation</i> | 72 |
| 2.10.2. <i>Tax benefits for contributors</i> | 73 |
| 2.10.3. <i>Taxation of Economic Activities</i> | 74 |
| 2.10.4. <i>VAT and Custom Duties</i> | 75 |
| 2.11. CONCLUSION | 77 |
| CHAPTER 3: POLITICAL AND SOCIAL ENVIRONMENTS OF THE NGO SECTOR IN ARMENIA..... | 78 |
| 3.1. INTRODUCTION..... | 78 |
| 3.2. NGOs AND GOVERNMENT RELATIONS | 78 |
| 3.2.1. <i>Arbitrary Registration</i> | 78 |
| 3.2.2. <i>Direct Interference with NGOs' Activities</i> | 80 |
| 3.2.3. <i>Indirect Interference with NGOs' Activities: Lack of Cooperation</i> | 81 |
| 3.3. NGOs AND PUBLIC RELATIONS | 85 |
| 3.4. FINANCIAL PROBLEMS | 89 |
| 3.5. FAILURE OF NGOs IN UNDERSTANDING THEIR ROLE | 95 |
| 3.6. CONCLUSION | 97 |
| CHAPTER 4: MAJOR PROBLEMS OF INDIVIDUAL NGOS IN ARMENIA | 98 |
| 4.1. INTRODUCTION..... | 98 |
| 4.2. LEADERSHIP | 99 |

| | |
|---|------------|
| 4.3. HUMAN RESOURCES | 101 |
| 4.4. SELF- REGULATION | 103 |
| 4.5. RECRUITMENT | 105 |
| 4.6. PUBLIC RELATIONS AND MEDIA | 106 |
| 4.7. COOPERATION WITHIN THE NGO COMMUNITY | 109 |
| 4.8. SUSTAINABILITY | 111 |
| 4.9. CONCLUSION | 117 |
| CONCLUSION..... | 118 |
| BIBLIOGRAPHY | 122 |

Preface

This thesis explores the current situation of the non-governmental sector in Armenia, mainly concentrating on the legal (laws governing the sector), political (relations with the state structures) and social (relations with the public) environments of the operating non-governmental organisations (NGOs). The topic was not chosen randomly. The notion of non-governmental organisations is closely related to the notions of civil society and democracy. Moreover, a strong non-governmental sector is one of the attributes of a genuine democratic society. However, in Armenia the sector is still weak and is developing quite slowly. The main obstacles hindering the future development of the sector are sufficient and incomplete legal regulations, unfavourable attitude of the state authorities, mistrust of the population, as well as numerous problems within the sector itself. Therefore, my thesis will concentrate mainly on the exploration of the above-mentioned problem areas.

Taking into consideration the lack of in-depth studies in this extremely important area in Armenia, it can be concluded that the work will contribute to the support of the non-governmental sector as well as provide significant background for further investigation in this field.

Though there was a great amount of secondary sources available on the topic of civil society and non-governmental organisations in general, it was very difficult to obtain sources concerning particularly the NGOs in Armenia. The main problem is the lack of attention paid to the topic in the academic circles since the non-governmental sector is a relatively new phenomenon in our reality. Therefore, chapters concerning the non-governmental sector in Armenia are mostly based on primary sources such as the laws governing the sector,

interviews with NGO leaders as well as personal observations since I was working in the sector for 2 years. The situation became even more complicated due to the reluctance of some NGO leaders to cooperate. It was difficult to understand if this was due to overcrowded schedules or to willingness to speak on this topic. Nevertheless, most of the approached did grant interviews and were generally quite cooperative. Therefore, I would like to thank all of them for their support and collaboration. Also, I am grateful to the staff members of the NGO Training and Resource Center in Armenia where I was kindly provided with an opportunity to conduct my surveys and collect important materials. A special thanks goes also to my two supervisors, Pr. Jean Garland and Pr. Mathew Gibney for their great assistance and patience.

Argine Nahapetyan

30 June 2000

INTRODUCTION

The establishment of civil society is enhanced through the development of non-governmental organisations or voluntary organisations, as they are often called in literature. The first non-governmental organisations, the aim of which was to provide different social services, began to emerge immediately after Armenia gained independence in 1991. Now, with the development of the sector, there are about 1800 non-governmental organisations operating in the territory of Armenia which extend their services to various strata of society. However, insufficient and incomplete legal environment, unfavourable political and social climates, as well as numerous internal problems of individual NGOs hinder the further development of the sector, and prevent it from becoming the necessary and powerful counterbalance to the state structures. The development of the sector, in this context, does not mean the increase in the number of NGOs. It rather means greater influence and sustainability of the non-governmental organisations. Through analysis and comparisons with international standards this work will indicate drawbacks of legislation, reveal numerous problems that NGOs encounter in relation to the government and the public, and disclose the problems within the sector itself, as well as provide different possible solutions to these issues.

The theoretical part of the thesis-- the presentation of different views on the definition and composing elements of civil society, the exploration of the relationship between the civil and political societies, the analysis of the civil society developments in the countries of the former Soviet Union and Central and Eastern Europe, as well as the investigation of the role of non-governmental organisations in the building of civil society and promotion of democratic governance-- is based on the works of A.Seligman, S.Huntington, P.C.Schmitter, S.Berman, K.Whittington, J.L.Cohen and A.A.Arato, P.Dekker and A.Broek, A.Wolfe, Jane.L.Curry,

J.Rupnik, E.Gellner and H.Hamilton, V.Tismaneanu, J.Tagliabue, E.Kuznetsov, M.Th.Greven, R. Putnam, A. Bibic and others.

The exploration of the legal environment of non-governmental organisations in Armenia is based mostly on primary sources such as the Constitution of the Republic of Armenia, Civil Code of the Republic of Armenia, Law on Public Organisations of the Republic of Armenia, draft Law on Charity and Charitable Organisations, tax laws, as well as country reports by the international organisations; the comparative perspective with international standards was mainly contributed by the Handbook on Good Practices for Laws Relating to Non-Governmental Organisations published by the International Center for Not-for-Profit Law, as well as articles by Ewa Les and other authors.

Finally, political and social environments of non-governmental organisations in Armenia and issues concerning individual NGOs were studied on the basis of individual research through several interviews conducted with NGO leaders, two sociological surveys conducted among Armenian non-governmental organisations during the training courses at the NGO Training and Resource Center in Yerevan, and articles in different newspapers. Also, this part incorporated the study of the works of B.Gidron, K.M.Kramer, L.M.Salamon, J.K.Stallard and P.L.Jordan, Peter D.Bell, P.Kotler and A.Andreasen, D.Siegel and J.Yancey, B.O'Connell, J.Bennett, A.Carroll, L.P.Edles, J.R.Mixer, W.E.Lindane, as well as Human Development Report of Armenia 1997 and numerous other materials published by the NGO Training and Resource Center of the Republic of Armenia.

The first chapter provides different theories on the definition and the role of civil society. The main objective is to demonstrate the difference between the notions of civil and political societies, simultaneously stressing the crucial need for the establishment of healthy

relationship between these two sectors, which constitutes the only prerequisite for the development of democratic governance. This is best demonstrated by the examples of the countries of the former Soviet Union and East Central Europe. The paper describes the developments of civil initiatives in the above-mentioned countries, and reveals that only those countries of East Central Europe which established healthy political climate succeeded also in the building of a strong civil society. The chapter also investigates the importance of the role played by non-governmental organisations in the process of the development of civil society and democratic governance. The main functions of NGOs, discussed in this part of the thesis, are 1) mass mobilisation and involvement, 2) establishment of new healthy relations with the government simultaneously ensuring the legitimacy, political and public accountability, openness and transparency of the state structures, 3) promotion of democratisation of the legislative process, 4) promotion of pluralism and tolerance, 5) contribution to the growth and development of market economy, and, finally, what is the most challenging in newly democratised countries, 6) education of the government and the public on the issues of civil society and democratic governance.

The second chapter concentrates on the issues of the legal environment of non-governmental organisations of the Republic of Armenia. Through detailed legal analysis of the Law on Public Organisations and tax laws as well as comparisons with well-accepted international standards the chapter reveals the drawbacks and insufficiencies of the legal norms governing the sector, e.g. excessive power of control vested with the state authorities, unfavourable nature of tax policy implemented by the state, etc. The chapter not only unveils the deficiencies and gaps of the laws but also provides some possible ways of improving those legal norms.

The third chapter explores the inauspicious nature of political and social environments surrounding the non-governmental sector of Armenia. This part, based on mainly individual research and primary sources, is an attempt to single out the main problems the non-governmental sector is facing in relation to the government and the public. The chapter concentrates on the problems of unfavourable attitude of state authorities and the lack of cooperation between the two sectors, inertness and low level of participation of the population, difficulties with gaining financial sustainability, and, at last but not least, the failure of NGOs themselves to understand their real role in a democratic society, stressing the existence of "fake" NGOs and the lack of competence of significant part of NGO leaders. Also, one of the objectives of the chapter is to indicate the possible solutions to the problems raised in this part of the work.

The fourth chapter discloses the problems within the NGO sector itself. While previous chapters concentrate on the problems of the sector in relation to its external environment, this paper reveals the problems that individual NGOs face in their day-to-day operation and which prevent them to be considered effective entities. The chapter spells out the main features of effective NGOs, which are 1) effective leadership, 2) adequate human resources with clearly defined responsibilities and status, 3) self-regulation mechanisms, 4) effective recruitment of new members, 5) collaborative external relationships, especially with public and media, 6) collaborative and support relationships within the NGO community, 7) benefit, institutional and financial sustainability. Through comparisons with international standards, as well as according to the results of the survey and interviews with NGO leaders, the paper demonstrates that Armenian non-governmental organisations still lack almost all the above-mentioned criteria, and, consequently, cannot be characterised as effective organisations.

The conclusion delivers the overall attitude and opinion, based on this study, towards the current legal, political and social environments of the non-governmental sector in Armenia. It also provides an explanation why healthy legal, political and social environments are indispensable for the further growth and effective operation of the NGO sector, as well as stresses the role of the non-governmental organisations in improving the current unsatisfactory situation.

Chapter 1: Civil Society and the Role of Non- Governmental Organisations in the Building of Civil Society and the Development of Democratic Governance

"Neither Prince nor Merchant: Citizen"

Marc Nefrin

Introduction

It is generally accepted that the development of a democratic society is closely related to the emergence and development of civil society, and the functioning of special kinds of organisations: non-governmental organisations (NGOs). In today's life we are witnessing the new phenomena, e.g. massive movement toward greater citizen participation and influence. This movement is of crucial importance since it is well-accepted that the establishment and sustainability of a genuine democratic society requires, in the first place, highly informed, educated and involved citizenry and a vigorous civil society. Therefore, the main concern of the newly democratised countries was to correctly assess the significance of the role of civil society in the democratisation process. Some countries of Central and Eastern Europe, which managed to provide also relatively favourable political environment for the development of the voluntary sector, have succeeded in creating a vigorous civil society and developing democratic governance. On the contrary, the majority of the countries of the former Soviet Union, where the political environment was insufficient and incomplete, or even hostile, failed in the both processes. This demonstrates the incorrectness of the assumption of neo-Tocquevillians that the mere existence of a strong civil society is able to provide for a genuine democratic governance. Therefore, the argument here is that the building of a sustainable democracy is equally dependent both on the operating of a vigorous civil society and the existence of a favourable political environment and effective political institutions, as well as

on the healthy cooperation between the civil and political sectors. The paper also explores the role of non-governmental organisations, the crucial element of civil society, in the development of democratic governance. Their main roles in the above mentioned process are to provide for wider public participation, ensure fair and transparent elections of new governments and, then, the accountability, transparency and openness of the government, support and strengthen the rule of law in the country as well as indirectly promote market economy.

The Concept of Civil Society

There are different and sometimes contradictory views of political and social scientists on the definition of civil society. For the first time the notion of civil society was mentioned by Aristotle. However, he does not differentiate between civil society and state. The polis-oikos duality may seem to indicate the contrary, but the oikos, household, was understood primarily as a residual category, the natural background of polis.¹ Later, the thinkers of the seventeenth-eighteenth century provided for the distinction of the notions of civil society and the state, but kept the identification of civil society and political one. Locke's separation of civil society and the state is quite ambiguous, and for him civil society is the realm of political associations instituted among men when they take leave of the "state of nature" and enter into commonwealth... Political or civil society is the arena where the "inconveniences" and insufficiencies of the state of nature are rectified through the mutuality of contract and consent.² However, later thinkers clearly stress the separation of civil society and state. Montesquieu, for example, speaks about civil and political law: while political law regulates the relationship of governors and governed, civil law regulates the relations of members of

¹ Jean L. Cohen and A. Arato, *Civil Society and Political Theory*, Massachusetts Institute of Technology 1992, p. 84

² Adam Seligman, *The Idea of Civil Society*, The Free Press 1992, p. 22

society to one another.³ Also, in Germany Fichte and Kant stress the sharp definition of civil society from state. For Kant the state as the embodiment of political society, is no longer viewed as coterminous with civil society, as the publicness of rational debate and critique is seen (and indeed emphasized) as the province of civil society in its distinction from the State.⁴ Kant criticizes the absolutist state and stresses the important role of critical citizenry liberated from civil restraints. It is also useful to refer to Marx's notion of civil society. Marx accepts the difference between civil society and the state. However, for him civil society has a negative connotation of an entity which is against the state. This is obvious from the following statement: "Where the political state has attained its true development, man leads a twofold life, a heavenly and an earthly: life in the political community, in which he considers himself a communal being, and in the civil society, in which he acts as a private individual, regards other men as means, degrades himself into a means and becomes a plaything of alien powers."⁵ It was widely accepted that civil society was the arena of conflict of different particular interests. However, the failure of Marx was to assume that this conflict could be resolved only by the unification of civil society with political one. He states that only when an individual recognizes and organizes his "forces propres" as social forces, and consequently no longer separates social order from himself in the shape of political power, only then human emancipation can be accomplished.⁶ The best proof of incorrectness of the idea of unification of civil and political societies in order to resolve the conflict of interests can be presented by the examples of East Central European and the former Soviet Union countries where this idea proved to be unworkable. Historical experience demonstrated that the identification of the state with civil society as well as the "pressure" placed on civil society on the part of the state led to the establishment of an authoritarian regime. The state and the only ruling party were

³ *Jean L. Cohen and A. Arato, Civil Society and Political Theory, Massachusetts Institute of Technology 1992, p. 88*

⁴ *Ibid.*, p. 43

⁵ *Ibid.*, p. 88

⁶ *Ibid.*, p. 168

controlling the community at large. Citizens were exposed to unlimited interference from the state. This system appeared to be unacceptable and led to unavoidable economic and political crisis. Therefore, for the all newly democratised countries one of the crucial tasks was to rethink their attitude towards the role and significance of vigorous civil society for the establishment of a genuine democratic state.

Reawakening of Civil Society in East Central Europe and Newly Independent States

Dissident movements in East Central Europe and in USSR in the 1960s and 1970s were the first signs of the process of re-awakening of civil society. However, this process expanded to the utmost extent after the collapse of Soviet Union. Civil society developed not as a way to give the society power vis a vis the state but as an unconscious tactical response to the state's trying to control all parts of life when it was unable to provide what people wanted in material, cultural, or psychological spheres.⁷

In post-communist bloc countries civil society was repressed for a long time through totalitarian means of control. The system was preserved by the means of terror and coercion. All civil society organizations were either abolished or highly controlled on the part of the state. All institutions were supposed to implement the policy of the state. An individual's opportunity to gain political power or other privileges was mostly dependent on the fact whether he was a Party member or not. The goal of the state was not only to destruct civil society but also to eliminate any possibility of its re-emergence. This goal required very high degree of control extended also to the private sphere and affecting the very consciousness of the population through institutionalised lie and totalitarian language. Totalitarian lie includes the destruction of memory and totalitarian language. A people whose memory--either individual or collective-- has been nationalized and passed into State hands, and is therefore

⁷ Jane.L. Curry, *A Reconsideration of the Realities of Civil Society in the Light of Postcommunist Society*, in *Civil Society, Political Society, Democracy*, ed. A. Bibic, G.Graziano, 1994, p. 231

perfectly malleable and manipulable, are entirely at the mercy of their rulers: they have been robbed of their identity."⁸ This pattern resembles the Hegelian model of state-society relationship. The state is the highest normative institution and if the orders of civil society and the state clash, it is the state order that will prevail. This normative absorption of the order of civil society by the order of the state leads to the dissolution of civil society by the state.⁹

However, the situation changed after the death of Stalin. The first symptoms of the civil society reawakening process became evident. First, it was the emergence of small dissidents groups in the Soviet Union and in East Central Europe. Later this process was followed by the expansion of such mass movements as Solidarity in Poland, the Civic Forum in Czech Republic, and the Popular Front in Estonia the New Forum in East Germany and others. What were the reasons of this kind of civil activism? As mentioned above, the system was preserved by force and coercion. Accordingly, the system could be preserved if the governors were still willing and able to use force and coercion to do it, and if the governed were not capable and determinant to change it. It became obvious that the formers lacked the ability and the latters, on the contrary, had gained the necessary determination and capability.

It goes without doubt that one of the main reasons of civil activism was indeed the desire of the people to introduce changes into the system. The soviet-type system regulated and controlled the whole social life, including private sphere of individuals. This process could not last forever since people did want to take their own decisions and not to follow the decisions imposed by the state. Accordingly, they rebelled against the totalitarian system. Even those who were really devoted to the ideas of Marxism and socialism were greatly

⁸ *J. Rupnik, Totalitarianism Revisited, in Civil Society and the State: New European Perspective, ed. by J.Keane, NY 1993, p. 269*

⁹ *The Reemergence of Civil Society in Eastern Europe and the Soviet Union, ed. Z.Rau, Westview Press, 1991, p.*

disappointed. After the death of Stalin the country was not capable of competing internationally and was losing its status of the great power. The salvation of mankind no longer seemed to lie in socialism as such, but rather on the avoidance of an extensive and ill-defined area of its distortions.¹⁰

The second reason for the expansion of civil activism was the weakening of the soviet-type system, that is the incapacity of the rulers to preserve the system. Though the country had achieved too much during the communist era becoming one of the world's two superpowers, the Soviet Union was not an isolated country in the world, it had to involve itself in the competition with the capitalist countries. Soon it became evident that it was losing both in economic and arms races. In politics also soviet leaders were more concerned with preserving their position than increasing the efficiency of the political institutions. All the above mentioned substantially weakened the state and the position of the rulers, thus, hindering the further exercise of control over public and especially private spheres. Besides, the preservation of the system was before possible since there were no significant claims requiring to introduce changes. However, the situation had changed with the emergence of dissident groups and especially the revolts of 1956, 1968 and 1980 in East Central Europe. Also, taking into account the weakening of the state the rulers were trying to avoid confrontations and had to change the former brutality into the modes of control which were less brutal and more selective. All the above-mentioned created more favourable conditions for the expansion of civil society initiatives.

Unofficial peace movements in East Central Europe and Soviet Union were another serious step in the civil society reawakening process. Initially, the aim of these groups was not the change of the communist regime. Rather, their goal was the establishment of cooperative

¹⁰ *E. Gellner, H. Hamilton, Conditions of Liberty: Civil Society and Its Rivals, London 1994, p. 160*

relations with the state through engaging into the dialogue with the rulers. Their agenda was not limited to pacifist stances: they did indeed belong to general movement towards the creation of a new polity where the individuals would be free from political and ideological constraints imposed by the state.¹¹ However, despite the weakness of the soviet system and the peace movements activism, dissidents were encountering numerous obstacles hindering their activities. In June 1988, the Czechoslovak police broke up an international peace seminar initiated by Charter 77 and Independent Peace Association in Prague and expelled thirty-two foreign participants in the gathering.¹² The same situation arose earlier in Hungary. There, the Peace Group for Dialogue, established in 1982, was forced to dissolve itself according to the Politburo resolution adopted on March 1983. After this the Dialogue split into two groups and continued its activities. Freedom and Peace was established in Poland and inspired by the experience of Solidarity. It was continuously exposed to police persecution, arrests, interrogations and so on. In USSR one of the most powerful peace movements was the Moscow Trust Group founded in 1982 and involved in the protection of human rights and peace issues. The hostile attitude of authorities, especially secret services (KGB) increased; the homes of its members were systematically searched; demonstrations were broken up with force; the telephones of Group activists were disconnected; Group members and their relatives were fired from their jobs, and so on.¹³ Despite these kinds of repressive measures the unofficial peace movements in East Central Europe and the Soviet Union were gaining more and more adherents and were expanding greatly. Their activities contributed to the expansion of civil activism, which the state was not capable to suppress anymore.

¹¹ V. Tismaneanu, *Unofficial Peace Activism in the Soviet Union and East Central Europe*, in *Search of Civil Society: Independent Peace Movements in the Soviet Bloc*, ed. By V. Tismaneanu, New York 1990, p.4

¹² J. Tagliabue, *Prague Steps Up Hard Rights Stand*, *New York Times*, June 23, 1988

¹³ E. Kuznetsov, *The Independent Peace Movement in USSR*, in *Search of Civil Society: Independent Peace Movements in the Soviet Bloc*, ed. by V. Tismaneanu, Routledge, New York 1990, p. 56

The final stage of this civil society initiative was accomplished when the institutions of civil society took over the state structures. This resembles the Lockean model of state-society relationships. Civil society does not have any specialized political institutions that could efficiently protect the rights of its members in political practice, therefore, it establishes the government which is only an instrument of civil society, and in the cases of tyranny or usurpation the government is dissolved by civil society.¹⁴ This final stage of this civil activism was followed by free and fair elections, and the establishment of the new democratic governments. However, it should be mentioned that only some of the countries of East Central Europe managed to make progress in democratisation process and strengthening of civil society. This can be observed from the tables below.

