

**Report of the International Meeting of
Associations Serving Grantmakers (IMAG)
Oaxaca 1998**

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International Meeting of Associations Serving Grantmakers

The initiative for an international meeting of associations serving grantmakers came from the International Committee of the Council on Foundations. The meeting became reality after two years of planning by a 13-person committee representing various associations serving grantmakers from around the globe.

This historic meeting was designed to open a dialogue among associations whose mandate focuses either entirely, or at least in part, on serving and supporting grantmakers and foundation-like organizations. It explored how these associations can increase their capacity to serve their grantmaking members and through them to strengthen the nonprofit sector around the world.

The meeting sought to do the following:

- Explore the context in which grantmakers operate.
- Increase knowledge of operational issues of grantmaker associations.
- Build connections among grantmaker associations.

IMAG included three days of plenary sessions, roundtables, and workshops, as well as luncheon and dinner talks with selected experts in philanthropy. The plenary sessions addressed global issues of importance to grantmakers and workshop discussions focused on concrete issues of practice and organization. In addition, there was ample opportunity for peer exchange.

The meeting was attended by 82 participants from 25 countries representing 23 associations in various stages of development. Evaluations of the meeting showed that it was successful and that the participants looked forward to continued interaction with each other through peer exchange programs and a website.

As a result, the new coordinating committee prepared a proposal to implement peer exchange programs and further develop the website [www.imag.org is now www.wingsweb.org], as well as commission a monograph on associations and stage another meeting in the year 2001. [IMAG II - renamed *WINGSForum* - was held 10-13 March 2002.]

Plenaries & Other Events

Reception

Opening Dinner: The Special Role of Philanthropy in Support of Civil Society Worldwide

Victoria P. Garchitorena, President
League of Corporate Foundations, Philippines

Promoting the Culture of Social Involvement, Giving, & Volunteering

Manuel Arango
Founder & Honorary Chair, CEMEFI
Board Member, Council on Foundations & CIVICUS

"Fishbowl" & Plenary Discussion on Mission & Vision of Associations Serving Grantmakers

Representation, Accountability, & Standards in the Grantmaking Field

Dorothy S. Ridings, President & CEO
Council on Foundations, USA

Value of Associations Working Together: Global Interdependence & the Associative Impulse

John Richardson, Director
European Foundation Centre, Belgium

Overview of the International Meeting of Associations Serving Grantmakers & Possibilities for Follow-up

Barry Gaberman, Chair
IMAG Planning Committee

Workshops

Creating & Sustaining an Enabling Legal Environment

While each country has its own unique legal framework arising from history, culture and the nature of its legal system, this session considered core issues affecting all not-for-profit organizations - regardless of where they are located. These issues included the registration process; limitations on purpose and activities; tax exemption; tax deductibility; formation, management and distribution of capital; accountability; and the termination and dissolution of organizations. The special case of grantmaking organizations was also considered. Participants talked with legal experts who had broad international experience about the ways in which these issues are or might be managed in their countries.

Moderator:

- John Edie, Council on Foundations, USA

Presenters:

- Betsy Adler, Silk, Adler & Colvin, USA
- Thomas Silk, Silk, Adler & Colvin, USA

Early Stages of an Association

Participants shared difficulties, achievements, doubts and plans with others and benefited from the experience of those who have traveled the road ahead of them. This session enabled participants to seek answers to many of the questions confronting them, such as how to use boards and keep them involved, how to raise funds, and, even more basic in some countries, how to create an awareness of the need to associate for better use of philanthropy funds. For those who have long been in the service of the sector, this was a chance not only to help newcomers, but also to see their own work in perspective as they describe it to others. The questions posed and the experience of newcomers also sparked new thoughts and directions.

Moderator:

- Pushpa Sundar, Indian Center for Philanthropy, India

Presenters:

- Vivian Blair, CEMEFI, Mexico
- Evelyn Berg Ioschpe, GIFE, Brazil
- Caroline Tower, Forum of RAGS, USA
- Filip Vagac, Slovak Donors Forum
- Maria Herrera Vegas, Grupo de Fundaciones, Argentina
- Liesbeth Zwitter, Association of Foundations of the Netherlands

Governance & Boards of Directors of Associations

Board members and trustees participated in this interactive session that focused on effective governance and the role of the board. For those just starting associations as well as those who have more experience, this session was designed to help think through a sound approach to some common issues that arise on boards of directors and between boards and their chief executive. The special features of an association board were highlighted.

Participants drew on the wisdom, experience and skills of colleagues while working through real case examples. Participants tested their knowledge and assumptions of "who does what" in effectively run and effectively governed organizations.

Moderator:

- Mokhethi Moshoeshoe, SAGA, South Africa

Presenter:

- Eliana Vera, National Center for Nonprofit Boards, USA

Information Exchange Among Associations: Directories, Databases, Publications, Technology

A nuts and bolts session that reviewed literature about the field and explored ways of sharing that information among associations. Building on pre-collected information, associations identified print resources they have produced targeted primarily to grantmakers. All directories of giving, regardless of who published them, also were noted. Participants discussed how to share or exchange the information they produce.