Democracy Ranking in East Central Europe and NIS¹⁵

| | |
|---------------------------------|------|
| CONSOLIDATED DEMOCRACIES | |
| | |
| Czech Republic | 1.38 |
| Hungary | 1.44 |
| Poland | 1.44 |
| Slovenia | 1.88 |
| Estonia | 2.06 |
| Lithuania | 2.06 |
| Latvia | 2.06 |
| | |
| TRANSITIONAL | |

¹⁴ *The Reemergence of Civil Society in Eastern Europe and the Soviet Union*, ed. by Z.Rau, p. 8

¹⁵ *Nations in Transit: Civil Society, Democracy and Markets in East Central Europe and Newly Independent States*, ed. by A. Karatnycky, A. Motyl and B. Shor, Freedom House 1997, p. 7. The Survey is an outgrowth of a study commissioned in 1995 by the US Agency for International Development's Bureau for Europe and New Independent States. It is the second survey undertaken by Freedom House with support from USAID. Survey covers twenty-five countries. It examines the main trends in the areas of political, civic, administrative, media, and economic change in the countries of Central Eastern Europe and the New Independent States. In order to make data more easily comparable within and among countries, Freedom House rated each of the seven sections (political process, civil society, independent media, rule of law, governance and public administration, privatisation, and economy) for each country. This was done on a 1-7 scale, with 1 representing the highest and 7 the lowest degree of achievement in each area. The rating process involved three main steps. First, the authors of the individual essays created preliminary ratings for the categories on each of their countries. Second, the meeting of the Nation in Transit Academic Oversight Board was convened in New York in January 1997, where using the preliminary consultant ratings as source material, ratings were established by consensus following discussion and debate. Third, a Rating Committee of Freedom House staff reviewed the ratings for consistency. It also assigned trend arrows to category ratings to reflect a significant increase or decrease in liberalization as compared to the previous report.

| GOVERNMENTS | |
|-------------------------------------|------|
| ▲ Russia | 3.75 |
| Moldova | 3.81 |
| ▼ Slovakia | 3.81 |
| ▲ Bulgaria | 3.81 |
| ▲ Romania | 3.88 |
| Ukraine | 3.88 |
| Macedonia | 3.88 |
| ▼ Croatia | 4.25 |
| ▼ Albania | 4.5 |
| ▼ Armenia | 4.75 |
| Kyrgyzstan | 4.75 |
| ▲ Georgia | 4.75 |
| Kazakhstan | 5.25 |
| Azerbaijan | 5.44 |
| CONSOLIDATED AUTOCRACIES | |
| ▼ Belarus | 5.88 |
| Tajikistan | 6 |
| Uzbekistan | 6.44 |
| Turkmenistan | 6.94 |

Civil Society Ranking in East Central Europe and NIS¹⁶

| | |
|----------------|------|
| Hungary | 1.25 |
| Poland | 1.25 |
| Czech Republic | 1.5 |
| Slovenia | 2 |
| Estonia | 2.25 |
| Latvia | 2.25 |
| Lithuania | 2.25 |
| Slovakia | 3.25 |
| Croatia | 3.5 |
| Armenia | 3.5 |
| Macedonia | 3.75 |
| Moldova | 3.75 |
| Romania | 3.75 |
| Russia | 3.75 |
| Bulgaria | 4 |
| Ukraine | 4 |
| Albania | 4.25 |
| Georgia | 4.5 |
| Kirgizstan | 4.5 |
| Azerbaijan | 5 |
| Belarus | 5.25 |

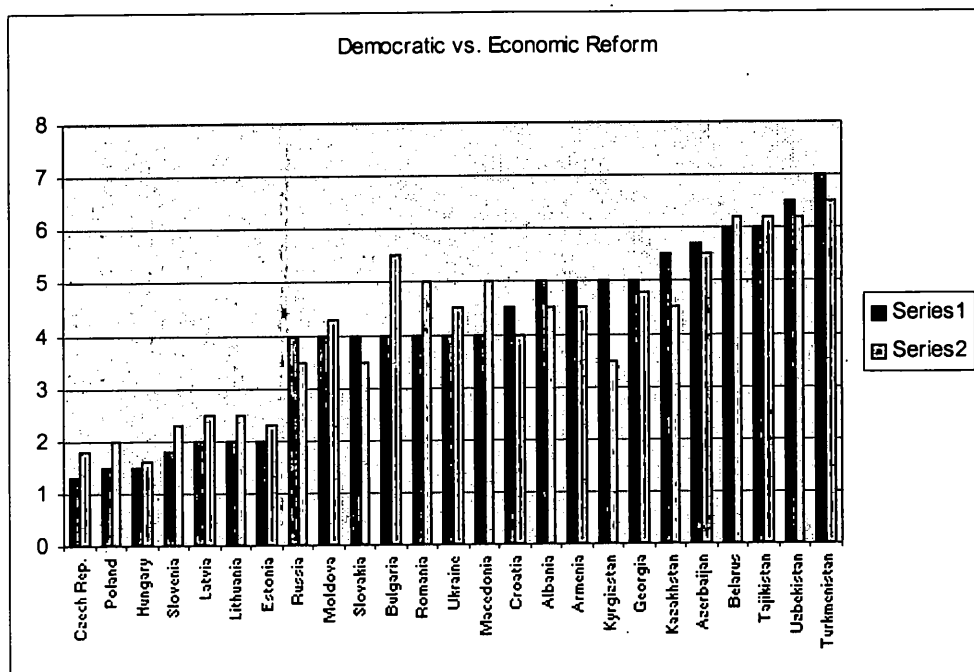
¹⁶ *Ibid.*, p. 13

| | |
|--------------|------|
| Kazakhstan | 5.25 |
| Tajikistan | 5.5 |
| Uzbekistan | 6.5 |
| Turkmenistan | 7 |

It is obvious from the tables that only Czech Republic, Hungary, Poland, Slovenia, Estonia, Lithuania and Latvia managed to accomplish the process of democratic consolidation and create the basis for the vigorous civil society. Also, it is evident that all the countries with the lowest ranking in both tables are the countries of the former Soviet Union. One of the explanations of this situation is, probably, the fact that the countries of the former Soviet Union were suffering under the communist regime for seventy years, while the communist era in East Central Europe lasted for about forty years. However, there are other more weighty obstacles hindering the process of democratic consolidation and civil society building in the countries of the former Soviet Union.

First, it is the lack of favourable economic environment. It is widely accepted that political and market reforms are mutually interconnected and are reinforcing each other. This is proven by the fact that those states who succeeded in creating market economies- Hungary, Czech Republic, Poland, Estonia, Slovenia, Lithuania, and Latvia-- are also the once which progressed most in the process of democratic consolidation and civil society building. The table¹⁷ below supports this statement. Series 1 shows the ranking of democratic reforms, and series 2—the ranking of economic reforms in each country.

¹⁷ *Ibid.*, p. 5



It can be observed that the countries of the former Soviet Union which have not succeeded in implementing economic reforms, also failed in the processes of democratic consolidation and civil society building. Unwise economic reforms indeed have impeded the future development of civil society. The number of impoverished, needy people has increased. High unemployment and extremely low wages have left many thousands below the poverty line. For example, in Armenia, due to one-sided economic reforms and especially poorly and disproportionally organized privatisation process, national wealth belongs only to 5% of the population (Human Development Report on Armenia, 1998). This strongly reduces the prospects of creating a strong basis for civil society for several reasons. First, in fact, 30% of the economically active population, namely those who were highly qualified specialists and intelligentsia and supposed to play the most active role in the creation and strengthening of civil society, left the country. Second, political and economic failures have increased the gap between the state and society. People feel alienated and disappointed, therefore, passive and inert. Accordingly, economic hardship has significantly reduced mass participation and

involvement. The pattern is applicable also to other countries of the former Soviet Union. This situation is extremely challenging since "... no civil society as such, and no structural or institutional arrangement, can act as an independent stabilizer behind the back of human actors... democracy comes into existence and survives only if enough people fight for it and are engaged in its development."¹⁸

Inauspicious political and legal environments are another obstacle for the development of civil society. This is mostly expressed by the unwillingness of state officials to cooperate with different elements of civil society and to create a favourable legal environment for their activities. For example, the Law on Public Organizations of the Republic of Armenia vests excessive power of control over NGOs with the Ministry of Justice. Unfavourable tax laws, in their turn, prevent the further development of the sector. Relations between the non-governmental organizations and the state structures are far from mutual trust and cooperation. Rather, they could be characterized as of mutual suspicion and misunderstanding. This is expressed by directly preventing the activities of NGOs, as in the cases of arbitrary registration, or by ignoring the non-governmental organizations, as in the cases of "polite and silent" refusal to include NGOs in different state commissions and councils, and, in general, by a very low and unsatisfactory degree of cooperation between the non-governmental sector and the state authorities. The situation is quite different in the countries of East Central Europe. Despite several difficulties the NGOs are facing in these countries, legal, political and social environments of the sector are generally favourable. As far as the case of the Czech Republic is concerned, though legal norms governing the sector have some problems like low rates for tax deductions, unclear nature of some norms governing the taxation and accounting¹⁹, the establishment of the organizations¹⁹ is uncomplicated and smooth. Also, law

¹⁸ *M.Th. Greven, The Pluralization of Political Societies: Can Democracy Persist?, in Civil Society, Political Society, Democracy, ed. A. Bibic, G.Graziano, 1994, p. 38*

¹⁹ *Pavol Fric et al., Strategy for Development of the Non-Profit Sector, Prague 2000, p. 26*

does not vest the state structures with excessive power of control over the non-governmental organizations. Political environment is also rather favourable. The relationship between the state and NGOs is all too often marked by competition rather than cooperation, although the situation is changing and more and more cooperative partnerships are being established.²⁰ The state cooperates in the events organized by the NGOs and does not impose any restrictions on NGO activities.

Another reason for the success of the East Central European countries is their advantageous geopolitical location. Due to the fact that they were closer to Western Europe, the emergence of civil society in these countries came about much earlier. The civil society in Czechoslovakia and in Central Eastern Europe was built up in the period between the World War I and II. The revolts in 1956, 1968 and 1980 were the living examples of how quickly a civil society could arise once a sign was given. Therefore, after the collapse of the Soviet Union, these countries were undergoing not the process of civil society creation but rather its strengthening. Again, due to their favourable geopolitical location they have managed to succeed in this process as well. They actively re-established their connections with the countries of Western Europe. Now many East Central European states are having their policies directed by experts associated with the European Union. Obviously, the countries of East Central Europe which broke firmly with their communist past, which are physically close to the European Union, and which have civil traditions are in a more favourable position to establish a vigorous civil society and develop democratic governance than those of the former Soviet Union.

²⁰ *Ibid.*, p. 29

Civil Society and Political Institutions

As may be observed from the above discussion, the first reasonable concern of the countries of East Central Europe was the reestablishment of a strong civil society. This does not mean that a vigorous civil society alone can promote democracy. Rather, civil society surrounded by a favourable political environment can provide for a genuine democratic state. However, we could refer to the views of some scientists, who argue that civil society is the main prerequisite for future democratic consolidation. Therefore, it is appropriate to present the latter's views in order to avoid one-sided attitude.

Alexis de Tocquevill and a long range of other neo- Tocquevillians, for example, Robert Putnam express the view that civil society is the most important factor for the establishment of a successful and sustainable democratic society. They see participation in civil society organizations as producing the pattern of individual behaviour and social interaction necessary for healthy democratic governance. Associational life helps to foster sturdy norms of generalized reciprocity and encourages the emergence of social trust, which, in its turn, helps resolve dilemmas of collective action and smooth economic and political negotiations.²¹ In other words, a strong civil society makes for a strong democratic state.

This statement has been criticized by other scientists who stress the importance of political institutions in the democratisation process. Some of these views are presented in articles by Keith E. Whittington and Sheri Berman. Their main argument is that neo- Tocquevillians fail to recognize "that under certain circumstances a robust civil society may not produce beneficial effects, but rather may signal- and hasten- a democratic regime's degeneration."²²

²¹ R. Putnam, *Bowling Alone: America's Declining Social Capital*, in *Journal of Democracy*, 6, 1995, p. 67

²² Sheri Berman (Princeton University), *Civil Society and Political Institutionalisation*, in *American Behavioural Scientist*, Vol. 40 No. 5, March/April 1997, p. 562

According to Berman, civil society can often serve to weaken rather than strengthen a democratic regime as in the case of interwar Germany where civil society flourished but deepened the country's painful divisions. The author concludes that civil society activity alone was not able to overcome the social cleavages or provide the political cohesion that would have been necessary to weather the crises that beset Germany after 1914.²³ Whittington also restates the same idea of possible negative effects of civil society. Antebellum Americans suffered not from a lack of civic associations but from a conflict of goals among social and political groups... Political conflicts arose not from competing interests but from competing vision of the public good derived from and reinforced by unrelated voluntary associations.²⁴ At the same time the critics of the authors, defending the idea that civil society constitutes a key variable of a successful democratic process, also mention the crucial role of political institutions in the democratisation process. For example, Huntington states that "the degree of community in a complex society... depends on the strength and scope of its political institutions. The isolated family, clan, tribe or village may achieve community with relatively little conscious effort... Indeed, without strong political institutions, society lacks the means to define and to realize its common interests. The capacity to create political institutions is the capacity to create public interests."²⁵

It seems more reasonable to state that only the creation and effective operation as well as healthy interaction of civil society and political institutions can create a favourable environment for democracy. The fact that the existence of an active civil society alone does not mean a democratic state can be easily observed while referring to the case of Chile. Hugo Fruhling in his article analyses the case of the Chilean non-profit sector between 1973 and 1984. The author describes the emergence and fast growth of NGOs in the authoritarian situation of Chile. Those

²³ *Ibid.*, p. 566

²⁴ Keith E. Whittington, Revisiting Tocqueville's America, in *American Behavioural Scientist*, Vol. 42 No. 1, September 1998, p. 26

²⁵ S. Huntington, *Political Order in Changing Societies*, New Haven: Yale University Press, 1968, p. 10

organizations gained success due to the following reasons: existence of an institution which was relatively immune from government pressure and provided its protection for the NGOs (Catholic Church), pressure from the international community, and collaboration with opposition leaders. However, the author concludes that though NGOs accomplished major success in checking government repression, in helping to reconstitute the social and political landscape, and in offering a consistent criticism of authoritarian policies, their effectiveness in terms of transforming prevalent political, social, and economic structures is limited.²⁶ This case demonstrates that the mere existence and active functioning of civil society alone is unable to provide for a strong democratic state.

On the other hand, the assumption that the focus should be on political institutions rather than on civil society is not correct either. If the above-mentioned authors stress the possible negative effects of civil society they should accept that political institutions are inclined to abuse or misuse the power they have been given. This was the case in most countries of the former Soviet Union. Once dissidents had gained political power they became alienated from civil society. They began to enjoy the fruits of their power. After the collapse of the Soviet Union during the 1991 presidential election in Armenia around 87% of the population voted for Levon Ter-Petrossian, just because he came up with new democratic ideas. However, once the new state officials, dissidents of the old communist regime, came to power, the situation changed. Relations with people evolved from enthusiastic support at first, then to disappointment and alienation. The main reason was that society was ignored as a main partner. The population was exposed to impoverishment and unemployment. This period was marked by numerous and systematic violations of human rights in all spheres. This was best demonstrated by the 1996 presidential election, which was flooded by numerous irregularities and breaches of the election

²⁶ *Hugo Fruhling, Non-Profit Organisations as Opposition to Authoritarian Rule: The Case of Human Rights Organisations in Chile*, in E. James. *The Non-Profit Sector in International Perspective: Studies in Comparative Culture and Policy*, New York: Oxford University Press, 1989, p. 374

law. During the government crackdown following a violent demonstration after the presidential election, authorities beat and detained members of the opposition and demonstrators. These are all the cases of political pathology, which includes phenomena such as political corruption, violence, illicit operations by secret services and other forms of the abuse of power, which are certainly contrary to democracy.²⁷ This kind of pathology requires special mechanisms to control the government. Therefore, it is useful to always restate the importance of the concept of a limited government, which establishes and respects restraints on its power. Civil society is an indispensable tool of maintaining a limited government. Therefore, one should not diminish the role of civil society in the democratisation process. On the other hand, vigorous political initiatives are crucial for the well functioning of the civil society. Due to its characteristic features, such as pluralism, and individual and group autonomy, civil society without cooperative political initiatives, may become a battlefield of conflicting interests without any centralized mechanism of coordination or mediation. Accordingly, this could lead to anarchy. Conflicts between the constituents of civil society should be settled only through legal norms, which are adopted and implemented by the different branches of the government. Also, a lack of coordination on the part of the government could have rather negative consequences. "If the core planning and policy functions of the state are reduced to a bare minimum, voluntary organizations may find themselves in a position of competing over scarce resources, without adequate coordination or policy guidance from government. In such a situation, the policy priorities of the most influential and well-funded NGOs are likely to prevail, and concentrate resources in regions and sectors that might not be the most important for national

²⁷ A. Bibic, *Democracy and Civil Society*, in *Civil Society, Political Society, Democracy*, ed. A. Bibic, G. Graziano, 1994, p. 51

development.”²⁸ Accordingly, civil society and political institutions should support and promote the process of each others democratisation.

The Role of NGOs in the Building of Civil Society and the Development of Democratic

Governance

In order to fully explore in a more detailed way the place of civil society in the democratisation process it is useful to concentrate on the crucial components of civil society, particularly, non-governmental organizations. However, before describing the role of NGOs it seems appropriate to reaffirm the vital connection between the notion of civil society and non-governmental organizations. Several views will be presented regarding the composition of civil society which, though differ from one another, all stress the important role of NGOs within the framework of civil society.

NGOs as a Critical Element of Civil Society.

For some of the scientists civil society includes families, churches, neighbourhoods, and voluntary associations (Dan Coats). Others exclude family stressing that civil society lies beyond the family but short of the state, thus, including markets, voluntary associations, churches, interest groups, labour unions, and non-governmental organizations (Shils). For Tocquevill, Putnam and other neo- Tocquevillians civil society incorporates only those associations, which are organized "horizontally". Therefore, according to them, church cannot be considered as a true component of civil society since it is "vertically" organized. Civil society is also defined as a sphere of social interaction between the economy and the State, composed above all of the intimate sphere (especially family), the sphere of associations (especially voluntary associations), social movements, and forms of public communication.²⁹ In his turn, Schmitter defines civil society as "a set of self-organized intermediary groups... relatively independent of both public authorities and private units of production and reproduction,... capable of deliberating about and taking collective action in defence/promotion

²⁸ Mark Robinson (University of Sussex), Governance, Democracy and Conditionality: NGOs and the New Policy Agenda, in Governance, Democracy and Conditionality: What Role for NGOs?, ed. Andrew Clayton, INTRAC Publication 1994, p. 43

²⁹ Cohen JL, Arato A.A, Civil Society and Political Theory, Cambridge, Massachusetts, and London: The MIT Press, 1994, p. ix

of their interests/passions, excluding the replacement of either state agents or private (re)producers or the acceptance of responsibility for governing the polity as a whole, and yet, acting within preestablished rules of a "civil" or legal nature."³⁰ It is worthy to pay attention to the position taken by Streeck and Schmitter who present four models of maintaining social order- community, market, government and associations. This view introduces a distinction between non-governmental organizations and community, accordingly, it excludes family and other informal groups from non-governmental organizations. The difference is substantial because the above-mentioned organizational structures significantly distinguish non-profit organizations from the private informal sector, a fact still overlooked by most economic and political science texts.³¹ However, the authors themselves accept that there are no clear-cut criteria for deciding whether this division is correct and indisputable. Although the demarcation of civil society differs because of different historical experiences and political aspirations or fears, and although various institutions lie in the disputed frontier zones with community, market, and state, voluntary associations constitute the core of civil society.³² Some definitions of civil society go even further and include for-profit entities (Shils). At the First Euro-Mediterranean Conference, held in Barcelona in 1995, the businessman G. Agnelli defined civil society as an entity made up of all voluntary associations, local community organizations, cultural and research institutions, as well as representative bodies of the private enterprise and business sectors.³³ Also, the Libreville Declaration adopted by the first summit of ACP Heads of State and Government, in Garbon on 7 November 1997 includes a reference to partnerships that need to be extended to "all actors of civil society, including the non-governmental and private sectors."³⁴ Julie Fisher in her book about the Third World NGO sector cites the statement of Victor Perez Diaz who defines civil society as markets, associations, and a sphere of public debate.³⁵ Fisher also argues for the broader definition of civil society and supports this statement by the argument that markets and associations are very much interconnected and that business entities support NGOs. Nevertheless, this does not seem to be a strong argument since governments, though to a different degree in different countries, also support NGOs. Besides, unlike the business sector civil sector attempts to promote public good and collaborative modes

³⁰ *Schmitter P.C., Dangers, Dilemmas, and Prospects for the Consolidation of Democracy*, Stanford University, July 1993, Chapter 6, p. 9

³¹ *M.Potucek, Not Only the Market*, Budapest, CEU Press 1999, p.2

³² *Ibid.*, p. 16

³³ *H. Helmich and J.Lemmers, Introduction*, in *Civil Society and International Development*, ed. By A. Bernard, H. Helmich, P.B. Lehning, North-South Center of the Council of Europe, Development Center of the Organisation for Economic Cooperation and Development 1998, p. 12

³⁴ *Ibid.*, p. 13

³⁵ *J. Fisher, Nongovernments: NGOs and the Political Development of the Third World*, Kumarian Press 1998, p. 11

of action. Therefore, the three-sector model is preferred by most of the authors. In private sector individuals and organizations make decisions led to their self-interest, in the public sector the objective is the promotion of public interest, thus, civic sector is a part of the private sector since it is independent from the government, and also the part of the public sector since its activities are not motivated by profit but by the desire to satisfy the interests of a specific community.³⁶ Accordingly, most of the authors argue that the notion of civil society must be strictly separated from economic society. "Only a concept of civil society that is properly differentiated from the economy could become the center of a critical political and social theory in societies where the market economy has already developed, or is in the process of developing its own autonomous logic. Otherwise, after successful transition from dictatorship to democracy, the undifferentiated version of the concept embedded in the slogan "society vs. the state" would lose its critical potential. Thus, only a reconstruction involving a free-part model distinguishing civil society from both state and economy has a chance both to underwrite the dramatic oppositional role of critical potential under liberal democracies."³⁷ Also, Percy B. Lehning states that civil society occupies the middle ground between government and the private sector; it is the space we occupy when we are engaged neither in government activities (voting, paying taxes) nor in commerce (working, producing, shopping, consuming).³⁸

It should be mentioned that the perception of civil society depends largely on historical experience. For example, in the countries of East and Central Europe as well as the former Soviet Union after the collapse of the communist regime the concept turned into a unifying claim of all kinds of nonstate organizations and movements against a suppressing state. It is not the purpose of this paper to resolve political and social theories of civil society, especially taking into consideration the old and still lasting debate on this question. The only thing that should be mentioned is that the perception of the concept is really very much dependent on historical traditions and experience as well as on the degree of openness of the society. Our

³⁶ *M. Potucek, Not Only the Market*, Budapest, CEU Press 1999, pp. 7-9

³⁷ *Jean L. Cohen and A. Arato, Civil Society and Political Theory*, Massachusetts Institute of Technology 1992,

p. ix

³⁸ *P. B. Lehning, Towards a Multi-cultural Civil Society*, in *Civil Society and International Development*, ed. By A. Bernard, H. Helmich, P.B. Lehning, North-South Center of the Council of Europe, Development Center of the Organisation for Economic Cooperation and Development 1998, p. 28

purpose was rather to demonstrate that, despite different views on the composing elements of civil society, all the approaches recognize NGOs as a significant element of civil society.

The Role of NGOs in the Building of Civil Society.

After revealing the role of NGOs as a critical part of civil society, it seems appropriate to determine also the role of these non-governmental or voluntary organizations in the building and strengthening of civil society. In order to understand the role of non-governmental organizations it is useful to refer to the definition of these kinds of organizations. According to Lyons, NGOs are those organizations that provide people with an opportunity to organize, to discover shared views and advance those views, and to provide facilities or services to be used by themselves or by others.³⁹ Another definition of NGOs is presented by Morten Kjaerum. He states that voluntary organizations are defined as non-profit and non-governmental organizations, working for a cause of benefit of society, which very often contribute as well to the development of democracy.⁴⁰ However, the perception of the notion is also much dependent on historical experience and country traditions. In Western Europe it generally means nonprofit organizations that are active internationally, in the Third World organizations involved in development.⁴¹ In the countries of East Central Europe and the former Soviet Union NGOs are all voluntary and charitable organizations. Despite different names and perceptions in different countries these organizations have something in common. They are mostly perceived as organizations formed on a voluntary basis where people with shared interests gather together in order to undertake actions for public or mutual good. According to Salamon and Anheier, NGOs should be 1) institutionalised, possess at least the rudimentary elements of formal organizations, 2) private, institutionally separate from the state, 3) non-profit, do not transfer any profit they may make to their owners or administrators, 4) self-governing, able to administer themselves, 5) voluntary, within reasonable limits make use of voluntary participation.⁴² However, it should be mentioned that even these general criteria should be interpreted broadly. For example, institutionalised and formal should not mean registered since this will not apply to numerous not officially registered but still active NGOs. Of course there

³⁹ Nowland- Foreman, Purchase of Service Contracting, in American Behavioural Scientist, Vol. 41, No. 4, p. 112

⁴⁰ Morten Kjaerum, The Contribution of Voluntary Organisations to the Development of Democratic Governance, in The Role of Voluntary Organisations in Emerging Democracies: Experience and Strategies in Eastern and Central Europe and in South Africa, Denmark 1993, p. 13

⁴¹ J. Fisher, Nongovernments: NGOs and the Political Development of the Third World, Kumarian Press 1998, p. 5

⁴² L. M. Salamon and H.K. Anheier, In Search of the Non-Profit Sector: The Question of Definitions, Voluntas Vol.3, N.2, 1992

are some benefits that become available after the organization acquires a legal personality through registering with a relevant agency. However, according to international standards, laws should not prohibit the formation of informal organizations, and most of the countries allow this.

Also, another criterion- private, should not mean that organizations cannot get funds from the governmental agencies since in many countries they do. For example, in USA while organizationally and structurally separate from the government, nonprofit organizations are receiving financial support from the government and are heavily influenced by government policies.⁴³ Also, in Germany, for example, Arbeiterwohlfahrt organization spent in 1984 40% of its budget on “participation in public tasks of the Federal Government” and received about 45% of its total budget in public subsidies.⁴⁴

Thus, interpreted in a broader way, the above-mentioned criteria can apply to the majority of countries. However, even in the case of broader interpretation there are some exceptions. As J.Fisher states in her book, cooperatives, one type of grassroots organizations in the Third World countries, promote projects benefiting an entire community, in addition to making profits for their members.⁴⁵

Determining the role of NGOs in the building of civil society is simultaneously an easy and a difficult task. It is easy because today we are all witnessing the current growth of the NGO sector and its increasing role especially in the newly democratised countries. On the other hand, it is difficult to put distinction between the roles of voluntary organizations in the strengthening of civil society and the roles in the development of democratic governance. For example, in the

⁴³ *L.M.Salamon*, *Defining the Nonprofit Sector: The United States*, The John Hopkins Comparative Nonprofit Sector Project, Working Paper N.18, February 1996, pp.22-23

⁴⁴ *H.K.Anheier*, *An Elaborate Network: Profiling the Third Sector in Germany*, in *Government and the Third Sector*, ed. by B.Gidron, R.M.Kramer, L.M.Salamon, Jossey-Bass Publishers 1992, p.44

⁴⁵ *J. Fisher*, *Nongovernments: NGOs and the Political Development of the Third World*, Kumarian Press 1998, p. 10

former communist bloc countries these two notions-- civil society and democratic governance-- have obtained almost the same meaning and connotation. However, probably it is possible to single out some functions of NGOs that relate directly to the strengthening of civil society. In order to present them it is useful to refer to the broad operational definition of civil society used by the participants of the Third Annual Conference on World Learning. The definition includes all intermediate institutions that function between the citizen and the state, excluding family... Equally importantly, World Learning's understanding of Civil Society includes the relationships between and among the various elements of Civil Society.⁴⁶ Taking into consideration also Seligman's definition of civil society as a realm in which free, self-determining individuality sets forth its claims for satisfaction of its wants and personal autonomy⁴⁷, one very important function of NGOs in the strengthening of civil society could be mentioned-- its role in bringing people of common interests together. Non-governmental organizations should be effective units which make it possible for people to come together in order to be able not only to express their wants but also to work out meaningful and effective mechanisms and methods for their implementation. This role of bringing people together in an effective organization is of crucial importance, especially in the newly democratised countries, where individuals often feel abandoned and isolated because of economic hardship and disregard for political institutions. The successful implementation of this role can assist to merge the hierarchical divisions within society from top to bottom by channelling the demands from the low and middle classes to the elite. Joining the non-governmental organizations not only provides satisfaction to people with shared views and the opportunity to implement their needs but also contributes to the formation of a more competent and educated citizen. This can be proved by the following statement: "Membership in some associations, even if the individual does not consider the membership politically relevant and even if it does not involve his active participation, does lead to a more

⁴⁶ *Reason for Optimism*, in Third Annual Conference on the World Learning, Conference Abstract Volume, Washington DC, October 24-25, 1995, p. 1

⁴⁷ *Alan Wolfe, Is Civil Society Obsolete?, Revisiting Predictions of the Decline of Civil Society*, in *Civil Society*, Fall 1997, p. 10

competent citizenry. Pluralism, even if not explicitly political pluralism, may indeed be one of the most important foundations of political democracy "(Almond and Vebra, 1989, p. 265).⁴⁸ Also, a link was determined between wide public participation and greater government responsiveness. The authors of the same above-mentioned article demonstrate three studies of different authors to prove this. "Vebra and Nie (1972) investigated the relationship of citizen participation with government responsiveness by comparing local authorities in the US. They observed higher levels of concurrence of leaders with citizens in the communities with high levels of citizen participation. Berry (1993) brought association for participation in focus. He similarly concludes that cities with greater community participation had a strong tendency to make decisions in line with the preferences of larger portions of the general population. Putnam (1993) similarly revealed the importance of the regional "degree of civic community."⁴⁹

From this statement we can deduce another important role of voluntary organizations. It is the ability to create an effective entity in order to correctly identify the needs of various sectors of society and, accordingly, develop and implement projects addressing those needs. This is social function of participation, which encompasses the need to associate, actively contribute to the activities of an organization, and have influence; the civic sector offers people an opportunity to choose how they will participate in community life and provides a means of self-actualisation through immediate, familiar, and non-formalized social contact and cooperation- the opposite of the superficial, formal modes of human contact which prevail in many aspects of societal life.⁵⁰

Encouraging cooperation within the NGO community and other participants of civil society as well as governmental institutions is another role of NGOs, which contributes directly to the strengthening of civil society. As mentioned above, civil society is also characterized by the

⁴⁸ Dekker P., Broek A., Civil Society in Comparative Perspective: Involvement in Voluntary Associations, in *Voluntas: International Journal of Voluntary and Nonprofit Organisations*, Vol. 9, No. 1, 1998, p. 17

⁴⁹ *Ibid.*, p. 17-18

⁵⁰ M. Potucek, *Not Only the Market*, Budapest, CEU Press 1999, p. 37

relationships of different components of civil society. Accordingly, one role of non-governmental organizations should be to interact and collaborate with other components of civil society. Whether Civil Society organizations enjoy cooperative, competitive or conflicting relationships, whether these relationships are weak, strong, voluntary, coerced, or absent entirely, and whether they are understood, welcomed, tolerated or opposed by the state, will all help to define the nature and prospects of any country's Civil Society.⁵¹ Civil Society can thus be considered to be strong and effective when its participants enjoy cooperative relationships. This is of great importance since conflicting relationships can lead to the possibility to end up with more than one segment of civil society occupying the same territory and, thus, to the increased social and political divisions in the society. Cooperation within the NGO sector is important to avoid duplication in activities, as well as promote project or sectoral work coalitions and participate in lobbying and advocacy networks. Collaboration with other participants of civil society, especially media, is also of extreme importance. It would assist NGOs in becoming known and establishing a positive image, as well as regularly inform public on its activities. This, in its turn, would increase public awareness and trust in the NGO sector, provide for wider public participation. Establishing cooperative relations with the actors outside the NGO community is also crucial. For example, collaboration with governmental agencies would provide NGOs with the opportunity to influence legal initiatives concerning the NGO sector, as well as increase NGO participation in relevant governmental projects and activities. Therefore, the role of non-governmental organizations is not only to support collaborative relationships within the non-governmental sector but also to interact with other composing elements of civil society as well as with governmental institutions.

Relations with governmental institutions is a separate and rather complicated topic to study. Collaborative and healthy interaction between the two sectors not only strengthens civil society

⁵¹ *The Nature of Civil Society*, in Third Annual Conference on the World Learning, Conference Abstract Volume, Washington DC, October 24-25, 1995, p. 2

but also greatly contributes to the development of democratic governance at large. It is widely accepted that a strong NGO sector plays the role of counterbalance to the state power. However, the government should realize that non-governmental does not mean antigovernmental. Unfortunately, this is much more common in the countries of the former Soviet Union where the governments often view NGOs as a threat to their power.

The Role of NGOs in the Development of Democratic Governance.

As for the concept of civil society, there are also different definitions for democracy. For example, "...respect for human rights, respect for the rights of minorities, freedom of speech, an independent legislature, an independent judiciary, fair distribution of nation's wealth, social services and amenities, education for all, and an obligation for government to govern constitutionally (A.Oyowe), or the right to disagree and not be afraid (J. Pronk), or a rule-based approach to taking decisions, and the center of which are the core values of respect for the individual and the affirmation of community (Democracy, development and hope, Christian Aid,1992)."⁵² Archer also mentions two main attributes of democracy, which are pluralism and accountability.⁵³ Taking all the above mentioned into account, for the purpose of the paper, I will try to summarize the main attributes of democracy: legitimate government (free, fair, transparent elections), accountability and openness of the government, respect for the rule of law, respect and protection of human rights, strong civil society. The following section of the paper will be an attempt to reveal the role of NGOs in ensuring and promoting these attributes. The role in strengthening of civil society was already discussed above, accordingly, it will not be referred to in this section. Also, the section will include the investigation of the role of NGOs in promoting market economy since the notions of democracy and market economy are closely interconnected.⁵⁴

One of the roles of NGOs in promoting democracy is to ensure the legitimacy of the government through free, fair and transparent elections. In the Philippines an NGO network called the National Citizens Movement for Free Elections (NAMFREL) played a major role in

⁵² R. Archer, *Markets and Good Government: The Way Forward for Economic and Social Development*, NGLS 1994, p.27

⁵³ *Ibid*, pp. 28-29

⁵⁴ As Lindblom mentions in *Politics and Markets*, though not all market-oriented systems are democracies, all democracies are market-oriented.

observing elections, did a parallel quick count of the vote, and helped unmask widespread fraud.⁵⁵ Also, it was due to the efforts of several active non-governmental organizations that the government introduced the institution of the local observers monitoring the election process in Armenia. During 30 May 1999 Parliamentary Elections six non-governmental organizations participated in the election as local observer, making the process more transparent. The role of NGOs in this process is to mobilise people and influence public opinion, using media and other available means. However, after elections the mission of NGOs is not accomplished since it is well known that any government, even a democratic one, has tendency to abuse and misuse its power in the condition of no limitations from anywhere. Accordingly, after free and fair elections the role of non-governmental organizations is to ensure both political and public accountability of the government.

Political accountability is defined as "the effectiveness with which the governed can exercise influence over the governors (...). The result of weak accountability is a policy making environment where decisions are confined to a small political and bureaucratic elite to the exclusion of interest groups and their representatives."⁵⁶ The role of NGOs in this process could be to implement their "watchdog" function in order to reveal the possible cases of abuse or misuse of the power, and, when appropriate, to be able to refer cases to the courts, administrative tribunals or special tribunals for these matters. For example, when President Fernando Collar de Mello of Brazil was implicated in a corruption scandal in 1992, 900 NGOs, professional associations of lawyers and journalists, student associations, church agencies organized a movement, which petitioned Congress to investigate Collar, they also organized

⁵⁵ *J. Fisher*, *Nongovernments: NGOs and the Political Development of the Third World*, Kumarian Press 1998, p. 14

⁵⁶ *Mark Robinson* (University of Sussex), *Governance, Democracy and Conditionality: NGOs and the New Policy Agenda*, in *Governance, Democracy and Conditionality: What Role for NGOs?*, ed. Andrew Clayton, INTRAC Publication 1994, p. 38-39

street demonstrations, which led to his impeachment.⁵⁷ Public accountability is defined by D. Brautigam as the methods and practices whereby users of government and public services, and those within public bureaucracies, ensure adequate levels of public service.⁵⁸ Mark Robinson in his above-mentioned article makes a distinction between micro-level and macro-level public accountability. "Micro-level accountability is primarily concerned with the quality, cost, reliability and availability of public services. This type of accountability is relevant to our concerns to the extent that outside pressure for improving the performance of government agencies responsible for public services may influence expenditure and allocation decisions in a manner that could prove advantageous to poor and disfranchised communities (...). Macro-level accountability refers to the way, in which decisions on public expenditure are made and how expenditure is controlled and monitored through effective accounting systems, external audit and review procedures."⁵⁹ Stressing "outside pressure" the author definitely implies the NGOs' influence on the decision-making process concerning public services as well as on later implementation of those decisions. This role is of crucial importance since non-governmental organizations are much closer to the public than state officials. Accordingly, NGOs are better acquainted with the needs of the population. This is the crucial political function of NGOs stated by Kjarum (1992), "The key function of non-profit organizations is to interpret citizens' requirements. They do so by facilitating dynamic citizen participation and raising citizens' awareness of these requirements. Through them, citizens' wishes and needs are articulated, transformed into political demands, and in this way become part of the political process".⁶⁰

⁵⁷ *J. Fisher*, *Nongovernments: NGOs and the Political Development of the Third World*, Kumarian Press 1998, p. 16

⁵⁸ *Brautigam D.*, *Governance and Economy: A Review*, The World Bank, 1991, p. 12

⁵⁹ *Mark Robinson* (University of Sussex), *Governance, Democracy and Conditionality: NGOs and the New Policy Agenda*, in *Governance, Democracy and Conditionality: What Role for NGOs?*, ed. Andrew Clayton, INTRAC Publication 1994, p. 40

⁶⁰ *M. Potucek*, *Not Only the Market*, Budapest, CEU Press 1999, p. 38

However, in order to influence the decisions of the government and implement its watchdog function the NGO sector must first ensure the openness and transparency of the government. Otherwise, it will not have any access to information about the government decisions and activities.

Political openness is characterized by "access to information, especially government information, economic statistics and public records. It also embraces freedom of expression to allow scrutiny of government decisions and the actions of individual ministers by specialized interest groups and the mass media. Transparency presupposes the existence of clear procedures for public decision making, such that the public can gain knowledge of how government works and intervene in the policy process."⁶¹ Since Locke, discussions of the state-society relationship have centered on the policymaking ability and how society can influence and control it. This includes the ability of citizens or groups to participate in, communicate ideas to, and gain influence over policymaking, which strengthens democracy. The inability to do so could lead to significant pathologies in political development: apathy, extremist attitudes, and extra-institutional means of political expression. This is exactly what we observed in the case of the post-communist bloc countries. In order to ensure the openness and transparency of the government the role of non-governmental organizations could be to mobilize citizens educating them on the concept of an open and transparent government as well as organize campaigns on this issue involving mass media. However, the most important thing to do is to promote the adoption of law on "freedom of information" which would include articles supporting all four major features of the open government provided by D.Bitham and K. Boil. They are : 1) providing information by the government on its policies and activities, 2) providing free access to government information and documents for media and public, 3) ensuring openness of the sessions of different branches and levels of the government- Parliament, local governments,

⁶¹ *Ibid.*, p. 41

etc., 4) conducting periodical discussions on different issues of formation and implementation of governmental policies and their publication of the information and suggestions gained during the discussions.⁶²

Nevertheless, this kind of legislation can serve as an effective means to ensure the openness of the government only in those societies where there is "subordination of the behaviour of state officials to rational, predictable, and publicly recognized procedures"⁶³. That is, where there is a rule of law, which constitutes one of the most important features of a genuine democratic society. More importantly from the point of view of NGOs the rule of law serves "to protect the rights of citizens in their efforts to enforce accountability from governments."⁶⁴ Accordingly, the role of NGOs, especially human rights NGOs, is very important. Their first task is to educate people on their rights providing legal consultations on different issues, and free legal aid for lawsuits for those who cannot afford to pay for the lawyer.

Another important function of non-governmental organizations connected with the legislative branch is the promotion of democratisation of the legislative process. The aim of this process should be to reach compatibility of legal norms of the country with widely accepted international standards, this is especially important in the human rights field. The role of NGOs should be to create independent judicial expertise, which would promote the democratisation of the essence of new draft laws in the period of their discussion and elaboration; conduct public discussions of vital draft laws involving mass media; carry on judicial assessments of current legal fields in order to reveal the controversies of legal norms which gives room for the government and public at large to breach the law; and control the legitimacy of activities of the state structures. For example, the Czech Association for the Protection of Nature initiated Law

⁶² *D. Bitham and K. Boil*, Democracy: Questions and Answers, published to order of UNESCO, UNESCO National Commission of Armenia 1995, p. 57-58

⁶³ *Brautigam D.*, Governance and Economy: A Review, The World Bank, 1991, p. 25

⁶⁴ *Ibid.*, p. 27

No. 114/1992 of the Czech National Council to protect nature and the countryside, which "not only contains modern and complex legal norms, but gives citizens' associations the right to participate in forming new laws in the environmental sphere" (Damohorsky, 1995,25).⁶⁵ In Armenia several NGOs last year formed a group of experts and elaborated a new draft law on non-governmental organizations, which excludes the shameful articles of the current law vesting excessive control with the Ministry of Justice over NGOs.

Another important role of NGO sector is the role of service provider when the government cannot do so. NGOs are fast reactors to changes. NGOs are more mobile structures, they can and should reflect immediately on different changes that take place and to implement the role of, so-called, sensors and catalysators of different forms of transformations for more inert structures, e.g. for executive and legislative branches. It is important to realize that this is not an attempt to "replace" the state, but rather to influence the direction of government policy or support existing policies. For example, it has been an unpleasant discovery in the NIS countries that the governments cannot respond to all needs of their citizens. There were areas in which the business sector also was not interested, for example, educating people about industrial pollution or offering legal advise to poor people. Accordingly, a role of the NGO sector is to respond to the needs of population which is pressing for a significant number of people but is of no interest both for the governmental and business sectors. The limitations of government and business to respond to society's needs are often due to shortage of resources and expertise, the denial of responsibility, or the lack of social awareness. "Non-governmental organizations are created by ordinary citizens whose basic motivation is the well-being of their people. In a sense, they are public entities but free from the bureaucratic and political constraints of the government. Being private and relatively small, they can show the efficiency of the private sector without representing the interests of the more powerful economic sector. The third sector then brings

⁶⁵ M. Potucek, *Not Only the Market*, Budapest, CEU Press 1999, p. 75

together the strengths of the two other sectors and avoids at the same time their weaknesses."⁶⁶

This is the concept of efficiency of non-governmental organizations. There are several reasons explaining the efficiency of NGOs. "One is the fact of volunteerism itself. To the extent that individuals devote time and energy to the solution of public problems on a free and voluntary basis, there is a cost savings. Also, there is a factor of market knowledge. A small, locally based NGO may often know the real needs of the people to be served, and how best to meet those needs than a large and often distant governmental agency."⁶⁷ For example, in the Ciamis district of Indonesia, NGOs in charge of a government agricultural project were able to construct terraces at one-twelfth the cost of solo implementation by the government and improve 48.000 hectares of farmland, compared with the 4.000 hectares originally planned; in India, NGOs that have implemented government programs in certain villages have done a remarkably more efficient and effective job than government agencies working alone in similar villages.⁶⁸

Though help for victims of crime should be provided by government, in the Czech Republic the White Cross Association, along with such organizations as the Salvation Army, Charter 77 and many others, is active in this area because of the government's absence.⁶⁹ NGOs in Germany provide 70% of all family services, 60% of all services for the elderly, 40% of all hospital beds.⁷⁰

Another important role of NGOs is promotion of pluralism and tolerance since people are encouraged to take part in diverse organizations to pursue their interests. This, in its turn,

⁶⁶ F. Arbab, *Reflection on Organisations for Development: Non-Government Development Organisations*, Report of a Learning Project, Celater, Pact, I edition, August 1988, p. 13

⁶⁷ *Handbook on Good Practices for Laws Relating to Non-Governmental Organisations* (Discussion Draft), Prepared for the World Bank by the International Center for Non-for-Profit Law, Chapter A: The Relationship of NGOs to Society, May 1997, p. 14

⁶⁸ J. Fisher, *Nongovernments: NGOs and the Political Development of the Third World*, Kumarian Press 1998, p. 44

⁶⁹ M. Potucek, *Not Only the Market*, Budapest, CEU Press 1999, p. 75

⁷⁰ H.K. Anheier, *An Elaborate Network: Profiling the Third Sector in Germany*, in *Government and the Third Sector*, ed. by B.Gidron, R.M.Kramer, L.M.Salamon, Jossey-Bass Publishers 1992, p.41

supports pluralism and tolerance. This diversity can be seen as a specific quality of democratic life.

An effective NGO sector also contributes to the growth and development of market economy. It is well accepted that "market economies flourish in the societies where there is social stability, public trust of institutions, and respect for the rule of law."⁷¹ As it was mentioned above, a vigorous NGO sector influences the creation of these conditions, so it can be inferred that it indirectly promotes the development of market economy. Also, NGOs can directly contribute to the development of economy while acting as a service provider, as discussed above, thus supplementing government and for-profit sector, or as an employer. For example, in Germany CARITAS alone employs more people than the industrial conglomerate Siemens, one of the largest employers in the Federal Republic, and together NGOs employ three times as many people as the federal post office.⁷² This can be stated for other countries also, only in the post-communist bloc and developing countries, where the sector is not strong enough, the number of people employed by the NGOs is not as high as in the countries with a more developed NGO sector. This can be observed from the table below.⁷³

Share of the non-profit sector of total number of workers, not including agriculture

Data for 1995, in %

| | Paid workers | Workers and volunteers |
|-------------|---------------------|-------------------------------|
| Finland | 3,1 | 6,4 |
| France | 5 | 10,1 |
| Ireland | 12,2 | 15 |
| Germany | 5,1 | 8,8 |
| Netherlands | 12,7 | 19,4 |

⁷¹ *Handbook on Good Practices for Laws Relating to Non-Governmental Organisations* (Discussion Draft), Prepared for the World Bank by the International Center for Non-for-Profit Law, Chapter A: The Relationship of NGOs to Society, May 1997, p. 17

⁷² *H.K. Anheier, An Elaborate Network: Profiling the Third Sector in Germany*, in *Government and the Third Sector*, ed. by B.Gidron, R.M.Kramer, L.M.Salamon, Jossey-Bass Publishers 1992, p.41

⁷³ *P.Fric, R.Goulli, Non-Profit-Sector in Czech Republic*, EUROLEX BOHEMIA, Prague 2001, p. 28

| | | |
|----------------|-----|------|
| Great Britain | 6,4 | 12,8 |
| Austria | 4,7 | 5,9 |
| USA | 8,8 | 14,5 |
| Japan | 3,7 | 5,1 |
| Israel | 9,3 | 11,1 |
| Czech Republic | 1,8 | 2,9 |
| Hungary | 1,6 | |
| Slovakia | 1 | 1,4 |
| Romania | 0,6 | 1,4 |
| Argentina | 4,4 | 7,7 |
| Brazil | 2,4 | 3,2 |
| Mexico | 0,4 | |
| | | |

Source: Global Civil Society, 1999

Finally, one of the significant roles of the NGO sector, especially in the post-communist bloc countries, is educating people on different democratic issues. For example, instructing people how to register and vote, and elections monitoring operations, thus, encouraging and enabling the population to become more meaningful participants in their nation's democratic transitions and transformations. They can be vigorous vehicles for individual empowerment.