Moderator:

- Elan Garonzik, Charles Stewart Mott Foundation, USA

Presenters:

- Sara Engelhardt, The Foundation Center, USA

Member Services

The heart of an association is its member services. Participants explored the key concepts and principles that guide effective service to grantmaker members and reflected on their application for the work of their associations. Core services - convening, information sharing, knowledge creation, representation - were discussed and debated while recognizing the unique situation of each association. Participants considered the challenges of maintaining the relevance and value of services to members as the association matures and member needs change.

Moderator:

- Sara Melendez, Independent Sector, USA

Presenters:

- Roberto Calingo, Philippine Business for Social Progress
- Erik Kemp, European Foundation Center, Belgium
- Monica Patten, Community Foundations of Canada
- Ross Ramsey, Community Foundations of Canada

Resource Development

The resources of an association are not only financial but also include staff and board and the members themselves. Participants explored what it means to raise money, develop the human resources of an association, and grow and sustain membership. Participants

considered different strategies for achieving goals. And finally, they learned how to assist members with resource development.

Moderator:

- Helena Ackerman, Czech Donors Forum

Presenters:

- Elizabeth Cham, Philanthropy Australia
- Bob Moffat, New Zealand Association of Philanthropic Trusts
- Katharine Pearson, The Ford Foundation, Kenya
- Jorge Villalobos, CEMEFI, Mexico

Strengthening Information Exchange Through Technology

Participants learned how to strengthen their associations' information services by using modern technology. This session reviewed database, E-mail, the Internet, fax-on-demand, broadcast fax, and more. Participants discovered how these tools could enhance their in-house information management, as well as external communications with members and other organizations. Participants benefited from live, online demonstrations and from tips and techniques to help with implementation. Participants explored these issues with a panel of experienced colleagues from across the globe.

Moderator:

- Norman Collins, The Ford Foundation, Mexico

Presenters:

- Neil Burnett, European Foundation Center, Belgium
- Patrick Johnson, Canadian Center for Philanthropy
- Valerie Lies, Donors Forum of Chicago, USA

Detailed Plenary Summaries

Reception

The International Meeting of Associations Serving Grantmakers (IMAG) began in Oaxaca, Mexico, on Sunday, 8 February 1998. Two years in the making, IMAG was born out of an earlier effort to bring together associations in 1992. At the opening reception, the chairman of the planning committee, Barry Gaberman, invited participants to use this opportunity to meet new people, build new skills and "look into the heart and soul of civil society."

In reference to the concept of civil society, he said "never have so many adopted a concept so quickly that so few of us are comfortable in defining." He pointed to the rich diversity present, saying it is almost impossible to make generalizations about the group represented at the conference, but he emphasized that diversity is precisely what makes this "such an interesting and dynamic cohort of organizations." It was also notable that the participants are, by and large, their own resource.

Mr. Gaberman said the meeting was indirectly focused on institutions providing resources to the Third Sector - specifically, grantmakers and foundation-like organizations - but he emphasized that the direct focus was on associations supporting these organizations - associations which are seldom addressed directly. He highlighted the roles of these associations in enhancing representation, providing services, and helping to build local philanthropy.

Opening Dinner: The Special Role of Philanthropy in Support of Civil Society Worldwide

Victoria P. Garchitorena, President
League of Corporate Foundations, Philippines

I'm going to talk mostly about corporate philanthropy which is where my experience is.

Philanthropy is more than giving to the disadvantaged, it should be a way of life, part of national and corporate culture, and taught by parents, business schools and religious organizations.

My organization is the League of Corporate Foundations; we started out with twelve members, and now we have forty-four, which include both grantmakers and operating foundations. My group is working to encourage corporate social responsibility as a way of doing business.

After 1986, the Philippines experienced relative political stability. There was a surge of new NGOs to face economic and social problems. With economic growth in the area, bilateral and multilateral funding from other countries dramatically decreased. An association of grantmakers and grantseekers decided to meet and they realized how much could be learned by talking with each other.

In the case of the Philippines, the government realized it could not answer all the social problems. A tri-sectorial approach involving the private sector and NGOs could begin to address many social issues. It also realized that some government funds could be used better by NGOs to move things faster and use money more efficiently than government agencies do.

What are the roles of corporate foundations? Some of our roles include:

1. To mobilize resources.

- Leveraging with bilateral and multilateral organizations (matching their funds with funds from other sectors of society).
- Serving as intermediaries. Sometimes, resources are funneled through corporate foundations, and passed on to sub-grantees or used in partnership with smaller groups, so there is growth on both sides.

2. To offer accountability and transparency for donors.

Funding agencies sometimes find that corporations have more organized systems and procedures. This makes them more comfortable in terms of better accountability and more transparency in use of funds.

In our foundation there exists four levels of supervision: an internal audit, a corporate audit, an external audit, and of course, the granting agencies also do audits. This ensures we follow internationally-accepted standards for guaranteeing accountability.