All the above-mentioned does not mean that NGOs do not experience failures, do not engage in illegal activities, or do not have any weaknesses. There are certain shortcomings of the sector like insufficient capacity for dealing with extensive tasks, the absence of necessary civic initiatives, the threat of bureaucracy, sensitivity to the personal characteristics of participants, insecurity and instability of organizations, attempts to conceal the profit motive.⁷⁴ However, these shortcomings can be overcome through balanced interaction between the three sectors- government, market and civil sector. Also, numerous cases of fraudulent activities or failures of NGOs can be mentioned, however, the purpose of the paper was to demonstrate that NGOs really possess great potential in the civil society building and the development of democratic governance.

⁷⁴ *M. Potucek, Not Only the Market, CEU Press, Budapest 1999, p.41*

Conclusion

To conclude, it should be stressed that the building of a genuine democratic society requires the existence of a vigorous civil society and effective political institutions. Non-governmental organisations can play an indispensable role in this by creating informed and educated citizens, supporting cooperative relations with other actors of civil society, as well as contributing to the development of democratic governance by ensuring legitimacy and accountability of the governments, respect for the rule of law and human rights. Also, NGOs provide for pluralism, tolerance and encouragement for market economy, which are the characteristics of a genuine democratic society. However, in the former Soviet Union countries, as in the case of Armenia, the governments still do not realise the important role of the NGO sector. Therefore, NGOs encounter numerous problems. One of these problems is the incomplete and inefficient legal environment which, accompanied by unhealthy political and social climates, hinder the further development of the sector.

Chapter 2: Legal Environment of the NGO Sector in Armenia

Introduction

The development of the non-governmental sector of the Republic of Armenia has a rather short but interesting history. The first public organisations were of a charitable nature, and were aimed mostly at providing support to the victims of the disastrous earthquake of 1988 and refugees arriving in Armenia as a result of ethnic conflict with Azerbaijan. It was natural for that time since those were the most important problems for the whole Armenian nation. Now, there are about 1800 non-governmental organisations operating in the territory of Armenia. However, the NGO sector remains weak and unable to play its role of a counterbalance to the governmental forces.

One of the problems preventing the healthy growth of Armenian civil society is the legal environment of NGOs. The current legal norms governing the non-governmental organisations in Armenia can be best characterised as insufficient, incomplete and unfavourable for the successful functioning of the sector. To be objective, not only NGO laws suffer from deficiencies and gaps. The same can be stated, for example, with regard to the election law, education law, general tax laws or any other legal norms. Probably, this is the very reason that all these legal instruments are very often being amended. Therefore, the unfavourable nature of the laws governing the NGO sector is not necessarily the consequence of intentional action by the legislators. Rather, it is the consequence of their incompetence or inexperience. Also, it is often the case that the laws are rather sound but the mechanisms of their implementation are absent, or the legal norms are not applied fairly and consistently.

The existence of a healthy legal environment is one of the crucial prerequisites for the effective operation of the non-governmental sector in any country. There is also a sharp need for this legal environment to be supplemented by favourable political and social climates. However, we should single out the special importance of sound legal norms since it is through the laws that the state structures can either repress the NGO sector or encourage it. The Law on Public Organisations of the Republic of Armenia has serious gaps and deficiencies that need further evolution and improvement. Thus, the incomplete Law on Public Organisations as well as the unfavourable tax policy of the government constitute serious obstacle to the growth of the NGO sector in Armenia.

Constitutional protection

One of the most important roles NGO legislation plays is the protection of such important human rights as freedom of association and freedom of speech which are contained in numerous international agreements and are supported in the Constitutions of the most countries in the world. The same can be observed in the case of Armenia. The Constitution of the Republic of Armenia was adopted on July 5, 1995. The Constitution provides for freedom of speech, including the right to seek, receive and disseminate information and ideas by any means of information communication (Article 24), the right to form associations with other persons (Article 25), as well as the right to assemble peacefully without weapons and to hold meetings, public gatherings, processions and demonstrations (Article 26). However, Article 44 states that these rights can be limited for the protection of state and societal security, social order, the health and mores of society, and the rights and freedoms and honour and good reputation of others. The ambiguous language of the Article is clearly susceptible to overly broad interpretation that could lead to state interference. In fairness, it should be mentioned that nearly all countries have provisions in their constitution imposing these kinds of limitations on freedom of association. Governments often invoke "national security" and

"preservation of public order" to justify limitations on freedom of association. It is obvious that these grounds are rather broad and they can be used as a cover for arbitrary interference with the right of freedom of association. Even international instruments providing for freedom of association use quite broad provisions restricting the right. For example, Article 22 of International Covenant on Civil and Political Rights provides that the right of freedom of association can be restricted only when the limits are prescribed by law, necessary in a democratic society, and imposed to preserve the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others. However, these provisions have been interpreted restrictively by different international bodies, thus narrowing the scope for governments to invoke them. For instance, the European Court of Human Rights has always based its decisions on a rather narrow interpretation of the above-mentioned limitations.⁷⁵ There is no provision in the Armenian Constitution stating whether individuals are allowed to join together to engage in lawful activities without having to register a formal NGO. However, most countries simply presume that informal organizations can be formed, as a part of the right of association. It is the formal organizations whose creation and activities are normally covered by laws.

⁷⁵ For example, in *Casado Coca* Case the Court has taken the position that the exceptions to the freedom of expression "must be narrowly interpreted and the necessity for any restrictions must be convincingly established" (judgement of 26 November 1999, *The Observer and Guardian*, A.216, p. 30). In the *Lingens* Case the Court stressed the importance of the freedom of political debate and held that "the limits of acceptable criticism are accordingly wider as regards a politician as such than as regards a private individual" (judgement of July 1986, *Lingens*, A. 103, p.26). The *Vogt* Case concerned the dismissal of a teacher from the civil service because of her political activities on behalf of the German Communist Party. The examination of the necessity of the restriction imposed took the form of the proportionality test, and the Court held that "the dismissal of the applicant was disproportionate to the legitimate aim pursued (national security, prevention of disorder, rights and freedoms of others)" and that "the lawful restrictions that can be imposed on members of police, the army and the administration of the State are judged on the basis of the standards of legitimate aim, pressing social need and proportionality" (judgement of 26 September 1995, A.323, pp. 29-30)

Law of the Republic of Armenia on Public Organisations: General Overview

The Law of the Republic of Armenia on Public Organizations was adopted by the National Assembly on October 22, 1996. This was the first serious step towards the creation of a legal environment necessary for the formation and operation of the civil sector. The law covers the procedure of formation, reorganisation, suspension and dissolution of public organisations as well as sets forth the rights and obligations of non-governmental organisations operating on the territory of Armenia. It incorporates several favourable provisions for NGOs. These provisions ensure rather easy process of establishment setting a reasonable time limit for the decision of the establishment agency and presumptive approval, permission of the both membership and non-membership organisations, favourable conditions for foreign organisations, permission to engage in all kinds of lawful activities and general procedural safeguards. However, it contains articles which are not favourable for the organisations and interfere with the freedom of association. They include the requirement of the Ministry of Justice's consent during voluntary termination, excessive control on the part of the Ministry of Justice over NGO activities, ambiguous grounds for involuntary termination and the omission of the right to appeal the decision, underdeveloped internal supervision mechanisms, absence of a provision on the conflicts of interest, absence of a distinction between the reporting requirements of small and large or public benefit and mutual benefit organisations. This paper will concentrate on the issues of establishment, voluntary and involuntary termination, structure and governance, NGOs' activities, reporting, and taxation, where the legal framework has certain drawbacks and needs significant improvements.

Establishment

One of the main principles of laws on NGOs is that they should be written and administered so that it is relatively quick, easy and inexpensive to establish an NGO as a legal person. The Law on Public Organisations does not prohibit the existence of informal associations.

However, there are certain benefits which become available only after gaining legal personality through registration with the relevant agency. Registration laws should involve a minimum of paper-work. There should be a minimum of administrative discretion in dealing with an application for registration, and recourse to judicial appeal in the case of registration denial. Both natural and legal persons should be allowed to establish a non-governmental organisation. Foreign NGOs should be subject to the same laws as the local ones. The agency vested with the responsibility for establishing NGOs should be competent and impartial, and its decisions should be appealable to an independent court. While the Law on Public Organisations of Armenia incorporates nearly all the above-mentioned international standards⁷⁶, their implementation is marred by arbitrary actions of the Ministry of Justice.

Article 5 of the Armenian Law on Public Organisations states the principles of formation and of activities of public organisations which are voluntarism, equality before the law, self-governance, legality, and publicity. Article 9 provides that a public organisation is formed by the decision of the founding assembly (conference) or at the meeting convened at the initiative of its founders. There is no provision requiring the founders of a public organisation to appear personally before the establishing agency which is more convenient for a public organisation since it can save time and make the process of establishment quicker. Another principle governing the laws on NGOs is that the process of establishment should require filing a minimum number of clearly defined documents. Article 14 concerning state registration of a public organisation gives the list of the documents to be presented to the Justice Ministry, which are quite clearly defined and obviously constitute a reasonable

⁷⁶ International standards referred to in this chapter are the standards of good practices regarding NGO laws elaborated by the International Center for the Not-for-Profit Law (ICNL) and summarized in the Handbook on Good Practices for Laws Relating to Non-Governmental Organisations. The concepts developed have been vigorously debated at numerous conferences with lawyers, NGO leaders, and government officials throughout the world. Some of the principles deal mainly with the procedures that should exist, not the substantive rules of law.

number, and it will not take much time to compile them making the process of the establishment quicker.

Another important standard, which makes the process of establishment quicker and easier, is the setting of a reasonable time limit for the decision of the establishment agency and presumptive approval. The second part of Article 9 of the Law on Public Organisations sets a reasonable time limit within which the establishment agency (Ministry of Justice) must act. The Article states that within 30 days after recording the receipt of the required documents in the register, the Ministry of Justice shall consider the application for registration and resolve the issue of registration of the public organisation or denying state registration. The same paragraph of the Article contains the principle of presumptive approval. It states that in the event a public organisation is not denied registration within the period stipulated, the organisation is considered registered. This is a good practice which prevents state officials from using delay in order to deny the establishment of the particular organisation which, for example, conducts activities with which the officials may not agree. However, this is the very situation when the law is rather sound but it is not followed in practice. The problem of arbitrary registration will be discussed in detail in the next chapter while exploring the political environment of NGOs and relations with the state structures. Here it is enough to mention that there have been numerous cases where the Ministry of Justice has simply ignored the principles of a reasonable time limit and presumptive approval. Therefore, it is appropriate not to concentrate the power of registration solely in the hands of the officials of the Ministry of Justice. For example, the Serbian model is much more favourable here. There is no prior veto right; an organisation simply registers itself. Registration can be denied only if

there are reasonable doubts that an organisation's goals are to destroy the constitutional order or to actively support the ethnic and racial hatred.⁷⁷

Founders.

International standards suggest that both natural and legal persons should be allowed to create an NGO.⁷⁸ For example, this would allow several similar NGOs to create an association, which, in its turn, will be able to provide different services or training to its member organisations. As far as the Armenian Law on Public Organisations is concerned, it is not clear from the text whether both natural and legal persons are permitted to establish NGOs. Article 6 concerning the founders and members of a public organisation states only that the founder of a public organisation may be either a person who has reached the age of 18 or may be a public organisation. This implies that an association can establish another association. However, it is not clear from the text whether other legal persons are allowed to form an association. Article 5 §3 provides that political parties are prohibited from participating in the activities of public organisations for minors. Again, it is not clear whether they are allowed to participate in other public organisations' activities. The creation and operation of public organisations in the armed forces and law-enforcement bodies is prohibited. If we compare this Law with the draft Law on Charitable Organisations of the Republic of Armenia, which was prepared in 1997 but had not been considered by the Parliament, it seems that the latter is much more precise. Article 1 clearly states that charity can be conducted by Armenian non-governmental, commercial legal persons, public organisations and natural persons.

⁷⁷ M. Ruzica, M. Košin, Z. Paunovic, Serbian Third Sector at a Crossroads: A Bridge to Europe: A Weak Alternative or How to Make it Sustainable, in Conference Abstract Volume

⁷⁸ *Handbook on Good Practices for Laws Relating to Non-Governmental Organizations*, Prepared for the World Bank by International Center for Not-for-Profit Law, May 1997, p. 40

Organisational forms.

Generally, non-governmental organisations can be formed as either membership or non-membership organisations. A membership organisation is one in which the highest governing body consists of the members of the organisation. It often has a board of directors which is accountable to the membership. A non-membership organisation is one in which the highest governing body is a board of directors or similar body. Generally, associations are membership organisations, and foundations are non-membership organisations. There is no special provision indicating whether both membership and non-membership organisations are allowed to be formed in Armenia. Article 4 states that a public organisation is a voluntary *association* of persons, united on the basis of common interests for the purpose of satisfying spiritual or other non-material needs. However, this does not mean that only membership organisations are permitted since the word "association" in this context is obviously used as a synonym of the word "union" or "alliance". This is especially clear from the Armenian text of the law. Also, while Article 122 of the Civil Code of Armenia incorporates general provisions on public *associations*, Articles 123 and 124 provide the main principles of the formation, operation and termination of *foundations*. Accordingly, both membership and non-membership organisations are permitted by the Armenian legislation. Also, according to international practice, non-governmental organisations can operate as either public benefit (PBO) or mutual benefit organisations. Mutual benefit organisations are those which are formed to pursue the mutual interests of their members. Public benefit organisations are operated for the benefit of the public or the significant portion of it. It is not quite clear from the text of Article 4 of the Law on Public Organisations whether NGOs are public benefit or mutual benefit organisations or both. However, in Armenia the question of "public benefit" depends on what the organisation does. Organisations caring for children, refugees, poor people, or cultural, educational, ecological concerns, and so forth, are considered to be "public

benefit" organisations. If the organisations are chess clubs or investment clubs for the benefit of the members only, they are considered "mutual benefit" organisations.

Foreign organisations.

A foreign non-governmental organisation, which wishes to have a branch in some other country, should be allowed to create a branch under the laws of that country, and should enjoy all the rights and privileges, and be subject to the responsibilities, duties and sanctions which are applicable to the domestic organisations.⁷⁹ Chapter 7 of the Law on Public Organisations is related to the international relations of public organisations, activities of international public and foreign non-governmental organisations. Article 31 of the Chapter states that international public and foreign non-governmental organisations may establish separate divisions which in accordance with the procedure stipulated by this law are registered as public organisations. It is obvious from the text that the same rules of establishment which apply to domestic NGOs apply to foreign NGOs as well. The second part of the same Article provides even more favourable conditions for foreign NGOs since it states that international public and foreign non-governmental organisations can carry out their activities on the territory of the Republic of Armenia also on the basis of agreements with the government of the Republic of Armenia. This provision recognizes the fact that the state may wish to encourage certain kinds of "social investment" by foreign NGOs which otherwise would have difficulty registering. This might apply, for example, to emergency relief organisations, which might have to come into Armenia quickly to deal with a natural disaster, like an earthquake, and would not have time to go through the normal registration process. In general, these kinds of provisions are useful, but the same result could be achieved through emergency provisions in the normal registration laws and regulations, allowing for temporary registration upon official declaration of an emergency or some similar approach.

⁷⁹ *Ibid.*, p. 90

There is also a draft Law on Public Organisations which is the revised and slightly improved version of the existing law, but it has not yet been considered by the Parliament. While the currently operating law provides only one general article on foreign NGOs, the draft law devotes five articles to them. Article 33 provides in detail the kinds of documents a foreign NGO should present to the Ministry of Justice to acquire registration. Also, Article 34 singles out the points which should be included in the charter of a foreign non-governmental organisation. The draft law seems to be more precise and clear-cut, and, thus, more favourable since it would help to avoid unnecessary confusion.

Registration Agency.

The establishment agency should be staffed by competent specialists, and its decisions concerning registration denial or termination should be subject to review by independent courts.⁸⁰ The organ of the state that is vested with responsibility for giving legal existence to NGOs in Armenia is the Ministry of Justice. Article 14 of the Law on Public Organisations provides that the state registration of a public organisation shall be performed by the Ministry of Justice. The decision to deny state registration, according to Article 15, can be appealed to the courts by the founders of the organisation. Under sound registration principles the act of registration should be virtually without discretion. However, it seems inconvenient to put a single particular ministry in charge of both establishing and supervising NGOs; the deficiencies of this system will be discussed in the next chapter. Very often the internal principles of a certain ministry could influence its decision-making. Besides, even if the members of the staff are highly qualified, they cannot be competent in all areas where NGOs conduct their activities. There are certain difficulties with vesting registration responsibilities with the courts as well. One is that the courts may be very objective and impartial while

⁸⁰ *Ibid.*, p. 41

making the registration decision but they are not adequately equipped to supervise NGOs. The best solution seems to be the creation of a specialised agency which would include experts in all areas, representatives of the government, and representatives of other NGOs and the public. However, it should be mentioned that countries often do use the MOJ, or the courts, as the place where all legal entities are registered. The idea of an independent agency has been effectively used only in fairly advanced countries with well-developed NGO sectors. It is not important which agency or body is vested with registration responsibility. What is really at stake is the willingness and readiness to make it competent, effective and impartial.

Termination, Liquidation and Dissolution

After establishment, the other important issue connected with the area of an NGO's legal existence is the issue of termination. NGOs should be allowed to voluntarily terminate their existence and liquidate their assets upon the decision of the governing body. Also, a governmental agency or court should have the power to order involuntary termination of NGOs on the grounds stipulated by the law of the country.

Voluntary termination and liquidation.

Unlike the articles regulating the registration process, the articles of the Armenian law governing voluntary and involuntary termination give wide opportunity for different interpretations. Article 28 states that a public organisation can be dissolved by its supreme body. The supreme body is required within five days to inform the Ministry of Justice about its decision, and the Ministry records that the organisation is in the process of dissolution. However, §4 of the same Article provides that *with the consent* of the Ministry of Justice a public organisation forms a dissolution committee and determines the dissolution time periods. The dissolution committee, after having made mandatory payments, utilises the remaining possessions for the realisation of the organisation's charter goals and objectives in

the manner determined by the body which has passed the decision on the dissolution of the organisation. In case of disputes, the issue is resolved by a court. This Article seems to emphasise the fact that a public organisation is permitted voluntarily to terminate its activities. However, at the same time it requires the consent of the Ministry of Justice. It is not clear whether a public organisation still can terminate its activities if it does not gain the consent of the Ministry to form a dissolution committee. Probably, this was also the concern of the drafters of the proposed new draft Law on Public Organisations since the words "with the consent of Ministry of Justice" are omitted.

Involuntary termination and liquidation.

Article 29 provides the grounds for involuntary termination of a public organisation. An NGO can be dissolved through a court decision, if: 1) an individual's rights and lawful interests are violated by its activities, 2) its activities are directed towards the overthrow of the constitutional order by force, incitement of ethnic, racial and religious hatred and propaganda of violence and war, 3) during the period of suspension of its activities it has not eliminated the violation or has permitted new violations of law, 4) after state registration of the organisation it becomes known that false information has been presented for registration. In the presence of any of these grounds, the Ministry of Justice can apply to the court with a petition to dissolve a public organisation. The Article is unfavourable for public organisations because it does not contain any clause providing for judicial review of this decision. For example, in the U.S. system the government has extensive powers in the event of abuse, but the exercise of those powers is surrounded with important protections. "On the federal level, the Internal Revenue Service has the power to in effect terminate the existence of a non-profit organisation by proposing to revoke its tax exemption. Revocation is proper only if specific violations of law have occurred, such as failing to conduct legitimate charitable activities or conducting activities in a manner that confers an improper economic benefit on an individual.

In the event of a proposed revocation, the organisation has extensive rights to present evidence and to oppose that action within the Internal Revenue Service. If the IRS is unpersuaded, the organisation can challenge the proposed IRS action in court."⁸¹

Structure and Governance

International standards of good practices suggest that the laws governing NGOs should specify minimum requirements for NGOs' governing documents, including the frequency with which their governing and supervising bodies should meet, as well as the powers and the duties of those bodies regarding the amendments to the structure of the organisation and the supervision of its financial affairs. The highest governing body should be given broad powers to set and change the governance structure. Officers and employees of the organisation should not bear liability for the obligations of the NGO. However, they should be personally liable for the neglect of their duties. Also, with respect to the structure and governance of an NGO, great attention should be paid to the prohibition of conflicts of interest.

Basic requirements for governing documents.

Article 12 with its 14 points concerns the governing documents of a public organisation which are contained in the charter. Number 8 requires stipulation of the minimum number of times the governing body must meet; Article 10 requires that "the supreme body of a public organisation shall be convened no less than once in three years." Number 9 states that basic powers of the governing body must be indicated clearly. This is a favourable provision since it can set some limits on the power of these bodies and can prevent any excessive use of power. However, it seems appropriate along with the powers of the supreme body to indicate also any restrictions on its power to delegate duties to others. Requirement number 14 states that the charter should include the procedure for the "termination of activities and the

⁸¹ *Thomas Silk*, *The Legal Framework of the Nonprofit Sector in the United States*, in *Jossey-Bass Handbook of Nonprofit Leadership and Management*, Jossey-Bass Publishers, San Francisco 1994, p. 81

utilization of property in this case". It would be more appropriate here to add the procedure for the "reorganisation of the NGO and the utilization of property" as well.

One point that is not probably convenient for NGOs is the requirement to indicate the maximum amount of organisational expenses in the total annual expenditures. On the one hand, it is reasonable not to set any particular amount or %, taking into account that NGOs are conducting their activities in different fields, and expenditures can vary greatly. On the other hand, it should be taken into account that there might be some extreme situations when an NGO will have to meet some additional expenses. Therefore, it seems to be more appropriate not to indicate any amount. However, to avoid situations like an NGO spending 90% of its budget on administrative purposes, it seems reasonable to indicate the requirement that all the additional funds should be used solely for the not-for-profit mission of the organisation.

As mentioned above, the highest governing body should be given broad powers to set and change the governance structure. Article 10 states that the supreme body of a non-governmental organisation has a power to adopt and amend the charter, elect governing and oversight bodies, make decisions on restructuring the organisation, as well as make decisions on dissolution of the organisation. It seems that the supreme body is indeed vested with broad discretion in setting and changing the structure of an organisation.

Another well-accepted international standard provides that the officers and employees of the organisation should not be liable for the obligations of the NGO. Article 25 of the Law on Public Organisations states that a public organisation does not bear liability for the obligations of its members and its members do not bear liability for the obligations of the public organisations. However, as indicated above, officers and other employees should be personally liable to the organisation or the third parties for the neglect of their duties.

Probably, in this case the regular civil law is applicable, but it would be more precise if the Law on Public Organisations incorporated this clause.

Prohibition on the conflicts of interest.

There is no a general provision in the Law on Public Organisations which would prohibit the conflict of interests and stipulate that officers, directors, and employees of an NGO must avoid any actual or potential conflict between their personal or business interest and the interest of the NGO. This is not a good practice since conflict of interests is very common for all countries and there must be some reasonable means to solve those problems. Article 8 stipulates, for example, that a person's membership in a public organisation cannot be a basis for restricting the person's rights and liberties, nor can it be an obstacle to occupying a post in the state structures. It would be better to add that a person is not allowed to be a member of an NGO if it can be affected or benefited by the decisions that person might make while in office. This could be helpful to avoid some conflicts of interests, especially for Armenia, where the government has excessive powers.

Prohibition on the distribution of profits and assets

Non-governmental organisations otherwise are referred to as non-profit organisations. Therefore, one of the main principles of their operation is prohibition on the distribution of profits. While NGOs can provide greater benefits to their members through the funds gained from their economic activity, they are not allowed to distribute profits as such. Article 24 concerning property of a public organisation states that a public organisation's possessions exist from entrance payments, membership fees and other sources not prohibited by law. A member of a public organisation does not have a right to a share of the public organisation's property. A public organisation utilises its property, including the income from entrepreneurial activities, *only to* realise the goals and objectives set forth in its charter. From

this provision it is clear that it is not allowed to distribute an NGO's earnings or profits to founders, members, offices, board members, and employees. However, the provision prohibiting to use assets of an NGO indicates only the members, and this is not quite clear whether the founders, officers, or employees are also not allowed to use the assets for their special benefit.

Another standard preventing NGOs from obtaining any direct or indirect private benefit is prohibition on the distribution of assets upon the termination or liquidation of a non-governmental organisation. Article 28 states that in the case of dissolution of a public organisation, the dissolution committee, after having made mandatory payments, utilises the remaining possessions *for the realisation of the organisation's charter goals and objectives in the manner determined by the body which has passed the decision on dissolution of the organisation*. It is not quite clear what is supposed to happen with the assets due to the quite broad wording of the Article. Therefore, it would be much more appropriate here to incorporate international standards, according to which remaining assets must be transferred to another not-for-profit organisation with similar purposes. Otherwise, if there is no another organisation with the same purposes, assets should be transferred to the government to carry out similar activities. For example, according to the U.S. laws governing the NGO sector, "if the organisation voluntarily dissolves or terminates and has money or property, those assets, in California and in most other states, be distributed by the organisation to another organisation with similar purposes."⁸²

⁸² *Ibid.*, p. 82

NGOs' Activities

Generally, NGOs should be allowed to engage in all kinds of legally permissible activities. NGOs should not get involved in the activities which are in the domain of political parties since NGOs are not political parties. However, they should be allowed to engage freely in research, education and advocacy on the issues of public debate, even when their position contradicts the governmental policy. Also, NGOs should be free to engage in lawful economic, business and commercial activities on the conditions that a) no profits are distributed to founders, members or employees, b) NGO is operating for the purpose of conducting only not-for-profit activities. NGOs should be allowed also to engage in fundraising activities to support their non-profit mission.⁸³

General activities.

As far as the purposes and activities of public organisations are concerned, there is no special provision in the law stating that NGOs are permitted to engage in legally permissible activities. However, this right can be deduced partly from Article 22 concerning the rights of a public organisation. Among the list of other rights Article provides that "in order to realise the goals and objectives set forth in its charter, a public organisation has, as provided by law, the right to... carry out entrepreneurial activities through enterprises established by the organisation", as well as "a public organisation has the right to carry out other activities envisaged by its charter and not prohibited by law". However, it is not clear whether these activities are permissible for the benefit of the members or the public, or both.

⁸³ *Handbook on Good Practices for Laws Relating to Non-Governmental Organizations*, Prepared for the World Bank by International Center for Not-for-Profit Law, May 1997, p.60

Public policy activities.

In general, NGOs have the right to speak freely about all the matters of public interest or public policy. Article 24 of the Constitution of the Republic of Armenia provides for the freedom of speech. Though it is not stated that legal persons enjoy this right as well, it could be applicable to NGOs since it is a union of those individuals who enjoy this right, especially taking into consideration Article 22 of the Law on Public Organisations which provides NGOs with the right to found mass media and organise peaceful demonstrations. This is beneficial not only for public organisations but also for the society in general since it will encourage pluralism and public debate which are the very essence of a genuine democracy. However, mentioned earlier, the access to the mass media is very restricted, especially for an organisation which regularly criticises the government. There are a number of independent newspapers and TV stations. However, their independence should be taken into brackets since all of them are sponsored by certain political forces and, accordingly, promote certain ideology. Thus, if the policy of a non-governmental organisation contradicts this ideology, the chances of the NGO to access "independent" mass media will be very low either.

There is no provision in the Law on Public Organisations which imposes any limits or prohibitions on NGOs' political activities. Recently NGOs have become more active in this area. For example, it was due to the efforts of several active non-governmental organisations that the government introduced the institution of the local observers monitoring the election process. During 30 May 1999 Parliamentary Elections six non-governmental organisations participated in the election as local observers. However, it should be mentioned that this activation of several NGOs does not mean that NGOs have already become robust participants in the political processes. According to the interviews with several NGO leaders, though state is reluctant to directly prevent their activities, this reluctance disappears when

NGOs engage in the activities which are not "convenient" for the state authorities. The role and significance of NGOs, their strong power in the establishment of civic society is not assumed in all levels of government. Actually, there is no satisfactory cooperation between the government and NGOs. Most NGO leaders stated that the government-- both national and local-- do not take into consideration the suggestions and opinions of NGOs while formulating and implementing their policies. All these issues will be explored throughout the next chapter while investigating the political and social environment of the sector.

Economic activities.

As it was mentioned above, an NGO should be permitted to engage in lawful economic, business or commercial activity provided that the profits are used for the implementation of its not-for-profit mission. Article 22 (5) of the Law on Public Organisations concerning the rights of public organisation states that a public organisation has the right to carry out entrepreneurial activities through enterprises established by the organisation. It is not stipulated in the law that the organisation must use the profits for not-for-profit purposes, though it seems to be more appropriate to indicate this clearly. However, in practice this rule is implemented, and the principal purpose of activity must be to carry out non-profit purposes of the NGOs and not merely to generate income for them. As it can be observed from the law, it is not quite clear whether those activities can be conducted only by subsidiary of the public organisation (enterprise) or NGO can be involved directly. In Armenia there is no "principal purpose test" or "destination of income test". Under the former, an NGO which spends more than a half of its money in a business activity will be subject to termination as an NGO. Under the latter, if all of the profits gained through business activity are spent to implement an NGO's not-for-profit mission, the organisation is allowed to operate as an NGO. Instead, the general practice in Armenia is to permit NGOs to engage in an active trade or business, but to

require that its principal purpose not be that trade or business but rather carrying out of the purposes for which it was formed as an NGO.

Fund-raising activities.

Financial sustainability of NGOs is another important issue which deserves serious attention. There is no provision in the Armenian law to prohibit fund-raising. NGOs are permitted to engage in legally acceptable fund-raising activities. Most of the Armenian NGOs are supported by external donors. There are not getting contracts or grants from the state budget. As far as economic activities are concerned, the Law on Public Organisations provides in Article 22 (5) that a public organisation has the right to carry out entrepreneurial activities through enterprises established by the organisation. This is also not very common practice since NGO sector is weak and most of the organisations are unable to establish enterprises. Even those who have established this kind of enterprises cannot finance themselves solely on this ground since due to difficult economic situation this kind of enterprises do not come true, and very often the expenses turn out to be not worth it. If we add to this the unfavourable tax policy of the government which leads to the situation when most enterprises have to pay the significant portion of their income to the state, one could easily understand the unwillingness of NGOs to establish enterprises. As far as business entities are concerned, they are also very reluctant to support NGOs. "In fact, a strong partnership between business and civil society can be beneficial to both parts. NGOs can obtain money..., business enterprises can receive recognition for being "good citizens", not mere profit-making machines..."⁸⁴ This can be true in a society with a strong NGO sector, where NGOs are really considered to be the representatives of "civil society". Unfortunately, this is not the case in Armenia. Due to unhealthy relations with the state structures NGOs are deprived of the opportunity to receive governmental grants. Only pro-governmental NGOs, which represent our republic in

⁸⁴ *Ibid.*, p. 65

international conferences and other events, obtain significant financial support from the government. Also, due to unawareness of the population on NGO activities and general mistrust and apathy, NGOs are unable to get money through individual contributions and membership fees. Therefore, the main source for seeking funds remains an external one. This is really disappointing since an NGO sector cannot become vigorous and independent if it relies solely on the foreign funding. The next chapter will further explore this issue and provide several suggestions for the improvement of the current situation.

Reporting

Reporting is the main tool to ensure NGO transparency and accountability. This is crucial since the abuse is possible also within the non-governmental sector. Therefore, it is important to establish sound internal and external reporting mechanisms. Internal reporting includes filing reports with the highest governing body of an NGO, as well as inspections of the records of an organisation by an independent body of the organisation. External reporting mainly includes filing reports with the agency responsible for the supervision of NGOs, as well as with tax authorities. Also, NGOs which activities affect public interest should be required to disclose general information on their finances and activities. Finally, laws governing the NGO sector should provide special sanctions for violations peculiar for the NGO sector.

Internal reporting and supervision.

International standards of good practices suggest that the highest governing body of an organisation should be vested with the responsibility to receive and scrutinise the reports on the finances and activities of a non-governmental organisation.⁸⁵ Also, the supreme body of a public organisation should have power to amend the charter as well as make some changes in

⁸⁵ *Ibid.*, p.69

the governance structure to take into account the changes that will occur as time and circumstances require. Article 10 of the Law on Public Organisations provides that the supreme body of a public organisation has the exclusive right to: 1) adopt the charter and amend it, 2) elect governing and oversight bodies, 3) make the decisions on restructuring the organisation, 4) make decisions on dissolution of the organisations. In the same Article it is stated that the supreme body of a public organisation can adopt decisions if more than half of its members are participating in the meeting. This is not convenient since in emergency situations or in a situation when it is impossible to convene one-half of the members, the organisation will not be able to make any decisions. It will be much more appropriate if each organisation sets its own quorum requirements. It is not stated explicitly that the supreme body of a public organisation is entitled to receive and approve reports on the finance and operations of an NGO. As a gap in the law could be considered the fact that it is not stated whether the organisation could have additional governing bodies. It would be more favourable if an audit commission was formed which was independent and had the responsibility and authority to conduct special audits of the finances and operations of the NGOs to assure compliance with legal and ethical standards and the policies adopted by the supreme body. Accordingly, it can be stated that internal supervision mechanism are not yet developed.

Reporting to supervisory organ.

The main principles of operation of NGOs are accountability and transparency. As Richard Fries, former Chief Charity Commission of the UK, said at the South Asia Conference on Laws, Rules and Regulations for the Voluntary Sector "The basic trade-off for relatively easy establishment of NGOs is accountability and transparency."⁸⁶ This can be done through external reports filed by NGOs. A certain degree of supervision is definitely necessary to

⁸⁶ *Ibid.*, p. 67

prevent the violation of laws and unlawful activities of NGOs. As far as Armenia is concerned, NGOs are required only to report to the Ministry of Justice and not to the public. Article 23 states that a public organisation is required to: 1) publish an annual accounting of the use of its possessions, 2) inform the Ministry of Justice once a year of the continuance of its activities, 3) present to the Ministry of Justice within five days passport information about newly elected members of its governing body (bodies), 4) at the request of Ministry of Justice present to it copies of the supreme body's, and in the case of public organisations enjoying state privileges also copies of the decisions adopted by its governing body (bodies), 5) permit the representative of the Ministry of Justice to be present at its meetings, 6) notify the Ministry of Justice about the establishment of separate divisions, 7) keep the record of the number of its members. One of the advantages of the law is that it stipulates extensive financial and operational reporting from public organisations enjoying state privileges, however, it would be appropriate to indicate what kind of privileges they are. As a gap in the law should be considered the omission of any indication about the consequences of failure to file the reports, what kind of penalties, if any, can be used against a public organisation. Other disadvantages of this particular Article can be mentioned. It is advisable that small NGOs as well as mutual benefit organisations are allowed to file more simplified reports. However, the Law on Public Organisations does not provide this. Also, according to international standards, the supervising agency should have the right to examine the records of an NGO as well as conduct random and selective audit of an organisation. However, the requirement to allow the representatives of the Ministry of Justice to be present at the meeting of an NGO goes far beyond the international standards. As John Clark, former Head of the NGO Section in the World Bank, truly mentioned in his article "government- imposed NGO regulations and reporting requirements must strike a balance between nurturing NGO growth, and guarding

against corruption, management ill-discipline and other malpractice. Restrictive laws and procedures designed for the political control of NGOs clearly hamper legitimate NGOs..."⁸⁷

Reporting to and audit by tax authorities.

Filing tax reports is crucial since through those reports a particular agency can check how a public organisation has used money received directly from the state or the public. Article 15 paragraph 3 of the Law on Taxes of the Republic of Armenia provides that all public organisations are required within the set time limits to present to the tax inspection authorities their financial reports, accounts, and other documents and information. Tax authorities distribute special forms which must be filled out. However, the reporting procedure is rather burdensome for NGOs since they are required to fill in the same form as business entities. Also, it seems to be inappropriate for all NGOs to file the same form, there should be distinction between the large PBOs and small NGOs. The latter should be permitted to file more simplified forms. All this should be stipulated by the law as well as the details of reporting to tax authorities, the limits of their requirements and especially which documents and information along with reports and accounts should be presented.

Disclosure or availability of information to the public.

Any public organisation should be required to publish or make available to the public a report of its general finances and operations.⁸⁸ The Armenian law does not stipulate this requirement, though it is a huge gap since the public has the right to know at least basic information about NGOs. Accordingly, in Armenia people are unaware even of the existence of certain kinds of NGOs. This fact has at least three disadvantages. First, it leads to the lower public participation and involvement. Second, since only government controls the NGO sector, this increases the opportunity to overgovern. Third, when the information is available

⁸⁷ *Ibid.*, p. 68

⁸⁸ *Ibid.*, p. 76

to the public, it can scrutinise it very carefully and unveil improper activities of NGOs that escape from the attention of the state authority which is not staffed with adequate professionals of the field.

Sanctions.

In addition to general sanctions to which NGOs are subject as all other legal persons, the Law on Public Organisations establishes special sanctions for NGOs which relate to the filing the reports and the supervision resulting from them. Article 25 concerning liability of a public organisation states that a public organisation that by its illegal activity has caused damage to natural and legal persons is obliged to compensate by its possessions for the damage caused in accordance with law. However, as it was indicated while discussing the issues of structure and governance, it would be appropriate to incorporate a clause providing that officers and other employees should be personally liable to the organisation or the third parties for the neglect of their duties. Another special sanction is stipulated by Article 27 concerning suspension of activities of public organisations. The Article states that in the event of violation of Constitution, laws or of its charter requirements, the activities of a public organisation can be suspended by a court decision for up to six months. It seems that the language is too broad, it would be more appropriate to list all those cases when a public organisation could be suspended, for example, failure to file reports. The same Article states that Ministry of Justice may apply to the courts with a petition to suspend the activity of a public organisation if, following its written warning, the public organisation has not eliminated the designated violations within a one-month period. What is good about this provision is that NGOs are given adequate notice and an opportunity to correct. However, there is no right to appeal the decision. This is a big gap since suspension, termination and liquidation of an organisation should not be allowed to occur without exhausting the right to appeal the decision. Finally, one of the sanctions is involuntary termination stipulated by Article 29. It provides that a

public organisation can be dissolved through a court decision on the grounds for involuntary termination which were stated above while discussing the issue of involuntary termination. There is the same gap in this provision as in the Article concerning suspension of an organisation - there is no right to appeal the decision to the higher courts.

Taxation

The process of the development of a favourable taxation system is closely interconnected with the process of the establishment of a vigorous non-governmental sector. In the countries like Armenia, where the civil sector has just started to flourish, it is appropriate to provide significant tax advantages to the non-governmental organisations, especially on their economic activities. However, this is not yet the case in Armenia.

Until 1997 amendments of the tax laws, the government of Armenia had a kind of discriminatory approach to public organisations in terms of tax policy. Though each organisation had a right to file an application to gain tax benefits, there was a discriminatory reservation here. Only those organisations which were approved by the tax office and then by the parliament and finally by the president could get tax benefits. This list included only about 60 organisation. Giving tax benefits only to 60 organisations out of 1700 stressed the discriminatory policy of the government. The government could argue that due to economic hardship it was impossible to provide tax benefits to all public organisations, however, it seemed much more appropriate to make choice on the basis of fair competition rather than give to the government the power to decide which organisations should be on the list. At least the authorities should have applied the criterion of "public interest" to determine on the eligibility of an organisation to a tax preference. It is generally accepted in the international practice that public benefit organisations should receive greater advantages in the tax

treatment. However, the Armenian legislation has not yet introduced the terms mutual benefit organisations and public benefit organisations.

Income Taxation.

A non-governmental organisation should be exempted from income taxation on money or any items received from donors or government and other income which it derives from its assets. The main argument for this kind of attitude is that NGOs are non-profit organisations, all their financial benefits are used to implement their not-for-profit mission. Accordingly, they should not be subject to income taxation.

Article 37 of the Law on Profit Tax states that public organisations which are registered with the relevant tax inspection bodies are entitled to exemption on profit tax. Accordingly, this means that any profit gained on the part of a non-governmental organisation is not subject to taxation. However, donations from legal entities are not exempted from the income tax. Article 9 paragraph 3 of the Law on Income Tax states that only donations from natural persons are exempted from the tax. Also, according to the same article only natural persons are exempted from the tax on income derived from their assets. However, tax laws do provide some provisions which are favourable for NGOs. According to the same Article 9 paragraph 4 of the Law on Income Tax, money, items or other values provided to natural persons on the part of a public organisation are exempted from income taxation on the condition that this corresponds to the charter mission of the organisation. For example, a tennis club gives certain amount of money to one of its best players to buy a sport suit. In this case it is exempted from income taxation since the mission of this organisation is to promote the development of tennis in Armenia, including financial support to the best players to encourage their participation in tennis competitions and so on. However, if this organisation provides financial support to a musician, then this money is not exempted from income

taxation. Article 9 paragraph 5 states that financial aid provided by the state and local governments, as well as foreign states or international interstate (intergovernmental) organisations is also exempted from income taxation. For instance, money given as financial aid on the part of the International Red Cross federation in Armenia is exempted from income tax. Finally, Article 9 paragraph 7 of the Law on Income Tax and Article 24 of the Law on Profit Tax state that funds which in accordance with law are considered as grants are also exempted from taxes. The problem is that in reality "the accordance with law" is decided by the relevant governmental agency. Accordingly, only those grants which are accompanied by the decision of the government are exempted from income and profit taxation. This is quite unfavourable since it gives the government wide discretion in this respect. Also, in the current situation, when the grants are the only source of funding for NGOs, it would be appropriate to adopt more generous rules.

Tax benefits for contributors.

As a general rule individuals and business entities should be entitled to an income tax deduction or credit with the respect to donations made to PBOs. However, as it was mentioned above, the Armenian legislation does not provide for the distinction between mutual benefit and public benefit organisations. Therefore, general tax laws apply to all public organisations. Also, the Armenian legislation does not provide different treatment to individuals and business entities. According to Article 23 of the Law on Profit Tax and Article 13 of the Law on Income Tax, individuals and business entities are entitled to 5 % of profit and income tax deductions with respect to donations (money and/or other items of value) made to public organisations. This amount is higher than, for example, in Russia where individuals can claim deductions only up to 3 %.

Taxation of Economic Activities.

NGOs should be allowed to freely engage in economic activities as long as those activities are not the main purpose of the organisations and the funds are used for their not-for-profit mission. It is generally acceptable that income from economic activities can be: 1) exempted from income taxation, 2) subject to income taxation, 3) subject to income taxation only if the trade of business is not related to non-profit purposes of the public organisation, 4) subjected to mechanical test that allows a modest economic amount of profits from economic activities to escape taxation, but imposes tax on amounts in excess of the limit.⁸⁹ It is also proved that each of these rules can be successful. In Armenia NGOs are not exempted from income taxation on their business activities. Daughter enterprises of the Armenian non-governmental organisations are governed by the Law on Enterprises and Entrepreneurial Activities which is applicable also to all other business entities. However, in the case of Armenia, it seems more appropriate to exempt NGOs from income taxation since the NGO sector is just beginning to flourish. Here it is the case when NGOs are desperate for money simply to survive, and the profits from economic activities can make the difference between continued existence and termination. Besides, taxes on the profits gained through economic activities are rather high. Thus, Article 33 of the Law on Profit Tax stipulates that if the profit from economic activities is below 7000000 drams (equivalent to 14000 American dollars), it is taxed for 15%. If it is above than it is taxed in the following manner: 1, 05 million drams plus 25 % of the taxable profit exceeding 7 million drams. Therefore, according to several NGO leaders, it is quite unfavourable for them to establish a daughter enterprise since the taxes are very high and the enterprises do not prove to be effective. The situation is quite challenging since, as mentioned in the above discussions, NGOs are gaining money only from external donors since the government and business sector are extremely reluctant to provide financial support to the

⁸⁹ *Ibid.*, p. 86

non-governmental organisations. In this kind of a situation it is appropriate to at least provide favourable conditions for NGOs to engage on their own in the economic activities. This will be good for developing economic activities of the whole country. Because of harsh economic situation not only business entities but also NGOs should be encouraged to engage in economic activities. Also, it should be mentioned that implementing this in Armenia would not constitute any threat to private enterprises since economy of Armenia cannot be considered mature and developed. Here comes the issue of unfair competition since if a large NGO engages in a certain field with the tax exempted status, it will have great advantage in comparison with business entities engaged in the same economic activity. However, business entities are also entitled to several privileges which are not available for the non-governmental sector. Thus, NGOs cannot raise capital for expansion or modernization of its facilities by going to the capital markets, NGOs are foreclosed from these markets... NGOs operate their trades and businesses at a material disadvantage compared to for-profit organisations, and exemption from income tax may in fact best be seen as a "rough justice" way of giving NGOs a "level playing field which, on the capital side, is tilted heavily in favour of the for-profit entities."⁹⁰ Besides, the NGO sector of Armenia is currently very far from becoming a threat to the business sector. Once it becomes an issue, then the law drafters should consider either to tax such profits of an organisation which are not related to the mission of the organisation or to introduce a principal purpose test, which was discussed above.

VAT and Custom Duties.

VAT is charged for every business transaction and service, and, according to international standards, 20% is very high because the best solution is to be included in the VAT but to be zero-rated. In the previous version of the Law on VAT adopted in June 1993 there was no statement that NGOs were exempted from the tax, but rather certain kinds of activities were

⁹⁰ *Ibid.*, p. 107

exempted. Article 6 of the law on Value Added Tax exempted theatrical, sport, cultural/enlightenment and entertaining events, certain medical products, goods (labour and services) imported and allocated in the republic for humanitarian and charitable needs, and scientific research and experimental R&D work from the tax. Article 15 paragraph 1 of the amended Law on VAT has significantly narrowed this list. It gives VAT exemption status to those foreign states, international interstate organisations, foreign and domestic non-governmental organisations, as well as individuals who provide goods (services) for humanitarian and charitable needs. The exemption status is not very favourable for NGOs. According to international standards elaborated by ICNL, NGOs, especially public benefit organisations, should not be exempted from VAT. The problem is that in this way they are required to pay taxes for goods they are buying and they have no opportunity for refunding, instead they should receive lower rating.