3. Sustainability

The issue is whether NGOs can carry on a project beyond the initial period. The focus now is to look at long-term solutions to poverty. As foundations acting like intermediaries, we are there in the community where the programs are, to assure that even after, for example, three years of funding, the NGO continues, since it may need 10 years to become rooted enough to become sustainable. NGOs can, for example, go into businesslike activities to generate funds, using disciplines of business management such as costing, pricing, and marketing.

Some NGOs in philanthropy start out as "Mom and Pop shops", like a soup kitchen, or a group of residents who want to do something for poor people. But we need to look at why people are poor, to look at the roots of the problems. By nurturing these small groups and taking them under our wing, we can help them so someday they themselves can develop a track record of accomplishments, whereby they can approach government or external funders on their own without intermediaries. We provide training before we help them get loans, so they can use them well.

4. Risk-taking and experimenting with social technologies

Because corporate foundations have endowments, the interest of which sustains our programs, we can better take risks with social technologies which may bring about better solutions to poverty, to poor nutrition. We can take a longer-term view, and if it doesn't work out, it's not such a big deal -- we can handle it. And, if we do have success, we can tell others so they can replicate these programs, through NGOs, etc. We are also looking to pool resources and focus on one program, maybe creating a greater impact. For example, we're even thinking of trying to reforest a whole mountain, as 44 organizations, to achieve a more successful project instead of little bits and pieces around the country. So, of course, we would work with local groups on the mountain.

5. Professionalizing, setting standards

As grantmakers, we have the responsibility to set standards of performance and demand high levels of quality in program delivery from NGOs. We can and should see that these NGOs perform their services at a standard that ensures the money is used in a clearly effective and efficient way.

For example, in the standards for credit programs, of course you've giving money to poor people, and maybe they've even paid you back, but that's not the real objective -- what's really important is that the lives of the people have improved.

Legal corporate foundations bridge the two worlds of business and NGOs/civil society. Before, there was a big gap between these two. Before, the government thought that anyone helping the poor was communist, and NGOs resented big business. But, we're all working together very well now. We just celebrated social development week with NGOs launching the week's celebration in the bastion of capitalism -- they had all their projects displayed in the middle of a shopping mall, with handicrafts made by poor people, etc. It was an interesting contrast, an example of how far we've gone to bring these two worlds together.

6. Leadership in development advocacy

We seek to not only respond to social needs, but encourage companies to set the example, by training the disabled for jobs, for example. You can't talk about it without doing it.

And, we're trying to intermix social development issues in business issues. We're encouraging corporations to include within their business planning some activities for looking at their impact in the communities around them. For example, for real estate companies -- looking at the environment; for HMOs -- looking at health care for the poor; for banking businesses -- looking at credit for the poor.

I would also like to make a special announcement. In the Philippines, the process of accrediting NGOs is very bureaucratic. We have been working with government to transfer the power of accrediting NGOs as nonprofit organizations with authorization to have tax deductibility on all donations. We have now formed the Philippine Council of NGO Accreditation, a self regulating Board for accrediting NGOs. This is a first in all of Asia. This initiative was formed by 6 groups including the League of Corporate Foundations, the Bishops Business Conference for Human Development, the Caucus of Development of NGOs, the National Council for Social Progress. The credibility of these groups assured a process where government would let go of its power.

There was movement in country to revamp tax system, in that initial idea of increasing tax collection, one recommendation was to scrap all incentives for deductions. We all reacted very quickly. They realized that we had to continue to receive funding. But they asked how will you assure that only competent NGOs will be certified.

We have 50,000 or more NGOs from "mom and pop shops" to political NGOs created by congressman to channel their porkbarrel. The large problem is to weed out pseudo-NGOs from legitimate ones.

To conclude, these are some of the roles corporate philanthropic organizations play. The challenges is to continue partnerships with NGOs to bring about economic and social development to benefit all Philippines and not just the few and the privileged.

Questions and Answers

Q. How do you judge whether NGOs are sustainable?

A. First we look at sources of funds, do they depend on one source only? One example was an NGO totally dependent on one agency and it did not look at diversifying sources of funds, or getting project recoveries (It was a credit program). So when aid agency ended the funding, the organization dissolved. Through endowment or project recoveries, mostly simply through loan repayment programs, or more through social enterprises are ways to show beyond a particular, the organization will have a life after the grant.

Q. How did corporate philanthropy come about in the Philippines and what is its future?

There were very few in the corporate world but in our case was it was set up by a couple. Through their endowment they decide to give back to community. Since then, a number of corporations have started setting up foundations. The idea of companies giving part of their profit to channel into social development for pure grantmaking was new. I also think it is important to distinguish between pure philanthropic giving and enlightened self interest. As time passed companies felt like they were too detached and not engaged. We have started a core of corporate volunteers where we actually encourage executives to get involved. They go into communities where we have partner NGOs, to offer services free, teach computer programs, to do what makes them feel they've helped. We offer public forums twice a year, where we invite corporations and tell them what we're doing and offer our assistance to help them set up foundations. We help to see there is no duplications in services.