Public benefit organisations should be given also preferential treatment under or exemption from custom duties on imported goods or services that are used to further their public benefit purposes. As far as the Law of the Republic of Armenia on Customs Traffics is concerned, Article 8 provides for the waiving of customs duty on goods and products imported for humanitarian aid. This is very favourable for NGOs since this kind of organisations have to import all their goods and services. Further, the law provides also for the waiving of customs duty on certain goods for education, science, culture, and for assistance to disabled people. The only problem that arises here is connected with the discriminatory nature of the provision since there could be NGOs providing extremely important services for public benefit, but if they do not import "humanitarian aid" goods they will not enjoy this preferential treatment. Therefore, the most appropriate approach would be here to extend this standard of preferential treatment to all public benefit organisations. Besides, a separate provision should be adopted which would be able to preclude custom officers from disregarding the law since this kind of

actions on the side of custom officers can be observed very often. Countries often provide for "recapture" of customs duties if the goods are resold within a particular period of time. This approach prevents fraudulent claims for customs-free importation of valuable goods, like cars.

Conclusion

To conclude, the legal framework of the NGO sector in Armenia is still far from the international standards. After a thorough and detailed analysis of the laws currently governing the non-governmental sector, one could state that, though the Armenian legal norms have incorporated several international standards, the laws need further consideration and development in order to be able to meet the future needs of the society. Along with several favourable provisions, the Law on Public Organisations contains articles which provide for excessive governmental control over NGO activities and suffers from numerous gaps and deficiencies. Tax laws, which have significantly reduced their previous discriminatory nature, still impose very high taxes on NGOs economic activities. Though the evolution of laws is of crucial importance, there is also a necessity for healthy political and social environments. All the laws of the country are adopted and approved by state officials. Thus, there is a need to establish healthy relations with the government in order to have laws supporting a vigorous and independent NGO sector. Also, it is obvious that NGOs can be effective in their activities only if they enjoy wide public support and ensure large public participation and involvement. Otherwise, without public support, the voices of single and scattered NGOs would not have the necessary effect and influence. Therefore, sound legal norms governing the sector should be surrounded by favourable and healthy political and social environment which will be explored in the next chapter.

Chapter 3: Political and Social Environments of the NGO Sector in Armenia

Introduction

As demonstrated in the previous chapter, the legal environment of NGOs in Armenia is insufficient and incomplete, thus requiring further thorough consideration and improvement. Yet, there are other substantial problems and obstacles that NGOs encounter in their daily activities, and which are far more troublesome and challenging. Along with sound legal norms governing NGOs, the sector has a crucial demand for favourable political and social environments providing for its further healthy and efficient development. The sociological survey and interviews conducted with the leaders of several NGOs reveal that the main problems the sector is facing today are: 1) the unfavourable attitude on the part of state officials, 2) the inertness of the population at large, which is due to the lack of understanding of the role of non-governmental organisations and general apathy, 3) financial problems, which are the result of unhealthy relations with the government and the public and, most importantly, 4) the lack of understanding on the part of NGOs themselves of their crucial role in the democratic society .

NGOs and Government Relations

Arbitrary Registration.

Most of the interviewed state that one of the major problems is the unfavourable attitude of state officials and their refusal to accept and understand the crucial role of the NGO sector in the development of civil society, which constitutes one of the main prerequisites of a genuine democratic state. This attitude has several forms of display. One of those forms is the arbitrary way in which registration is conducted, in direct violation of the law. As stated in the

previous chapter, Article 9 of the Law on Public Organisations, concerning the establishment procedure, is quite favourable for NGOs since it requires only a minimum number of clearly defined documents, sets reasonable time limits within which the establishment agency should act, and provides for the principle of presumptive approval. However, here we encounter an example when the law is not applied in practice. According to Rouben Torossian, the President of the Supreme Council Deputy Club (NGO), his organisation had not been registered for 10 months. He referred the case to the court, and had to go through 5 instances. Eventually, the last resort court decided to consider the organisation registered. According to Mr. Torossian, the Ministry of Justice obviously misuses its power during the establishment procedure since, according to law, it should make a decision within one month, and issue a receipt either confirming the registration or denying it. All the necessary papers were filed with the Ministry. However, the Ministry issued only a letter explaining why they could not register the organisation. Mr. Torossian's demand to receive a receipt or decision about the denial was completely lawful. He says: "The reason I wanted a decision was to be sure that after making the corrections listed, they would register the organisation. Otherwise, as I knew from the examples of other organisations, next time they would require other corrections, thus arbitrarily making the process long and complicated."⁹¹ Several other leaders of the non-governmental organisations confirmed similar experiences, explaining that very often the officials of the Ministry of Justice wished to prolong this process and even took bribes in order to proceed with the application. In Armenia, registration is a necessity in order to receive benefits, for example, the limitation of liability (Article 25). Therefore, these obstructive practices of the Ministry of Justice are extremely challenging.

The fact that all organisations must register at the Ministry of Justice creates another big problem for NGOs operating in the regions or other remote areas by making the process of

⁹¹ *Interview with R. Torossian*, the President of Supreme Council Deputy Club, conducted by Argine Nahapetyan, 20 Sept. 1998

registration very expensive and time-consuming. Therefore, in order to assist regional non-governmental organisations, it would be much more reasonable to give the power of registration to local authorities as well. However, this change will not eliminate the practice of arbitrary registration. Therefore, it seems better not to concentrate the power of registration in the hands of state officials only, but instead to create special agencies for this purpose. Such agencies could include state officials and, for example, representatives of already functioning NGOs and experts of the field in order to provide for impartial oversight.

Direct Interference with NGOs' Activities.

Most of the NGO leaders indicate that the state is reluctant to directly prevent their activities. However, the reluctance disappears when an NGO is engaged in activities which are not "convenient" for the state authorities. Seven out of eleven NGO leaders answered that state officials tried to limit their activities only when they were contrary to the state policies; three of them stated that the state never limited their activities, and only one person answered that the state always prevented their activities.⁹² From the above observation one can infer that state officials still fail to perceive these organisations as non-governmental instead of anti-governmental, thus creating artificial obstacles for their operation. One such example was described by the leader of Avangard Humanitarian Research Center Mr. Eduard Mamikonian. He mentioned: "One of our members, who was working for the Supreme Council, took part in the defence during the trial of an opposition newspaper 'Golos Armenii'. As a consequence, the Commission of Ethics seriously began to discuss the possibility of his removal, though it did not have the competence to do so. The removal did not take place since there were no legal grounds."⁹³ This can serve as an indication that sometimes state officials do try to

⁹² *Sociological Survey*, conducted by Argine Nahapetyan during the Training Advocacy course organised in the NGO Training and Resource Center, 23 Sept. 1998

⁹³ *Interview with E. Mamikonian*, Chairman of AVANGARD Humanitarian Research Center, conducted by Argine Nahapetyan, 27 Sept. 1998

directly interfere with the activities of non-governmental organisations when they are conducted somehow against their interests.

Indirect Interference with NGOs' Activities: Lack of Cooperation.

It should be mentioned that examples of direct interference are very rare; more often the government tries to influence the activities of NGOs in an indirect way. One method of doing this is through simply ignoring non-governmental organisations. Nine out of eleven questioned answered that the governments-- both national and local-- did not take into consideration their suggestions and opinions while formulating and implementing their policies. One person stated that they *sometimes* did, and only one answered that the governments usually took their ideas into consideration.⁹⁴ This attitude of paying no adequate attention to non-governmental organisations can be proved by the following example. The President of Yerevani Avaganiner NGO Robert Gabrielian mentioned that their mission was to strengthen local communities and to provide for wider public participation at the local levels. Therefore, they turned to the Mayor of Yerevan with a request to include the representative of their organisation into the composition of the Council of Yerevan, which consisted of the Mayor of Yerevan and the highest officials of local governments. They were promised that the representative would be invited, but until present the authorities had not kept the promise. As Mr. Gabrielian pointed out that probably this was a special way of refusal since they did not want to refuse openly.⁹⁵ Accordingly, the relations between the government and the non-governmental organisations could be often characterised by mutual suspicion and misunderstanding. Eight out of eleven NGO leaders answered that neither central nor local governments directly cooperated with non-governmental organisations.⁹⁶

⁹⁴ *Sociological Survey*, conducted by Argine Nahapetyan during the Training Advocacy course organised in the NGO Training and Resource Center, 23 Sept. 1998

⁹⁵ *Interview with Robert Gabrielian*, President of Yerevani Avaganiner, conducted by Argine Nahapetyan, 12 Sept. 1998

⁹⁶ *Sociological Survey*, conducted by Argine Nahapetyan during the Training Advocacy course organised in the NGO Training and Resource Center, 23 Sept. 1998

Despite a general lack of cooperation between NGOs and central or local governments, some cooperation has occurred. For example, Mr. Gabrielian (Yerevani Avaganiner) mentioned that they were collaborating with the Legal Commission of the General Assembly through presenting their suggestions on different draft laws. Also, the organisation is successfully collaborating with the Ministry of Education, with which it signed an agreement to introduce a new course into the high school curriculum. This is of crucial importance since the course is on human rights which has not existed in any school before. The Chairman of Soldiers' Mothers NGO Greta Mirzoyan also mentioned that they were actively cooperating with the Ministry of Justice. In her opinion, all those NGOs, which have a clear mission, always know with whom they can cooperate. She stresses that those NGOs, which do not have a clear mission and vision, will always have problems in the sphere of cooperation, since they do not even know with what agency of the government they should cooperate.⁹⁷

While much depends on NGOs, it would be unfair to blame only NGOs for the absence of dialogue and cooperation between the two sectors, especially taking into consideration the willingness of NGOs to collaborate with state structures. All of the eleven questioned supported the view that the NGO sector should cooperate with the government.⁹⁸ The same view was expressed in a brochure published in 1997 entitled "Armenia from the Viewpoint of Sustainable Human Development Concept", where 35 currently functioning non-governmental organisations evaluated the current situation of the Armenian non-governmental organisations. Most NGO leaders see the optimal way of cooperation between the two sectors in "developing and implementing joint projects, participating in the creation of

⁹⁷ *Interview with Greta Mirzoyan, Chairman of Soldiers' Mothers NGO, conducted by Argine Nahapetyan, 15 Sept. 1998*

⁹⁸ *Sociological Survey, conducted by Argine Nahapetyan during the Training Advocacy course organised in the NGO Training and Resource Center, 23 Sept. 1998*

legal environment, formulating and implementing long-term projects, engaging in permanent bilateral exchange of information."⁹⁹

However, the most striking in the book is that NGO leaders mention things that should be done and not things that are already done or being done currently. For example, the Vice President of Armenian Botanical Society states that they have contacts with the Ministry of Protection of Nature but the Ministry does not pay adequate attention to the real specialists of the field. "In general, our contacts with the state structures could be estimated as unsatisfactory. Their activities and decisions require corrections on the part of the specialists and non-governmental organisations to higher degree and more often than it is done today."¹⁰⁰

Another view was expressed by the President of Armenian Benevolent Society Gtutyun. He stressed: "Our organisation had been collaborating with state authorities until 1995. We were members of a governmental commission on distribution of humanitarian aid, however, authorities refused further cooperation."¹⁰¹ This sort of examples can be encountered throughout the whole brochure. The leaders of non-governmental organisations mention the unwillingness of state structures to cooperate, inadequate and insufficient attention paid to the non-governmental organisations or unsatisfactory degree of cooperation with state authorities.

This attitude of the government is quite short sighted, and it proves that authorities do not understand the important role of non-governmental organisations in the development of democratic governance. There is no need to repeat all the useful and indispensable functions NGOs could implement in this direction, since this was discussed in detail in the first Chapter of the work. Also, as discussed at length in Chapter I, neither political nor civil society alone are able to provide for genuine democratic development. What is indeed decisive is the

⁹⁹ *Armenia from the Viewpoint of Sustainable Human Development Concept*, Valued by Non Governmental Organisations, Yerevan 1997, p. 94

¹⁰⁰ *Ibid.*, p. 24

¹⁰¹ *Ibid.*, p. 26

existence of both a vigorous non-governmental sector and a favourable political environment. Until state officials realise this simple truth, further development is almost impossible. However, non-governmental organisations should be also more active in establishing healthy relations with the government. Some of the organisations, as mentioned above, do succeed in cooperating with state structures. Though it is not always smooth and easy, their examples prove that cooperation is possible.

In most developed countries one can easily observe widespread cooperation and mutual support between civil society and the state. For example, "non-profit organisations in Italy have little contact with government at the national level but work closely with public authorities in many local areas. (...) In Britain a recent Efficiency Scrutiny revealed that thirty-four different central government departments and agencies allocated grants for basic administrative expenses and special projects carried out by third-sector organisations. (...) In France, as in Italy, non-governmental organisations have long had few ties to the national government, but a decentralisation that began in 1982 has led municipal and regional authorities to rely increasingly on non-governmental organisations to deliver services."¹⁰²

The cooperation between non-governmental organisations and the state in Armenia today is much more crucial than in the above-mentioned developed countries since social cohesion is the main prerequisite for the further development of this kind of transitional society. It is well known that in transition periods, such as Armenia is experiencing today, the establishment of a spirit of cooperation between the state and the society, the authorities and the people is of utmost importance. Reforms will not work without such cohesion. The role of the state, as the primary bearer and the implementer of the idea of cohesion, is of highest importance. The

¹⁰² B. Gidron, R. M.Kramer, L. M.Salamon, *Government and the Third Sector in Comparative Perspective: Allies or Adversaries?*, in *Government and the Third Sector: Emerging Relationships in Welfare States*, ed. B. Gidron, R. M.Kramer, L.M. Salamon, Jossey-Bass Publishers, San Francisco 1992, pp. 9-10

task of non-governmental organisations, in their turn, is to educate state officials on this role and use all available means to establish healthy cooperation between the state and the non-governmental sector.

NGOs and Public Relations

Another problem that some NGO leaders consider to be even more troublesome and challenging than the unfavourable attitude of the government is the general apathy on the part of the public. This is often "very disappointing for non-governmental organisations since the main estimator of their activities should be the society at large."¹⁰³ Indeed, people are very passive and inert, and know very little about the activities and the significance of the NGO sector. For example, Mr. Gabrielian (Yerevani Avaganiner) pointed out during the interview that people did not understand the role of NGOs; they did not understand that the NGOs could provide for their wider participation in the decision-making process at all levels.¹⁰⁴

A sociological survey conducted in October of 1997 revealed that only 3% of the country's population was aware of NGOs' activities. The survey addressed such issues as the degree of the population's interest in socio-political life of the country, the level of the population's awareness of NGO activities and the efficiency assessment of NGO activities, the degree of NGOs' real influence on social life, and some other details. "The Third Sector activity is well known first of all in the earthquake zone, secondly, in faraway Siunik (remote region of Armenia) and only in the third place in Yerevan."¹⁰⁵

¹⁰³ *Interview with Rouzanna Shirinian*, President of Women for Social Justice and Peace, conducted by Argine Nahapetyan, 21 Oct. 1998

¹⁰⁴ *Interview with Robert Gabrielian*, President of Yerevani Avaganiner, conducted by Argine Nahapetyan, 12 Sept. 1998

¹⁰⁵ *Survey: Only 3% of Population of the Country is Aware of NGO Activities* (Article), in NGO Center News Letter, NGO Training and Resource Center, # 12 May 1998, p. 3

There is a great paradox here. The problem is that the major part of non-governmental organisations is functioning in Yerevan (capital of Armenia). If there are about 1800 NGOs operating in the territory of Armenia, about 1700 are functioning in Yerevan. "On respondents' opinion, NGOs in Armenia: exist formally- 35%; are busy with solving their personal problems-15, 5%; are busy with solving socio-economic and other problems of NGO members- 11%; are busy with problems, which do not exist in Armenia, for the sake of getting foreign funding-13, 4%; are busy with solving important problems for society- 5,1%, no answer- 20%."¹⁰⁶ These figures demonstrate that the public is indeed full of mistrust, but they raise another challenging issue: the public's unawareness of the activities of NGOs. Therefore, it would be more appropriate for NGOs not only to try to overcome the inertness of the public, but also to work out effective ways of informing people about their activities.

It is obvious that this is not an easy task, especially without adequate support of state structures. However, non-governmental organisations should admit that this kind of passiveness is somehow understandable and unavoidable. The alienation of people from the state and deep apathy are the consequence of a long-lasting process of disillusionment and reappraisal of values. Public opinion started to change in the middle of 1992, prior to which attitude towards the leaders of the struggle for independence had been unambiguously positive. However, very soon people became disappointed with the new authorities. People's overoptimistic expectations and dreams did not come true. "Disappointment soon hit the political opposition as well, for it was unable to put forward any reasonable options to government policies. The majority of the population concluded that the victory of the opposition would not necessarily improve the country's condition. Indeed, 65% of the population did not share the values of any of the numerous political parties."¹⁰⁷

¹⁰⁶ *Ibid.*, p. 3

¹⁰⁷ *Human Development Report, Armenia 1997*, p. 24

There are also economic grounds explaining the apathy of the population. High unemployment and extremely low wages have left many thousands of Armenian families beyond the poverty line. "According to experts, most of the national wealth belongs to only 5% of the population"¹⁰⁸, private business and entrepreneurial activities are accessible only to an extremely small part of the population, and economic reforms launched by the government were mostly one-sided. The number of vulnerable people has sharply increased in Armenia. In 1996 the Ministry of Social Security registered 735000 vulnerable families in the "PAROS" project. Close to 86% of the population of Armenia considers itself economically vulnerable.¹⁰⁹

The disappointment of the population with the new authorities and their policies, especially in the economic sphere, created a serious gap between the state and society. The absence of a popular Civil Society tradition in the country led to suspicion about the nature and purpose of NGOs which was perfectly demonstrated by the results of the above-mentioned survey. This suspicion has some objective grounds since many NGOs are "non-governmental" by technical definition only since they were founded by representatives of government circles."¹¹⁰ The issue of progovernmental NGOs will be discussed in the last section of the paper. It is enough to mention that only about 20 out of 1800 registered NGOs exist not just on paper but really perform their tasks.

Accordingly, the population has reasonable grounds for mistrust. Therefore, non-governmental organisations have a great and difficult task to accomplish. They must not only attempt to accomplish their organisational activities under difficult conditions, but they must also devote substantial time, energy and resources simply to justify and explain those

¹⁰⁸ *Ibid.*, p. 18

¹⁰⁹ *Ibid.*, p. 51

¹¹⁰ *Ibid.*, p. 66

activities-- and often their existence-- to the public. NGOs should build strong networks-- both local and international-- in order to more effectively implement their task in order to obtain public trust.

The other task that should be accomplished by non-governmental organisations in relation to the public is to "cure" society of moral and intellectual deficit. Mr. Nersissian, the President of Sakharov Fund for Human Rights Protection, discusses in detail this problem in his article. According to the author, whose views can be easily shared, our society is experiencing a cultural and moral crisis. As a consequence of " the changing of generations" in the system of state governance, in our society "in a revolutionary way" moral and ethical values began to change, e.g. a structural change of society took place; instead of individuals bearing the intellectual potential of the population and forming the thin layer of its intelligentsia (in its broad meaning), other people with mercantile-pragmatic goals and inherent for them moral-ethical values have come to the scene.¹¹¹ Due to unbearable physical and economic conditions, the major part of intelligentsia left the country. Still, we are witnessing the process of "pushing" intelligentsia out of social and political spheres of societal life. Under the slogan of privatisation, numerous cultural, educational and scientific centers, intended to form the intellectual potential of the republic, were liquidated. Difficult economic conditions compel 50% of the population to engage in the sphere of trade, and this occupation does not provide for intellectual growth.¹¹² This "illness" of society we are experiencing today is extremely challenging for the further development of the country, since all civilised nations are distinguished from others by their layer of highly intellectual people. Therefore, probably the main task of non-governmental organisations should be to "cure" our society since an "ill" society governed by low moral criteria is unable to perceive democratic ideals. Accordingly,

¹¹¹ L. Nersessian, Mankind- This Sounds Proudly (article), in Golos Armenii (newspaper), 7 December 1996,

p.1

¹¹² *Ibid.*, p. 1

non-governmental organisations should coordinate their activities and efforts in order to educate and strengthen general human moral criteria in the society by concentrating their activities in the cultural-educational, professional, religious, charitable, patriotic and other spheres.

Financial Problems

All the NGO leaders mentioned financial issues as another major problem for the operation of non-governmental organisations. This issue is raised here since it is closely connected with the political and social environments of the non-governmental sector. Because of unhealthy and noncooperative relations with the government, NGOs are deprived of the possibility to receive governmental financial support, which is usually decisive for the establishment and further growth of NGO sectors in the developed countries. Also, because of mistrust of people the organisations are unable to gain money through individual contributions or membership fees, which often cover about 40% and higher of the administrative expenses of Western NGOs.

In general, non-governmental organisations have not reached financial sustainability; external grants provided by international organisations remain the main source of funding. Ten out of eleven questioned indicated private international funds as the main source of funding. Only one person mentioned that their organisation was self-financing; nine out of eleven answered that they were not engaged in economic activities, and only two answered that they were gaining money through economic activities.¹¹³ Most of the NGO leaders state that it is not beneficial for a non-governmental organisation to create a daughter enterprise. Mr. Nersissian (Sakharov Fund for Human Rights Protection) pointed out that the government did not provide for any difference between a non-governmental organisation and a petrol station.

¹¹³ *Sociological Survey*, conducted by Argine Nahapetyan during the Training Advocacy course organised in the NGO Training and Resource Center, 23 Sept. 1998

They both have to pay the same taxes. It is not advantageous for a non-governmental organisation to establish a daughter enterprise, because the major part of the income should be paid to cover all taxes.

The tax policy of the state was discussed in detail in the previous chapter, and, indeed, it is very unfavourable for non-governmental organisations. In such a situation, it is very early to speak about financial sustainability. There are two types of financial sustainability. One pertains to NGOs as organisations. The other concerns project activities. The latter is achieved when "an activity is *financially* supported by those it serves."¹¹⁴ Armenian non-governmental organisations are far from project sustainability because, as all of them stated during the interviews, they gain only moral support from the beneficiaries since people cannot afford to financially support the project. As far as the organisational sustainability is concerned, unfortunately, NGOs in Armenia have not obtained that either. "Financial sustainability of an organisation refers to a group's ability to recover costs, allowing it to continue to provide services. Many evaluations carried out by the United States Agency for International Development of the NGO sectors in the various countries in which it works state or imply that self-reliance-- the ability of an organisation to develop a mixed portfolio of financial support-- is a valid measure of financial sustainability. This mix of financial sustainability might include fees for service, local or national government funding, donor grant funds, charitable contributions, and endowment proceeds."¹¹⁵ It is obvious that the Armenian non-governmental organisations have not yet succeeded to obtain organisational sustainability, since from this mix the only source of their funding is an external donor grant. Local and central governments do not provide any funding to non-governmental organisations.

¹¹⁴ Janice K. Stallard, Patricia L. Jordan (Center for Development Information and Evaluation US Agency for International Development), Sustainability Issues for PVO/NGO Activities, Third Annual Conference on the World Learning, Washington DC, October 24-25, 1995, Conference Abstract Volume, p. 6

¹¹⁵ *Ibid.*, p. 6

The attempt by state officials to justify themselves by referring to the extremely hard economic situation and inability of the government to support NGOs fails when the same authorities manage to provide financial resources to the "fake" NGOs created by the government and supporting the governmental policies. This situation can change only if the government understands that non-governmental organisations are not the opposition for them; on the contrary, they should be considered partners since the aim of both is to provide for democratic governance. Also, a wise and far-sighted government could greatly benefit from using the potential of NGOs, their highly qualified human resources, and their abilities to deal with the problems the government itself is not able to manage. Ideally, the state should provide funding for non-governmental organisations on the basis of equal and fair competition.

As far as the business sector is concerned, business entities are reluctant to give money to NGOs because of both the hard economic situation and the weakness of both sectors. The chief adviser of the Armenian Fund of Small and Medium Scale Enterprises (AFE) Dick Mour stated that the small and medium scale enterprises face numerous problems in Armenia—loans from banks with extremely non-profitable rates, high tax levying, and the existence of "black market deals" hindering the fair competition. "The small and medium scale enterprises' sector is the firm ground for any economics. Generally it is here that the greatest half of the country's population work and it is here that the problems of unemployment are solved."¹¹⁶ More than 70% of large-scale enterprises are privatised. However, only 7% of the population participated in privatisation due to a poorly organised public awareness campaign, the prevalence of vulnerable and needy people, the lack of investment infrastructure, etc.¹¹⁷ The

¹¹⁶ *Heghineh Mkrttychian*, None of the Privatised Enterprises Succeeded in Extending Loans in Armenia, in NGO Center News Letter, 12 July 1995, p. 3

¹¹⁷ *Human Development Report*, Armenia 1997, p. 40

business sector also has its numerous problems and in this hard economic situation, it is early to speak about healthy relations and cooperation between the non-governmental and business sectors.

As mentioned above, the wealth of the country is concentrated in the hands of only 5% of the country's population. Thus, against the background of mass impoverishment, a few groups of rich and very rich "new Armenians" have stood out which could be considered as a potential source of funding. However, one encounters problems here as well. First, the absence of tradition of philanthropy in the country. Second, these people are mostly governed by their mercantile and pragmatic interests, e.g. they generally belong to the "ill" part of the society, as Mr. Nersessian mentioned in his article. However, this is not to be said that the dialogue between the NGOs and this part of population is impossible. NGOs can interest this new layer of rich people by promoting them as "good citizens" and, for example, advertising their enterprises or their activities.

While the things discussed above are those that should or could be done, the reality is that NGOs receive grants only from international donors. In this sphere they encounter disadvantages as well. All of the eleven questioned NGO leaders stated that they received only "project" grants¹¹⁸, e.g. for the implementation of a concrete project, but not long-term grants for increasing the financial sustainability of the organisation in general. It is really more favourable for the Armenian NGOs to receive long-term flexible grants as a contribution to the organisations' overall activity since the problem for most of the organisations is simple survival. However, the reluctance of the donors to give large sums of money for organisations is understandable. Therefore, the burden is on the NGOs themselves

¹¹⁸ *Sociological Survey*, conducted by Argine Nahapetyan during the Training Advocacy course organised in the NGO Training and Resource Center, 23 Sept. 1998

to prove their effectiveness and the importance of their existence. Once an NGO has proved time and again to be an effective and responsible institution, the donors might consider participation in a more rational plan to finance its activities and help to achieve some degree of financial stability.

However, donors do not intend to provide money for NGOs for their entire existence, because the main purpose of this kind of financial support is to help the organisations to build independent and self-reliable entities. Therefore, the goal of non-governmental organisations should be to seek other, mostly local, sources of funding. The possible sources of local funding are receiving governmental grants after establishing cooperative relations with state officials, introducing membership fees, organising special events to raise money. The issue of local fund-raising will be discussed in detail in the next chapter.

First of all, non-governmental organisations should establish healthy relations with the government. Cooperation with the government will have a positive influence on the improvement of the financial situation of non-governmental organisations. First, the government could allocate certain funds to the NGOs on the basis of fair competition. Second, through this cooperation non-governmental organisations could urge the government to improve the legal environment, for example, to introduce more favourable tax policies-- tax exemptions for contributions and donations, favourable tax environment for daughter enterprises, etc. All these steps would positively contribute to the successful achievement of a certain degree of financial stability.

Another way of improving financial situation is to introduce a membership fee. This raises obvious difficulties since very often, as discussed above, people cannot afford to pay. However, one solution could be to recruit more members and to establish a very low fee--

little money, but from many persons. This is not to say that the organisations should recruit members only to gain money, rather the organisation should try to recruit more members through being highly accountable, transparent and through demonstrating its effectiveness and indispensable role in the current transition process. If an organisation succeeds, it seems reasonable that people will be willing to join this NGO in order to somehow contribute to the improvement of their current situation. In this situation, a low membership fee would not be an obstacle for joining the organisation. The fact that this is a real and workable way of receiving money can be demonstrated by the example of one of the Armenian NGOs. The Armenian Association of Immovable Property covers 90% of its administrative expenses through membership fees.¹¹⁹ As described in the same article, this organisation received grants from Eurasia Foundation, and the members always knew that demonstrating the successful and effective implementation of the project for which they received money would make it easier to get money from the donor again. However, as the members of the organisation pointed out, they had never considered the external grant as the main source of funding.

Another possible way of receiving money is to organise special events. These kinds of events are very advantageous for non-governmental organisations. First, they can help to provide for wider mass mobilisation and involvement. Second, they can serve as a means to collect money. NGOs can use their great potential through networks and informal links. Since they serve public or some portion of it, NGOs have great advantage, and can afford things that governments cannot-- to make this kind of events profitable.

¹¹⁹ *Local Fund-Raising*, in General Overview on Financing Issues of Armenian Non-Governmental Organisations, Manual in the Development of Armenian NGOs, NGO Training and Resource Center 1997, Volume V, p. 6

All the above-mentioned are not the only or the most advantageous and workable ways of gaining financial sustainability. This is just an attempt to demonstrate that there are obviously other ways of funding besides external grants, and that non-governmental organisations should be creative in finding the most appropriate and suitable ways for them.

Failure of NGOs in Understanding Their Role

Finally, one of the most serious problem of non-governmental organisations is that they themselves often fail to realise their role in the process of building of democratic society. This is one of the reasons explaining the current weakness of the NGO sector. According to all the interviewed, only a small number—around 20 out of all 1800-- of the non-governmental organisations can be considered as really operating non-governmental organisations. The other part of the organisations can be divided into two different categories.

First, there are "fake" NGOs, which are progovernmental organisations often created by state officials. The use of "fake" instead of "quasi-governmental" is intentional. There is nothing wrong with the latter, e.g. GONGOs and QUANGOSs. According to international standards, presented in the Handbook prepared by ICNL, these organisations should not be used to benefit governmental officials, directly or indirectly, either politically or monetarily.¹²⁰ The same Handbook states that there is a hostility towards QUANGOS and GONGOS, but experiences in *mature democracies* suggest that these fears are exaggerated (p. 95). Armenia cannot be considered mature democracy. Probably this is one of the reasons that state officials do not create these entities to implement useful programs or attract more contributions from the public, as it is done in the developed countries. The Armenian progovernmental organisations are created to politically benefit the governmental representatives. According to

¹²⁰ *Handbook on Good Practices for Laws Relating to Non-Governmental Organisations*, Prepared for the World Bank by the International Center for Not-for-Profit Law, May 1997, p.95

the interviews with the NGO leaders, these organisations are not implementing serious tasks, and cannot be seen on the national scene. Instead, the main reason of their creation is to present them on the international scene. These organisations are representing our government in different international congresses, conferences and other event. They are signing under all governmental documents concerning different aspects of our societal life. Accordingly, they help the government to make a false impression that Armenia has a strong civil sector, which closely cooperates with the government and gains significant financial support from the state. According to the interviews with the Armenian NGO leaders, the government does not provide any grants to other NGOs by referring to the economic hardship, but the progovernmental organisations receive large sums of money from the same government without fair competition. This is disappointing since NGOs should be eligible together with business entities and quasi-governmental organisations to fairly compete for governmental grants and contracts.

Second, according to the Armenian NGO leaders and my personal observations, there is another category of ineffective non-governmental organisations. These organisations are created by intellectuals and specialists of different fields who because of unwise economic reforms of the government have remained unemployed. All of them are highly qualified specialists, who are not able to get engaged in trade or illegal activities. Therefore, they often prefer to create a non-governmental organisation. It is common that three or four people come together to create an NGO without having an office, necessary equipment, and most importantly, any understanding what are the next steps they should undertake. These people do not have any vision of the implementation of those objectives that they have *declared* in their documents. Maybe in the future they will manage to become effective entities, but today these organisations exist only formally and are unable to conduct productive activities.

In reality there are only about 20 nation-wide NGOs, which do not belong to this or that political force and exist not just on the paper. They operate in a difficult economic and political environment. However, these organisations also cannot be considered effective and sustainable since they have numerous problems- no adequate human resources, no effective leadership, no necessary and sustainable external relationships and local networks, etc. The problems of individual non-governmental organisations is a separate topic, which will be explored in the next chapter.

Conclusion

To conclude, the non-governmental sector of Armenia is operating in an extremely difficult and unfavourable political and social environment. However, the situation is not hopeless, and the organisations can find possible and workable solutions to the problems. The relations with the government and the public can be improved through educating them on the crucial role of the sector in the development of civil society and democratic governance. Along with educating people, NGOs should time and again prove their indispensable role in the current situation by their activities and successful implementation of projects. Financial problems should be solved by seeking local sources of funding in order to obtain financial sustainability. All the above-mentioned can be accomplished by strengthening individual NGOs, and building strong links among them. Experience shows that when faced with unfavourable legal, political and social environments, NGOs acting together could succeed far more than operating alone. Close cooperation between active NGOs is of utmost importance since, as Homer said, "do not neglect even the weakest if their efforts are united."

Chapter 4: Major Problems of Individual NGOs in Armenia

Introduction

As mentioned in the previous chapter, there is a significant number of non-governmental organizations which exist just formally. The reason is that some of them are founded by the representatives of governmental circles, and serve to politically benefit them. The others, due to the incompetence of their leaders and staff members and other problems, exist just on the paper. There are only about 20 nation-wide non-governmental organizations, which are not controlled by this or that political force and are really implementing their mission. However, even these organizations cannot be considered as effective entities. According to the results of a survey and interviews with NGO leaders, as well as my personal observations, the main features of an effective non-governmental organization can be defined as follows: 1) effective leadership, 2) adequate human resources with clearly defined responsibilities and status, 3) self-regulation mechanisms, 4) effective recruitment of new members, 5) collaborative external relationships, especially with public and media, 6) collaborative and support relationships within the NGO community, 7) benefit, institutional and financial sustainability.¹²¹ Through the application of the above-mentioned criteria to the Armenian NGOs, the paper will demonstrate that non-governmental organizations face serious challenges in all the above-mentioned areas and, accordingly, cannot still be considered effective entities.

¹²¹ In fact, there are many NGOs which are effective without several of the above-mentioned criteria. These NGOs are all-volunteer organisations or non-membership organisations, like foundations. However, in Armenia all-volunteer organisations are completely unknown; foundations make up less than 10% of all the NGOs. The overwhelming majority of NGOs are membership organisations, especially public benefit organisations. Therefore, it seems reasonable to apply the above-mentioned criteria of effectiveness to them, especially taking into consideration that the major part of those criteria were approved by the NGO leaders themselves.

Leadership

Leadership, which articulates and maintains the direction of an NGO, consists of management and a board-- in large organisations, and an assembly of members-- in smaller organisations. Management is responsible for the day-to-day operation of the organization; the board or an assembly serves to provide overall policy direction to the NGO and independent oversight of its management.

Article 10 of the Law on Public Organisations of the Republic of Armenia concerns the governing body of a public organisation, which is an assembly or a general meeting. The rights and responsibilities of the supreme body among others include the election of governing and oversight bodies, review of all major organizational decisions and plans. The supreme body has several other important functions, e.g.: 1) to select the right person for the position of Chief Executive Officer and appoint a committee to conduct the oversight of the chief executive's performance, 2) ensure the continuity of the organisation by making decisions when the management cannot perform, 3) perform the helping function by additional volunteer participation of the body members in the situations when their assistance could contribute to the effectiveness and strength of an organization¹²².

As demonstrated above, theoretically the supreme body of a public organisation in Armenia is vested with all the responsibilities and rights, which are enjoyed by an assembly or a board of directors in Western NGOs. However, in reality the supreme body is convened very rarely, and does not conduct properly the evaluation and oversight functions. The main reasons explaining this kind of attitude are the incompetence of many leaders, as well as the fact that for the major part of NGO leaders their work in the non-governmental sector is the second or the third occupation, and they come to their NGO offices only if they have some spare time.

¹²² R. Smith, Board Functions and Composition, Support Centers of America, San Francisco, 1996, p.6

Leadership is very important since though it is accepted that major changes in the world are done by a large group of people, there is always a need for a good leader to wisely direct and govern them. The problem with Armenian NGOs is that most of the leaders are holding two or three jobs, and, most importantly, the leadership role in the non-governmental organisation is not prior to their other activities. However, it seems that one of the prerequisites for the healthy NGO development in a newly democratised country is the maintenance of a full-time committed staff. Another problem with the Armenian NGO leaders is that they usually do not possess skill and experience necessary for an NGO leader. They do not often have profound knowledge in their subject area or such skills as flexibility, diplomacy and so on. Therefore, it is important to focus on the selection of effective leaders. A leading NGO handbook suggests how to organize the selection of a leader in an appropriate way. The process of selection includes: 1) searching for potential candidates, 2) further work with the candidates, 3) personal meetings with the candidates, 4) organization of events with the participation of candidates in order to give a candidate an opportunity to plan, prepare and conduct some event himself, 5) analysis of the activities of the candidate and assigning new tasks to the candidates.¹²³ This approach demonstrates that the selection of a leader is a several-stage complicated process. It should be mentioned that the handbook is not a Western source which applies to the well-developed NGO sector, it was published in Moscow by mostly Russian authors and contains suggestions applicable to all kinds of NGOs, especially NGOs of the newly democratised countries.

Leadership is very important since a group of even highly dedicated people always need a skilful leader to direct their efforts in the right and effective way. In this kind of a situation it is quite disappointing that the leading positions in most of Armenian NGOs are appointed by

¹²³ *The Way to Success, Manual for Non- Governmental Organizations, The Center of Social-Practical Enlightenment "Golubki", p. 57*

the founder due to personal connections or family relations. It would not be an exaggeration to state that probably one of the reasons that Armenian NGOs are not effective and known to the public is the lack of competent and qualified leadership. The situation will improve if the selection of candidates for the leading positions is done by the members of an organization on the basis of personal qualities and skills of potential candidates and according to the methods mentioned above.

Human resources

Any non-governmental organization should possess human resources, which have the skills, the motivation and the opportunity to make the best contribution to the NGO that they are capable of and which it requires. However, people currently working in the Armenian NGOs are not competent, skilled or motivated enough. The situation with human resources in Armenia is very much like the situation in Central and Eastern European countries in early 90s. While there are many hard-working, dedicated, and intelligent people working in the nonprofit sector, most lack experience and training in basic management skills such as goal-setting, program development, facilitation of meetings, fundraising, board development, budgeting, bookkeeping, long-range planning, outreach, and evaluation.¹²⁴

Another problem connected with human resources is the absence of bylaws. Bylaws are internal rules, which govern the structure, organization and operation of a new group; they specify internal practices and procedures, and define the roles and relationships between members, board and staff.¹²⁵ Accordingly, they serve also as an effective mechanism to solve disputes over procedure among the members.

¹²⁴ D. Siegel, J. Yancey, *The Rebirth of Civil Society, The Development of the Nonprofit Sector in East Central Europe and the Role of Western Assistance*, The Rockefeller Brothers Fund, 1992, p. 43

¹²⁵ *Human Rights Institution-Building, A Handbook on Establishing and Sustaining Human Rights Organizations*, The fund for Peace in association with the Jacob Blaustein Institute for Advancement of Human Rights, 1994, p.6

It is common for small groups with no board of directors not to adopt bylaws; however, bylaws seem to be essential for the effective functioning of any organization. The Handbook on Establishing and Sustaining Human Rights Organisations, states that bylaws can be a prerequisite for the NGO, which intends to register with its government. Legal personality offers such advantages as opening a bank account, appearing before the court and so on. Armenian law does not require bylaws in order to obtain legal personality. However, the absence of bylaws can be an obstacle for receiving funding from foreign sources, especially taking into account that the third sector in Armenia is completely dependent on the external sources of funding.

In addition, bylaws, as mentioned above, can help to define the roles, duties and powers of the staff and serve as an effective mechanism to solve disputes among the members. In order to preserve the integrity of an organization, the organization should have a written standard of conduct for its directors, employees and volunteers, which they shall commit to follow.¹²⁶ Nineteen out of twenty one NGO leaders answered that the duties of their staff members were not clearly defined, while twenty answered that there were not elaborated effective mechanisms to solve problems arising within the organization.¹²⁷ During the interviews, most of the Armenian NGO leaders stated that all the disputes within their organizations were solved by mutual agreement among the staff members, and that the relations between the staff members were based on mutual understanding, horizontal relationships and care towards each other.¹²⁸ It is obviously very good when people work in the atmosphere of mutual respect and understanding. However, the staff members are changing very often. Therefore, it is much

¹²⁶ *Illustrative Standards for the Voluntary Sector in English and Russian*, From Standards Developed by the Members of Inter Action/USA, World Learning Inc., Founded in 1932 as US-Experiment in International Living, April 1994

¹²⁷ *Survey*, conducted by Argine Nahapetyan during the Training course at NGO Center, 25 July 2000

¹²⁸ *Interview with Mr. L Martirosian*, President of Union of Young Democrats, conducted by Argine Nahapetyan, 15 Nov. 1999

more safe and advisable to adopt written rules. Lack of clarity over roles and procedure can paralyse an organization when everyone thinks that someone else should be handling a particular problem, or many people take responsibility for the same issue, working at cross purposes without knowledge of each other's efforts.¹²⁹

Self-regulation

Self-regulation is crucial for the development of a vigorous non-governmental sector. It is also well accepted that self-regulation is an effective tool to prevent the over-regulation on the part of a state. Self-regulation is exercised through setting special standards and rules, that is a code of conduct or ethics, for all members of the group. Another way of self-regulation is the formation of umbrella groups among NGOs operating in the same field, which would set up special standards of conduct for their members, as well as supervise and monitor the adherence to those standards and, when necessary, introduce certain sanctions for non-compliance with the established standards of conduct. Finally, "watchdog" organisations, monitoring and evaluating NGOs, constitute another possible way of self-regulation of the sector.

Though Armenian Law on Public Organisations does state that self-regulation is one of the principles of the operation of the NGO sector, in reality there are numerous problems arising in connection with this issue. First, the very notion of self-regulation loses its sense when the representatives of the Ministry of Justice have such an excessive power as to be permitted to be present at the meetings of a public organisation (Article 23), when an organisation can be involuntarily dissolved on the extremely ambiguous ground stated by Article 29 and so on. Second, as the handbook prepared by ICNL suggests, self-regulation system is prevalent and

¹²⁹ *Human Rights Institution-Building, A Handbook on Establishing and Sustaining Human Rights Organizations*, The fund for Peace in association with the Jacob Blaustein Institute for Advancement of Human Rights, 1994, p.6

successful only in those countries where the legal system for NGOs is mostly highly developed. It means that well developed general standards must exist already, and NGOs are trying on the basis of these standards to develop more specific standards to make the sector more effective and keeping on with time and their changing needs. Obviously, this is not the case in Armenia, where even the governing laws are full of gaps and seem to be incomplete and underdeveloped.

As far as self-regulation mechanisms are concerned, there are few umbrella organisations which are not playing the important role they should play in a developed NGO sector to encourage higher standards of conduct and performance through self-regulation. Accordingly, the importance of code of ethics is not realised and not adopted either. All of the twenty-one Armenian NGO leaders answered that their organization had not elaborated either a code of ethics or other ethical norms.¹³⁰ Adopting an organizational credo in small organizations and a code of ethics in larger organizations is important in order to achieve greater public trust. The basic means by which you can ensure confidence in your organization is to demonstrate the quality of your leadership, which begins with full and consistent evidence that trustees, staff directors, and all other participants reflect habitually the ethics people have a right to expect of them, and that they make ethical practices part of the organizational culture.¹³¹

There are no "watchdog" organisations which should play also an extremely important role. The only "watchdog" is the Ministry of Justice. This fact undermines the whole notion of self-regulation since the main aim of "watchdog" organisations is to provide an example of the sector seeking to regulate itself, rather than being regulated by the state.

¹³⁰ *Survey*, conducted by Argine Nahapetyan during the Training course at NGO Center, 25 July 2000

¹³¹ *B. O'Connell*, *The Board Member's Book*, second edition, The Foundation Center, 1993, p.15

Recruitment

Recruiting of new members is important for the effective development of an organization, and constitutes one of the major challenges faced by Armenian non-governmental organizations. Only three respondents out of twenty-one mentioned that they were trying to attract more members to their organization, and only one of them mentioned that they were organizing campaigns to recruit more members.¹³² The major part of Armenian NGO leaders believes that they do not even need new members, and they prefer to focus on conducting productive activities with the current membership. Still, recruitment of new people is essential to support the effective functioning of an organization. Of course, the distinction should be made between membership and non-membership organisations. However, as mentioned above, the major part of the currently operating NGOs in Armenian are membership organisations, and, moreover, they are public benefit organisations. Therefore, they should be advised to reconsider their position on this issue, especially taking into account the pressing need to gain more public trust and involve more people in their activities.

In addition, very often the image of a powerful and influential NGO is very much dependent on the number of its members. The permanent and systematic increase of the number of members is the crucial indicator of the activity of the organization. It means that the organisation is open for everybody, that it is dynamically developing, that it is open for dialogue with the general public, and it is not trying to give solutions to the problems on its own and behind the closed doors. Of course, the quantity should not be ensured in the detriment of quality. Therefore, the organization should define what kind of skills, experience or personal qualities they are expecting from their potential members.

¹³² Survey, conducted by Argine Nahapetyan during the Training course at NGO Center, 25 July 2000

As far as membership drives are concerned, they are crucial not only for the recruiting of new members but they also contribute to the strength and effectiveness of the organization. These kinds of campaigns not only attract more people to an organization but also provide the opportunity to raise the awareness about the organization and its activities. Also, during such campaigns the organisation more profoundly elaborates its methods and arguments, gets better acquainted with the issues that interest people at this particular time, campaigns also greatly increase the cooperation among those who are directly engaged in the event. It is obviously not an easy task to conduct a campaign for recruiting new members. As literature suggests an NGO should prepare and go through several stages for the campaign to be successful. Stage one—defining the goals of the campaign, stage two—searching for potential candidates, stage three—defining the tactics of the campaign, stage four—elaborating the timetable of the campaign, stage five—organisation of working groups, stage six—summarizing the results.¹³³ Each stage requires time and efforts. However, after conducting this kind of a well-elaborated and organized campaign the organization will benefit since it will have new members who are dedicated to the mission of the organization and who will inspire new life and ideas into the organization. Also, if the campaign is successful it will raise the awareness about the organization.