Q. What makes an NGO legitimate?

In the Philippines there are NGOs set up merely as tax shelters; they don't really undertake programs; officers of corporations or members of their families are made officers of the organization and given huge compensations, so these are NGOs that shouldn't be included, because they don't do anything or they violate regulations. We are nervous about the power we've been given (accrediting NGOs) and have invited two community based organizations to participate.

Q. Will corporations see NGOs that engage in entrepreneurial activities as a threat or as competitions?

A. No. There is so much poverty in the Philippines. Business will not flourish if there is too much poverty. Large corporations don't face a risk of competition. All corporate foundations have embraced the idea of entrepreneurial organizational activities. Our philosophy is to "let 100 flowers bloom."

Q. Could you please talk about the Asian Pacific Philanthropy Consortium?

The Asian Pacific Philanthropy Consortium has three main objectives:

- Human resource development in the sector
- Creating a database of organizations
- Reviewing the tax and legal infrastructure of philanthropy.

Four countries were asked to lead this initiative with the Philippines being responsible for the Human Resource Development, and with this we have been creating training modules for NGOs. South Korea is responsible for the database, and Japan for the tax and legal infrastructure. In addition, each country will develop its own in-country training and database.

Promoting the Culture of Social Involvement, Giving, & Volunteering

Manuel Arango
Founder & Honorary Chair, CEMEFI
Board Member, Council on Foundations & CIVICUS

Some of my experience is in business, but what really inspires me is the capacity of the nonprofit sector to move things in the world.

I'm truly impressed with this meeting. Being here is part of the globalization process. Globalization brings a lot of hopes and a lot of fear. Hopes for solutions - fears of disruption. Hopes for more work, less poverty, better health, increased education, more justice and security. But there are also a lot of fears - fears of loss of identity and national sovereignty, even fear of organized crime and uncontrolled immigration.

Anyway, globalization is with us, and I want to refer briefly to what George Soros said in Budapest (World Assembly of CIVICUS, September 1997). He spoke of the economic benefits of global integration, but he also gave some warnings about its problems: uneven distribution of benefits, instability of the financial system, the threat of global monopolies, the ambiguous role of the State, and the question of values and social cohesion.

For right now, I would like to concentrate only on this last point. George Soros said about values: "Every society needs some shared values to hold it together. Market values, on their own, cannot serve that purpose, because they only reflect what one market participant is willing to pay another in a free exchange. Markets reduce everything, including human beings (labor) and nature (land), to commodities. We can have a market economy, but we can't have a market society."

Knowing that Mr. Soros is a controversial figure, I don't want to defend his theories, nor does he need me to, but I share some of his fears and support his concept of open society, which he defines as: a society with the greatest degree of freedom, compatible with social justice, and characterized by the rule of law, respect for human rights and minorities, the division of power, and a market economy. It must be combined with some degree of altruism and some concern for our fellow human beings, based on the principle of reciprocity. I was asked to talk about "Promoting the culture of social investment, giving and volunteering." I started by quoting Mr. Soros because I think that, whatever we call this sector - the Third Sector, independent sector or volunteer sector - it is what creates the balance between business and government - a very important and needed balance. And, many of us have decided to work in this sector.

Grantmakers need grantseekers. At CEMEFI, we work with both, and they're both part of the solution. During the last three years, we've developed a program to develop the culture of philanthropy in the Mexican society - at every economic level. When we decided to start the program, we looked at Canadian and US models. Our program is "Mira por los demás" - which we could roughly translate as: "Look after others."

At first we thought we were going to need a lot of funds, but as we went along, we realized that what is most important is to create a network. That's why we don't refer to it as a campaign. A campaign is like fireworks that light up the sky and then, it's over. But if you build a network, it's a lot of work - but if you succeed, it makes a big difference.

So, what is Mira? It's an educational program. It's about promoting the culture of giving - not necessarily giving money, but more importantly, talent, time, and work. It's about participation, about involvement, about seeking solutions to social problems. It's also about volunteering, about social responsibility - in a word, about citizenship. That's where democracy begins, and what holds it together.

We work with nonprofit organizations, corporations, media, churches, and universities. Our relationship with government is that we keep it informed.

We have also established standards of giving. Some companies are tired of being asked to give. They wonder: what does it go to? But, when we ask them what percentage they donate, they don't know. Most don't have an organized way of giving. We use the standard from Canada, which is 1% of profits before taxes for corporations and individuals, and 1 hour a week of volunteer time.

The nonprofit sector in the developing world is extremely important. There are a lot of people who have decided to be part of the changing world, but many of them don't want to do it through politics, so this is a very good option for them. Organized philanthropy can make a big difference in the developing world. Perhaps I haven't said anything new, but the most important part is that we continue to strengthen this sector that we believe in.

"Fishbowl" & Plenary Discussion on Mission & Vision of Associations Serving Grantmakers

We have been working to dig deeper to find what the mission really means. We have developed three strategic objectives, as part of giving our mission statement more meaning, which then serve as the jumping off point for a series of specific objectives and methods

Our mission statement serves primarily to tell others what it is we want to do. Our vision is to promote a caring and sharing society, and our mission is to realize this vision through building philanthropy and a civil society. But, mission and vision are not enough - you also have to state how you are going to achieve your mission.