Public relations and media

It is important for NGOs to build collaborative and supportive external relations. The organization, especially public benefit organisation, should make itself known as widely as possible and obtain positive public image. This is not the case in Armenia, where the public is generally unaware and suspicious of the activities of NGOs. However, NGOs can create positive public image by periodically publicizing their purpose, activities and/or findings. This may be done in a variety of ways including leafletting, putting up posters and speaking at

¹³³ *The Way to Success*, Manual for Non- Governmental Organizations, The Center of Social-Practical Enlightenment "Golubki", p. 42-48

public meetings; conducting targeted meetings with key individuals who influence public opinion; and seeking radio, television or newspaper coverage.¹³⁴

Another effective way of becoming visible and known is the involvement of mass media. There is no legal impediment preventing NGOs in Armenia from having access to the media to publicise their work. Moreover, Article 22 of the Law on the Public Organisations concerning the rights of public organisations states that a public organisation has the right to 1) disseminate information about its activities, 2) found mass media. This is a very good provision which allows the NGOs to raise the awareness of the public about their activities. However, in reality, very few of the public organisations could afford that because of scarce financial resources and noncooperative attitude of media representatives. All of the Armenian NGO leaders answered that they were always trying to involve mass media while conducting any events. However, all of the respondents mentioned that media was not open to cooperation with the third sector; all of the leaders indicated that though they had free access to mass media, they could use mainly radio and newspapers but not TV.¹³⁵ However, the press does not play a significant role in the social and political life of the country. As the main source of information the printed press was mentioned only by 5% of the respondents, for 72,1% the main source of information is the TV.¹³⁶ Also, the situation is worsened by the deep problems that mass media is facing itself. Today mass media fails to play the role of the so-called- "fourth power". Independent newspapers operate under extremely difficult conditions, not managing to create the necessary counterbalance to the state and the opposition newspapers. "Newspapers supported by the state are in a better position since they are supported financially by the state. Accordingly, they are cheaper and, thus, more

¹³⁴ *Human Rights Institution-Building, A Handbook on Establishing and Sustaining Human Rights Organizations*, The Fund for Peace in Association with the Jacob Blaustein Institute for Advancement of Human Rights, 1994, p.30

¹³⁵ *Survey*, conducted by Argine Nahapetyan during the Training course at NGO Center, 25 July 2000

¹³⁶ *S. Petrossian*, *Metropolitan and Regional Press of Armenia, Mass-Media of Transcaucasus*, #1, Sept. 1998, p.

affordable for the public at large."¹³⁷ Despite the lack of cooperation, some degree of cooperation between the media and NGOs has occurred. According to Artak Garoyan, the President of "Tanik" Center for Assistance and Civil Rights Protection, their organisation intended to prepare a clip concerning the adoption of a new Civil Code, and several newspapers and an independent TV station agreed to assist them for free.¹³⁸ However, according to other NGO leaders, the level of cooperation is unsatisfactory. This is quite disappointing since "a fully-fledged third sector and truly independent fourth power will provide a basis for a healthy State, or, as they like to say in the West, they will make the backbone of a democratic society."¹³⁹

In addition, media coverage on the developments of the third sector is insufficient. Besides, the style and the way of covering events concerning the NGO sector are unsatisfactory as well. Narine Hovhannissian, the President of League of Women Voters, mentioned that when women leaders met the President of the Republic of Armenia, national TV first channel very poorly covered this event; the only message the audience received was several macro economic figures referenced to by the President.¹⁴⁰ Superficiality is the major drawback of NGO coverage, in the vast majority; journalists do not manifest informed interest in civil society issues of Armenian.¹⁴¹ The NGO leaders express these kinds of complaints about unwillingness of the mass media representatives to cooperate with the non-governmental organizations very often. Working with mass media can bring disappointment if an organisation does not start it in an appropriate way. Some organizations spoil their relationships with the representatives of mass media, and thus, are getting deprived of

¹³⁷ *Ara Tadevossian*, Development of the State Media in Armenia, in *Mass Media of Transcaucasus* (journal), #3, Oct. 1997, p. 8

¹³⁸ *Interview with A. Garoyan*, President of TANIK Center for Assistance and Civil Rights Protection, conducted by Argine Nahapetyan, 2-Nov. 1998

¹³⁹ *Armine Haladjian* (UNDPI Information Assistant), The Fourth Power as Cornerstone of Civil Society, in *Women with University Education* (journal), Armenia, May- July 1998, p. 29

¹⁴⁰ *Interview*, conducted by Argine Nahapetyan, 21 Sept. 1999

¹⁴¹ *Coverage of Third Sector Developments in Media*, NGO Center News Letter, 13 Sept 1998, p. 4

probably their most important ally. This is the very moment when the role of effective leadership comes to the point. The leader should not only ensure the media coverage of this or that event conducted by his NGO, but also elaborate the strategy of using media for the benefit of his organization. The NGOs themselves should elaborate certain ways and methods to attract the attention of mass media.

One of those ways is to establish personal contacts with the representatives of mass media. Also, it is very important to avoid those channels or companies, which are controlled by the opponent of one's organization. Other ways to involve mass media are the organization of press events, conduction of press conferences, interviews, placing advertisements in the newspapers. One more possible way is to appoint a spokesperson. This will help cement the relationship between the group and the press, and will minimize the confusion and/or inconsistent statements that can arise from having more than one group representative speak on the same issues.¹⁴² The most important thing to remember is that establishing good relations and cooperation with media takes time and patience, and the group should not be discouraged if it is not getting adequate response immediately. The only thing it can do is to continue trying all available methods to attract media attention and later establish support relationships with media representatives.

Cooperation within the NGO community

The NGO community is another arena within which the NGO will aim to establish collaborative relationships in order to promote project and sectoral work coalitions and to participate in lobbying and advocacy networks. In Armenia the level of cooperation and coordination between individual NGOs, even working in the same field, is extremely low.

¹⁴² *Human Rights Institution-Building, A Handbook on Establishing and Sustaining Human Rights Organizations*, The Fund for Peace in Association with the Jacob Blaustein Institute for Advancement of Human Rights, 1994, p.32

Very often NGOs are unaware of the activities and sometimes even existence of other NGOs dealing with the same problem. A higher degree of cooperation, like creating formal or informal coalitions for joint action, is almost absent among Armenian NGOs. Eleven out of twenty one questioned answered that there were NGO coalitions operating in Armenia, seven indicated that the existing entities could not be considered as real coalitions since the interaction of NGOs involved in them was very weak, three respondents answered that they did not know whether there were any coalitions formed by the NGOs (survey). In reality, there are only two or three coalitions operating in Armenia. They can be considered as organized informal coalitions, which have the name, common goals, and structure of the formal representation and the mechanism of making group decisions. However, they cannot be considered effective entities since they are not visible on the scene of the societal life. The strong proof of this was that three respondents of the survey, who were the immediate representatives of the NGO sector, were even unaware of the existence of those coalitions.

Nineteen respondents out of twenty-one estimated positively the role of the coalitions, and only two of the respondents estimated it negatively (survey). Of course, negative sides of a coalition can be mentioned. They include the limited time for other projects, disadvantaged position of weaker organizations, partial loss of autonomy and so on. However, in the situation of Armenia, where NGOs in general are weak and do not have complete autonomy because of funding problems, strong coalitions can benefit the sector and NGOs in general. The positive sides of coalitions are: 1) coalitions provide necessary human and financial resources for large campaigns, which individual organizations cannot afford, 2) coalitions can increase the effectiveness of each separate organization, 3) coalitions can provide an opportunity to reveal new leaders, 4) coalitions help to avoid a duplication of efforts, 5) coalitions provide an opportunity for the organizations with the same purpose to act as a community and not as separate entities and, thus, attract attention of the government, the

public, the media and potential donors. The last advantage of a coalition, mentioned above, is especially important for Armenia since, the main problems that individual NGOs face are the ignoring of the sector on the part of the government, the general mistrust of the public and financial problems. The government will take more seriously the joint effort of a large coalition, the public and mass media will pay more attention to a group of NGOs acting as a community with common interests than to separate dispersed groups, the donors will be more willing to finance the collective effort since it has greater potential to achieve their objectives than an individual effort. Thus, the NGOs themselves should encourage a higher degree of cooperation and closer coordination among individual non-governmental organizations. Coordination is not a bureaucratic imposition designed to stifle the independence and imagination of individual NGOs; it is a tool for increasing the effectiveness of a collective endeavour.¹⁴³

Sustainability

An organization cannot be considered as effective due to the mere fact of its existence or operation. One of the most important criteria defining the effectiveness of an organization is sustainability. Literature suggests three main types of sustainability: benefit, institutional, and financial.

Benefit sustainability involves the indefinite continuation of benefits that result from or flow from an activity, rather than continuation of specific project output.¹⁴⁴ Most organizations believe that it takes a great deal of time to achieve the continuation of benefits. Benefit sustainability means that in addition to being able to deliver quality, appropriate services in cost-effective ways the NGO has to ensure that they are sustained. This cannot be stated in the

¹⁴³ *J. Bennett*, *NGO Coordination at Field Level, Handbook, International Council of Voluntary Agencies, ICVA, 1994, p.2*

¹⁴⁴ *J. K. Stallard, P.L. Jordan*, *Sustainability Issues for PVO/NGO Activities*, in *Third Annual Conference on the World Learning Conference Abstract Volume, Washington DC, October 24-25, 1995*

case of Armenian NGOs since they are not still able to achieve the sustained continuation of benefits. Probably one of the reasons is the lack of beneficiary involvement since beneficiary participation in the decision-making process and in the campaigns greatly influences the sustainability of the activity. Even if an organization has a clear mission, vision, goals, well-elaborates strategic plan, sound internal structure, financial resources but it cannot provide for sustained service delivery, this entity cannot be considered an effective organization. If a for-profit organization does not gain any profits, it dissolves since getting profit is the main essence of its existence. Accordingly, if a non-profit organization does not succeed to positively improve the societal life, its existence becomes meaningless since making positive changes in the societal life is the essence of the existence of a non-governmental organization.

As far as the institutional sustainability is concerned, the key components of a sustainable organization include a clear organizational mission, strong leadership, including housing necessary technical and management resources, ability to plan strategically, support from the local community and capacity to mobilize beneficiary participation, ability to supply a continuous stream of benefits.¹⁴⁵ From these five points at least four are absent in the case of Armenian NGOs since there is no strong leadership, no adequate housing and technical and management resources, no need to make long-term strategic planning since the organizations are solely dependent on the short-term project grants, no support from the local community and beneficiaries, and no benefit sustainability. Also, we can consider local networking as critical to long-term organizational sustainability, which is the basic source of sharing knowledge and resources. In this area, as discussed above, Armenian NGOs have not achieved significant results either.

¹⁴⁵ *Ibid.*

The issue of financial sustainability has been discussed in the previous chapter due to its close connection to the political and social environments of the sector. It was mentioned that Armenian NGOs have not achieved either organizational or project sustainability, which constitute the two types of financial sustainability. The only source of funding for Armenian NGOs remains the external one. Of course, NGOs should realize that this is not an everlasting source. Besides, relying solely on international funding can harm their organizational sustainability. It can result in serious problems of continuation and service delivery if the funding ceases for any reason. Also, an organization relying only on the external source of funding has to adapt its needs and objectives to the donor's interests and requirements. This fact is dangerous for the organization since one day this obsession with funding can even cloud the mission of an organization. Therefore, it is very important to generate new sources of funding and engage in the local fund-raising.

For an organization to receive significant amounts it is important to conduct a fund-raising campaign. There are a number of basic components necessary for a successful fund-raising campaign: 1) strong volunteer leadership, 2) clear organizational structure, 3) ambitious but realistic goals, 4) careful segmentation of donors and prospects, 5) extensive prior research, 6) thorough training of volunteer solicitors, 7) a detailed timetable of activities, 8) extensive reports and accountability, and 9) donor and volunteer recognition.¹⁴⁶ All the respondents of the survey answered that they had never got engaged in the fund-raising campaign (survey). Fund-raising campaigns should be at least attempted since without more reliable sources of funding the prospects for sustainability are fragile.

First of all the organizations should realize that they will not succeed in any fund-raising attempt until they develop their organizations into effective entities. Make sure your own

¹⁴⁶ P. Kotler, A. Andreasen, *Strategic Marketing for Non-Profit Organizations*, fifth edition, 1996, p. 254

house is in order; both contributors and solicitors prefer to support interesting, productive and well-managed institutions.¹⁴⁷ This is not a simple coincidence that among other sixteen rules for a successful fund-raising campaign this one is mentioned as the first and the most crucial prerequisite for receiving money from donors. Therefore, the first task of Armenian NGOs is to strengthen the leadership, adopt sound internal rules, recruit new skilful members and so on.

However, the process of solicitation is not a simple task. It is natural that people are reluctant to give their money *unless* they consider that it is worth doing this. Here are some reasons why people make donations: because they are asked, a person has a leadership role in an organization, a need to improve the quality of community life, belief in an organization's goals, an intense interest in a particular program, recognition, peer pressure, admiration for a professional leader, good business, family tradition, financial planning considerations such as tax deductions.¹⁴⁸ Due to the current situation, all of these reasons cannot be equally applied to Armenia. First, the weakness of non-governmental organizations and unawareness of their role diminishes the value of such reasons as giving because of the need to improve the quality of community, belief in organizational goals, an intense interest in a particular program, admiration for a professional leader, good business. Second, the lack of civil and philanthropic traditions diminishes the value of such reasons as peer pressure or family tradition. Of course, it is advisable for non-governmental organizations to improve their leadership and other drawbacks to become effective entities in order to create a belief in their goals or interest in their programs, and receive money due to those reasons. This is a long-term solution. However, even in the current situation in order to attract donors Armenian NGOs can still use the other two reasons: recognition and financial planning considerations

¹⁴⁷ A. Carroll, *My Sixteen Rules for Successful Volunteer-Based Capital Campaign*, in *Taking Fund-Raising Seriously*, ed. D. F. Burlingame, L. J. Hulse, The Jossey-Bass Nonprofit Sector Series, Jossey-Bass Inc., 1991, p. 174

¹⁴⁸ L.P. Edles, *Fundraising, Hands-on Tactics for Nonprofit Groups*, McGraw-Hill, Inc., 1993, p. 19

such as tax deductions. As far as the latter is concerned, the Armenian law offers tax deductions for donations, but they are not enough to attract individual contributions. Of course, NGOs are not adopting legal norms. However, through establishing cooperative relations with the government, they can influence any legal initiative, especially concerned with the NGO sector. Thus, they can ensure the adoption of a more favourable tax deduction rate for contributors.

As far as the issue of recognition is concerned, it is solely in the hands of a nonprofit agency to provide this. In general, it is accepted that people often give money due to their internal motivations and external influences. Among other internal motivations literature suggests acceptance of self-esteem (people desire to like themselves, and this desire encourages them to match their self-images of what they want to be) and personal gain or personal benefit.¹⁴⁹ There are of course a number of other internal motivations, but the two mentioned are the most common and applicable to the representatives of any nation, including Armenians. If these internal motivations are activated by external influences, such as rewards and stimulations, then the desired effect can be achieved. Rewards fall into three types: 1) recognition rewards such as special introductions of donors at annual meetings, invitations to elite gatherings, feature articles in newsletters and so on, 2) personal rewards such as thank-you letter, personal calls from leaders and officials, awards, peer acknowledgement, 3) social rewards such as development of new personal relationships, an increased sense of community and status.¹⁵⁰ Some actions by fundraisers are directed to stimulate donors' giving. Those are making direct requests, presenting an attractive vision, promoting private initiative, stressing

¹⁴⁹ J. R. Mixer, *Principles of Professional Fundraising, Useful Foundations for Successful Practice*, The Jossey-Bass Nonprofit Sector Series, Jossey-Bass Inc., 1993, p. 15-17

¹⁵⁰ *Ibid.*, p. 22

efficiency and effectiveness, and offering a tax deduction.¹⁵¹ It is obvious that it is within the competence and power of NGOs to provide the above-mentioned rewards and stimulations.

Also, NGOs should carefully organize the process of finding the prospects and asking them for money. If they simply go to a wealthy donor and ask him to provide money for a very important project, they will not probably succeed. The basic prerequisites for the successful completion of the solicitation are the preliminary research among potential donors, cultivation and well-trained solicitors. The main problem in Armenia is the lack of culture of philanthropy. However, if NGOs strategically plan (defining mission, strategies, budgets and control¹⁵²) and wisely conduct the fundraising process, they will succeed. First, NGOs should conduct a thorough research among the prospects and select those people who can be interested in their case since the absence of a cognitive interest on the part of the donor will significantly complicate the task. Second, after the organization makes sure that the prospect has a cognitive interest in its work, it starts prospect cultivation. The cultivation means raising the awareness of the prospect on the organization and the way the organisation is intending to use the prospect's money; personal contacts will be especially effective. The cultivation stage makes the process of asking for money less complicated since the prospect already has information about the group, its activities and projects for which he intends to give money. Of course, during the asking for money stage the solicitor should be prepared to answer additional questions, provide more information, meet the objections of the prospect with courage and be able to eliminate all his doubts. If this stage is completed successfully, the non-governmental organization should immediately provide donor with the recognition or other personal or social rewards.

¹⁵¹ *Ibid.*, p. 23

¹⁵² *W. E. Lindane, Strategic Planning for Fund Raising, How to Bring in More Money Using Strategic Resource Allocation, The Jossey-Bass Nonprofit Sector Series, Jossey-Bass Inc., 1992, p. 4*

The problem with Armenian NGOs is that they consistently mention the harsh economic situation, lack of support on the part of the government or business sector, and poverty of the population as the main reasons for their financial problems. However, there are business entities within the economic sector which are flourishing and there are many wealthy individuals in Armenia. If they are approached in the right way and according to the above mentioned principles, which are applicable to any country, and if their internal motivations are unveiled and activated by external influences, the results can be very promising.

Conclusion

To conclude, Armenian non-governmental organizations still cannot be considered as effective entities. They lack effective leadership, adequate human resources and self-regulation mechanisms. Most of these organizational leaders do not realize the need for involving more members into their organizations and, thus, making the organization more open and enriched with new ideas and skilled membership. Armenian NGOs have not succeeded in developing collaborative and support relationships either with external environment, especially public and media, or within the NGO community itself. None of these organizations has yet achieved benefit, institutional or financial sustainability. All of these problems are quite challenging and can endanger the further existence of Armenian NGOs if they are not solved in the near future. The improvement of legal, political and social environments of the NGO sector is partially dependent on the willingness and readiness of the government and public to cooperate with the NGO sector. However, the solution of the problems existing within the NGO sector and being described in this chapter is exclusively dependent on the willingness of the NGOs themselves to deal with them.

CONCLUSION

Proceeding from the above analysis the conclusion can be made that neither legal nor political and social environments are favourable for the non-governmental sector of the Republic of Armenia. As it was demonstrated in the first chapter, Law on Public Organisations vests excessive power of control over the NGOs with the Ministry of Justice, it does not even provide for the judicial review for the decisions of the governmental organs. Other drawbacks of the law are the requirement of the consent of the Ministry of Justice during the voluntary termination, excessive control on the part of the Ministry of Justice over NGO activities, ambiguous grounds for involuntary termination and the omission of the right to appeal the decision, underdeveloped internal supervision mechanisms, absence of a provision on the conflicts of interest, absence of a distinction between the reporting requirements of small and large or public benefit and mutual benefit organisations. In addition, tax laws, which though have reduced their previous discriminatory nature, still impose very high taxes on the NGOs' economic activities.

As far as the political environment is concerned, relations between the non-governmental organisations and the state structures are far from mutual trust and cooperation. Rather, they could be characterised as of mutual suspicion and misunderstanding. This is expressed by directly preventing the activities of NGOs, as in the cases of arbitrary registration, or by ignoring the non-governmental organisations, as in the cases of "polite and silent" refusal to include NGOs in different state commissions and councils, and, in general, by very low and unsatisfactory degree of cooperation between the non-governmental sector and state authorities.

The social environment of the non governmental organisations is quite inauspicious as well. As showed in the second chapter of the thesis, the public is unaware of the role and activities

of the non-governmental sector. Many people perceive these organisations as only formal entities, which operate mostly to benefit their own members. This attitude is due, first, to the moral and ethical crisis the population is experiencing now, and, second, to the great apathy of the population completed by suspicion about the nature and purpose of NGOs which is the result of confusion with other societal actors.

The situation discussed above, is extremely challenging since only the existence of healthy legal, political and social environments can promote the growth and the strength of any non-governmental sector in any country. Although the domestic legal framework, which governs NGOs, is not the only factor, which affects their growth and development, it has undoubtedly an essential influence. Sound legal norms are necessary for the effective operation of non-governmental organisations. They serve to prevent excessive and abusive control over the non-governmental organisations on the part of state officials, to allow more space for NGO activities, to ensure NGO access to funds, to provide for beneficial tax treatment and non-discriminatory tax policy, etc.

However, all the laws in any country are adopted and approved by state officials. This is one of the most important reasons explaining the necessity of a favourable political environment for the development of the sector. Governments have great power over NGOs through the laws they enact or administer. By passing laws they can either repress NGOs or encourage them. Thus, there is a need to establish healthy relations with the government in order to have laws supporting a vigorous and independent NGO sector. Favourable political environment is crucial not only for the adoption of sound legal norms but, most importantly, for their successful implementation. Often the laws are good but the fair and consistent application of them seems to be a long way off. In general, where there are laws, the administrative procedures to implement are lacking. Where there are administrative procedures for

implementation, they are often not followed. Therefore, healthy and cooperative relations with state officials can promote the adoption and implementation of favourable laws for NGOs.

This is not to be said that the state alone has discretionary power in adopting and implementing legal norms since NGOs also have possibility to influence legislative enactments. However, this can be done only on the condition of a favourable social climate. It is obvious that NGOs can be effective in their activities only if they enjoy wide public support and ensure large public participation and involvement. Otherwise, without necessary public support the voices of single and scattered NGOs will not have the necessary effect and influence. This is especially true in those newly democratised countries, as in the case of Armenia, where the governments are not willing to cooperate with NGOs and do not realise the important role of the sector. In this situation NGOs need strong public support in order to display necessary pressure over state structures, and implement their role of counterbalance to the government.

However, in order to attract attention and gain support NGOs should manage to become effective organisations. As demonstrated in the fourth chapter, Armenian NGOs have not yet succeeded in this process. They do not possess effective leadership, qualified human resources and self-regulation mechanisms. They still fail to achieve sustainability and establish healthy external and internal relationships. Therefore, they still cannot be considered effective organisations.

It is clear from the above mentioned that the further development of the NGO sector is possible only on the condition of sound and favourable legal norms governing the sector, healthy relations and cooperation with the government, and active and wide public

participation. However, taking into consideration the current unfavourable attitude of the government and the inertness of the public at large, it should be accepted that the burden of improving the situation in Armenia is mostly on the shoulders of the non-governmental sector. Though the thesis attempted to provide several possible solutions to the problems raised in this work, the most crucial task of NGOs remains to educate both the government and the public on the issues of civil society and democratic governance, as well as on the role NGOs could play in the development of a genuine democratic society. This can be done only if NGOs manage to become effective and influential entities, which will not be ignored or underestimated either by the government or the public.

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