Our vision provides us with common ground from which we can begin to outline strategies.

How inclusive or exclusive should our mission statement be? We need to keep it large enough for reaching an ultimate goal, but we also want a clear image for the public.

The mission statement can serve as a guiding light and a screen for deciding upon new activities and opportunities. The mission must be clear enough to articulate what we are about, yet also have a certain breadth to enable us to respond and move on to new opportunities.

Our vision is the ultimate outcome we're seeking - it is what keeps the organization alive. Our mission remains constant, and our values, which are the basis for everything we do, don't change either. Our strategies are what change over time.

One reason for a mission statement is so the public can understand what the association is there to do. It should be a short, clear way of saying why the organization exists, and how it is different from others.

A third of our board must retire each year, so there are new members joining all the time. The mission statement sometimes gets lost in the renewal process.

It is important to periodically review the mission statement to avoid too much diversification. Our annual strategic planning exercises give us a chance to re-analyze our mission. (Canada) We use our mission statement to ensure that the board is clear on what the organization is about and to create a common understanding.

I'm cynical about mission statements. I'm not sure we really know what we want to achieve! The vision is wonderful for getting people to talk about what the organization is about, and from there, develop strategy and achieve outcomes. If not, we just have a lovely talk fest!

We try to keep our mission statement alive and functioning. We have it on a wall in the room where meetings take place. It is published in our annual reports, in publications and for every board meeting.

It's important to pay attention to language and be creative. A mission statement doesn't have to be boring. If it doesn't fit on our tee-shirt, then it still needs some work! It should be a line that someone looking at can resonate with.

Representation, Accountability, & Standards in the Grantmaking Field

Dorothy S. Ridings, President & CEO
Council on Foundations, USA

I believe this is a time of great opportunity for associations of grantmakers to enhance organized philanthropy. The defining importance of our work as associations serving grantmakers is our ability to achieve larger goals that individual organizations are not able to on their own. Today, I plan to talk to you about these opportunities as I see them. First, I think we have an opportunity to increase public trust for organized giving. Second, we have an opportunity to encourage and promote self-regulation of our sector. And third, we have an opportunity to help shape the legal and tax environment in which we all must work.

I believe that we cannot overestimate the importance of accountability, ethics and standards as the cornerstone of our organizations. One of the key roles an association of grantmakers can play is to raise the level of public trust of foundations and the nonprofit sector in general, and without guidelines outlining the basics of ethical conduct for foundations, we will not succeed.

An example that illustrates the issue of public trust is found in a study completed by Independent Sector last fall. I was struck by the findings and the fact that people are more likely to focus on the negative aspects of charitable organizations than on the positive aspects.

In a list of negative and positive traits describing charities, the top three traits people chose were negative ones: high overhead, no disclosure and monies not spent on direct services. And the three traits that people thought were most important for charities were: being trustworthy, complies with strict regulations, and is open and accountable.

So, as you can see, a lack of openness to the public by foundations and charities promotes and fosters misperceptions, misunderstandings and mistrust. We must encourage foundations to be more open in talking about what they do, even at the risk of appearing self-serving. Lack of openness may result in new restrictions and/or a tax system that is not favorable to the sector.

Let me mention some ways that the Council on Foundations helps its members to be accountable:

- In 1980 the Council adopted a statement of "Principles and Practices for Effective Grantmaking" to which grantmakers must subscribe in order to become Council members. The intention of the Statement is to be a code of minimum standards to guide member conduct in their dealings with grantseekers, government agencies and the general public.
- We have recently established an Advisory Panel on Public Accountability, made up of seven highly respected individuals in the field of philanthropy, who will assist the President in responding to instances of possible institutional misconduct by foundations; this includes the entire field, not just our members. This panel was established on the recommendation of a special group convened by the Council, known as the Task Force on Grantmakers and the Public Interest.
- The mandate of the Task Force was to take a fresh look at the Council's mechanisms for encouraging among its members, and in the field in general, adherence to basic guidelines of ethical conduct and for responding to cases where these standards are alleged to be violated. An incident that received much media coverage involving one of our members accused of overcompensating its board members and overspending on operating costs led the Council to look at whether there might not be a more formal process set up to handle these types of incidents, infrequent as they might be.

- The Task Force completed its work in Fall 1995 and recommended to the board a set of specific procedures for guiding the Council's investigations into alleged misconduct by foundations. To date, these procedures have not had to be called into service.

Finally, let's talk about representation, the opportunity we have to help shape the legal and tax environment in which we all must work. There are many roles an association plays with its outside constituencies, including government (at all levels); business; multinational and international bodies such as the World Bank, International Monetary Fund, NAFTA, and USAID; and the media, which helps educate government officials and changes public opinion, hopefully in our favor. It's very important that you know the ins and outs of your country's legal, legislative and tax environment and that you build good relationships with these groups. The context in which each of us operate may vary, but our overall goal is to create legitimacy, believability and accountability for our sector. And it is important that we think in the framework of the entire sector, not just our own members.

Whether you are an association that has been around for 50 years or five months, there is always more that must be done to respond to our ever-changing global environment. In the midst of our work, we must not forget to capitalize on the fact that we are instruments of the extraordinary human impulse to make society a better place for all people. What a great privilege it is to work together towards this goal.

Value of Associations Working Together: Global Interdependence & the Associative Impulse

John Richardson, Director
European Foundation Centre, Belgium

If my memory serves me well, it was the German philosopher Arthur Schopenhauer who defined human society as a group of stachelschweine - porcupine - huddled together to keep warm.

This observation, cynical as it most certainly is, is not without a grain of truth: as individuals, we consistently assert our "individuality," however at the same time, we habitually look to our fellow human beings for support and security. This is ever more important because of globalization.

Globalization is changing the nature and shape of the world. The result is a world which is more interactive, more open, more porous, more hybrid, and less hierarchical. Cultures and countries that prosper will be those that are open rather than closed, promiscuous rather than inert, and orientated towards learning from outside.

In the era of globalization, there is no doubt that heterogeneity, the hybrid rather than the singular, multi-culturalism rather than mono-culturalism, are powerful assets. The most exciting places in the world are those that live on the edge, on the boundaries between cultures, places of fusion rather than uniformity.

The Right to Associate

In free, open and democratic society, the right to associate is held to be unalienable. It is a right that may be abrogated only in the most exceptional of circumstances. It is a fundamental human and civil right whose infringement shreds the very fabric of society. It is an indivisible right that has been enshrined in declarations, in charters, and in constitutions, written and unwritten.

Since the earliest of times, the act of association is an assertion and an affirmation of commonality of interest. By associating, by pooling our resources and expertise together, we network. By so doing, the whole becomes greater than the sum of its parts. Added value is generated in a variety of ways, ranging from the most basic principle of safety in numbers, to a process of "bonding" in small societal units - the prototype of the sharing/caring society we still aspire to on the threshold of the third millennium.

Principles

Every association is geared to the specific requirements of its component parts, i.e. its members. As to what an association actually does, I would submit that its tasks are essentially threefold: to convene, to communicate and to represent. Certainly, these are the three core functions of the European Foundation Centre (EFC).

Membership of the Centre implies voluntary commitment to the principles and objectives set out in the EFC Prague Declaration of 1993, and to the EFC Code of Practice endorsed in 1995. These two benchmark documents establish the aims of the association and the concomitant rights and obligations it assumes on behalf of its member organizations.

The Declaration of Prague was signed by the collective EFC membership on November 9, 1993. It reaffirms the unique role played by independent funders in building a just, equitable, and sustainable civil society in the new Europe; acknowledges the paramount importance of openness, integrity, self-regulation and control within the rule of law in democratic society; and calls upon governments and European and international institutions to provide a coherent legal and fiscal framework to support and regulate foundations and associations.

The Declaration commits the EFC and its independent funder members to the defense of fundamental human rights and freedoms and the advocacy of individual responsibility and participation for public benefit. It calls for the development and promotion of swift, flexible, coordinated and effective responses which governments alone cannot address.

Further, it identifies the need for cross-frontier and global funding initiatives and structured exchanges of ideas and dissemination of information on funding practice, administration, governance and corporate community investment. It advocates the reinforcement of the infrastructure of citizens' associations by the establishment of training, research and self-help programs and facilitates to underpin and stimulate organized independent funding. And, not least, it stresses compliance with and respect for openness and accountability within the rule of law.

To ensure a dynamic and accountable independent funding sector free from narrow national interests, the Declaration also calls on governments and European and international institutions to take all the appropriate actions to uphold the right of citizens to form new foundations and associations, to acknowledge a strong independent sector or "social economy."

It is only appropriate that rights be combined with duties. The self-regulatory EFC Code of Practice provides that, in fulfilling their role in helping build a just, sustainable and pluralistic civil society, independent funders must respect the need for openness, transparency, integrity and accountability.

A Global Outreach

"Association" and the will to associate have acquired new dimensions. In a world which United Nations researchers have quantified as comprising some 10,000 distinct societies existing within approximately 200 sovereign states, the overarching priority is to develop a sustainable global ethic that respects cultural diversity, pluralism, minority and majority rights, and the natural environment.

The EFC has taken a series of practical steps within the spirit of the International Meeting of Associations Serving Grantmakers (IMAG) to help add value to the worldwide foundation community. The Centre has signed cooperation agreements with umbrella associations of independent funders in five countries. And, chapters of EFC interdisciplinary civil society dialogue with the United States and the Nation States of the greater Mediterranean region and the global south.

Conclusions

By convening under the auspices of umbrella associations, member organizations consistently reaffirm their commitment to cooperation and exchanges of information and expertise. This continuing commitment offers a sterling example of the associative impulse.

Our meeting this week reaffirms our global interdependence.

Overview of the International Meeting of Associations Serving Grantmakers & Possibilities for Follow-up

Barry Gaberman, Chair
IMAG Planning Committee

I have to tell you that I can't think of a conference I've enjoyed more but found harder to sum up than this one. I said at the beginning that what you'll get out of the conference will depend a great deal on what you put into it. Many of you have put a great deal into.

I'd like to give you a flavor of the meeting as an overview, and then I'll say a few things about follow-up.

First, what I found is a series of dyads which are contradictory. For example, who should be here? Some thought: only associations serving grantmakers. Some thought: it should have been opened up to information centers. And luckily, some think we were just about right. Some voices said there wasn't enough time for people to tell their stories. A significant number of voices said we should have moved on to the concrete task of skill building more quickly.

Some said many situations are similar and generalizable, and so many others said experiences are different and common models are just not there. Some thought mixing "mature" and "emerging" was a good idea. Others said the sessions should have been layered.

The code was that the US, Canada, and Europe were too prominent in terms of participation, with not enough voices from the South being heard.

Some thought boards have no relevance to their local situation. Others thought that attention to boards was a missing ingredient in the governance structure.

These dyads don't make it difficult to sum up -- they were true, and accurately reflect this meeting. This will be a challenge for organizing future meetings. In general, most people gained knowledge, hopefully in the sessions and certainly outside the sessions. You could hear the hum and buzz all week! This group does the most effective networking I have ever seen!

This is a group that wanted to share experiences and that translated into a certain spirit. Something like the spirit of Oaxaca, because the place lent something to that.

This group didn't let language become an obstacle to dialogue. There was some talk about what civil society means, but people put it behind them early on.

A word on follow-up. I would like to do it in three levels. First, what you can expect. You can expect that there is going to be a report given expeditiously. Second, there is going to be an evaluation and it will be shared in a relevant fashion on the web site. Third, the web site will continue for a period of time. And, the web page will include a working note on things to think about while running a live conference. That will be a good piece of learning information! As a group, the planning committee will get together at the end of April, and with some distance, see the report, evaluation, comments, and have a chance to reflect on the learning.

Beyond what you can expect, there is another level which is what will "tease out" of the sessions. One category is: exchanges at the association level. Could you twin a mature and an emerging association to begin supporting each other? - not in a "mentoring" fashion, but by pairing up. On an individual level, there will be exchanges among staff.

There was a general sense that the legal framework was too important to be left to lawyers. And then, there were a lot of ideas around technical assistance, such as: Skills registry, where the skills providers would be the associations, but they'll also be recipients in other areas. To be able to collect information on corporate philanthropy, perhaps an international task force? A simple directory of useful web sites.

There could be a shift from the international zone to the next steps being more in a regional or subregional way. Mexico and South America have identified two meetings this year where they can keep talking. The same is happening for those from Europe and Asia as well. What is going to happen in Sub-Sahara Africa and the Middle East? And, what collective sense do we have to help the discussion take place in those areas?

Some subgroups do not necessarily have to be geographically based but more revolving around the type of association. Community foundations will continue to carry on a dialogue; also, there will be meetings among emerging associations and those serving only grantmakers. I would call these affinity groups, which are slices of the larger universe. In some way, they are answers to that difficult message of dyads that I gave you at the beginning. Seems like we always talk about newsletters, but now they seem to have a new wrinkle: to rotate editorship, to be online, and to send by broadcast fax.

Are there emerging best practices, codes of conduct, or international benchmarks?

The powerful notion of technology providing us with opportunities is a reminder that says there's no cheap fix. You have to figure out if you want to communicate, what, and then talk about the technology that is going to facilitate it - not the other way around. The energy and the demand are there for some of these things, and others will need a push.

Is there an identity captured here that people want to preserve? We have to be cautious about structure, think about the effort required, and concerned about costs. Some elements are: Keeping a list of who we are and updating it as it expands. A meeting every four years with affinity group meetings happening in the interim, in a way that keeps us all informed? Negotiating friendly legal frameworks for emerging democracies in an unfriendly business - we need international groups that could support them.

I don't have an answer for how we are going to do all of this, or what is going to be compelling a few months from now. It has to be demand-driven to make it worthwhile engaging in the enterprise. And, we have to be aware that sometimes leadership means the willingness to take action when consensus is not clear.

By way of conclusion, I think most of us feel we are richer for our diversity. And, we're not scared of the fact that when we look in the mirror, we don't see exactly what we thought we looked like. Let's not forget what it is that we can do: make those that fund civil society institutions better at what they do, thereby strengthening those institutions and assuring a more open, more participatory, more just and equitable society.

Detailed Workshop Summaries

Creating & Sustaining an Enabling Legal Environment

This session was designed to stimulate discussion in regard to legal context, registration, governance and accountability and, finally, taxation, especially in regard to stimulating discussion on similarities between systems. Material on the "Comparative Nonprofit Law Project" of the Asia Pacific Philanthropy Consortium by Thomas Silk, Esq., was made available.

Supporting Documents (see appendix)[MS1]

- Introduction to a Discussion of the Nonprofit Legal Context
- Registration of Nonprofit Organizations
- Introduction to a Discussion of Nonprofit Governance, Accountability, & Transparency
- Tax Incentives & Capital Formation

Legal Context

The term "legal context" in relation to NGOs refers to three distinct concepts:

- First, the legal system, which includes rules of nonprofit law, legal procedures, and the institutions that apply the law. Second, the legal culture: specifically, the values and assumptions about the origin, nature and function of law in a particular society. Third, the legal tradition: the identification of the legal system with one of the three major legal traditions - civil law, common-law, or socialist law tradition - or with other widespread legal traditions.
- Most importantly, we mean the government policies toward NGOs. Many governments, however, do not have explicit policies toward NGOs, although that appears to be changing. And sometimes, restrictive nonprofit laws, which were initially justified on national security grounds, remain on the books long after the security threat has diminished.
- Similarity in legal traditions may not be reflected in legal results. For example, government agencies in two countries may be vested with virtually unlimited discretion in deciding whether to permit or deny registration of NGOs. However, in one country government employees may exercise that discretion in a skeptical, obstructionist manner and in the other, in a positive, enabling manner.

Discussion

Currently, Kenya is undergoing a gradual transition process from laws of social control to laws that empower civil society groups to form and operate. For example, the registration process is becoming easier. However, groups that are not legitimate may also enter the playing field. It's difficult to decide who to support.

Most of the bills on nonprofit law being drafted by bureaucrats and political parties in Japan are still focused on how government can control nonprofit organizations, and they don't refer at all to tax deductions or tax incentives. Most nonprofit organizations are not registered.

Bulgarian law is from the 1950s. In 1992 a few foundations started to work on proposing new bills, and now they are engaging in lobbying.

The overall global pattern in this area is serious, constructive and moving in the right direction. However the trend in the US is negative. Some of the negative trends in the US context include: threat to advocacy; debates over tax-restructuring on charity giving; and campaign finance reform which poses potential restrictions on voter education activities by NPOs.

If we analyze the legal context in different countries, we will see varying results. There are blessings and curses in each case. The negative trend in US policy is due to partisan backlash; however, there is room to mobilize. In other areas of the world, people may not have the access to government as we find in the US, making mobilization a very different and complex step.

A lack of clarity within the sector inhibits a clear, supportive legal context within each country. In order to bring in more power-of-voice for the nonprofit sector, there must be standards for NGOs. Government policy makers may be less willing to fight for structuring a supportive legal context if the nonprofit sector cannot be accountable.

I like to take a positive view. The reason laws are being debated is because people now understand that we exist. It is healthy and natural. People are trying to figure out where we fit into the law. It's surprising to see how recent the legal context in the US is. Only after 1976 could organizations that were denied their exemption go to court and challenge. All the rules are very recent, and there is nothing we can call an explicit policy in favor of NGOs.

Registration

Do laws on registration have any effect on the nonprofit sector or do most groups operate unregistered? In Korea, 80% of nonprofits are not registered. In Singapore, non-registration is criminalized. Most countries leave it as an option. Nonprofit groups tend to register when it's a matter of necessity or when it's favorable from the viewpoint of cost/benefit analysis. Legal status is essential in instances where "personal liability" is an issue.

The registration process involves the preparation of documents and conforming with government agency acts. Each country has its own process with varying degrees of requirements. Some governments use registration to regulate nonprofits. It is particularly challenging in developing countries because there are no services for assisting in the registration process.

- In Canada the process is accessible and easy.
- In Mexico a group must provide extensive information to become a private assistance institution, and is then subject to heavy regulation.
- In Italy organizations register according to geographical distribution.
- In El Salvador and Thailand organizations may register with the local police.

Nonprofit Governance & Accountability

State-imposed limitations on self-governance range from the extreme example of China where the government oversees activities, to Germany where tax reports are not even shared. In many Asian countries budget proposals must be approved by the state. In Egypt meeting minutes must be provided to the responsible state agency within 15 days.

Discussion

In Kenya, there's a risk of corruption in organizations setting up NGOs for their own benefit. They are only accountable to donors. Fundamental factors in gaining acceptance are transparency and accountability.

In San Francisco, it is being proposed that the laws on open government meetings also apply to NGOs receiving public funds.

Taxation

The tax system is an instrument of government policy. It contains incentives and punishments for certain behaviors.

What connection, if any, exists between tax relief and registration? In many countries there is no connection, and you must use a different process. In Korea, for example, tax relief comes with registration, while in other countries you have to file separately. The second obvious issue is how you get your tax relief. In the Philippines the organization files one application; if it is granted the organization doesn't have to ask again. In Brazil the nonprofit has to reapply every year.

Tax incentives vary greatly. In the Philippines, the generous tax exemptions go to corporate givers. In South Africa, there are more generous benefits to individuals than to businesses.

Discussion

In Kenya opportunities for tax-exemption have been abused a lot. Each country has to think creatively to establish accountability in the government tax system.

In Japan, only corporations have tax incentives, not individuals. The public has to think about the uses of taxes, and become more aware of what the choices are.

Early Stages of an Association

The purpose of this workshop was to share experiences between associations with many years of experience and those still in the early stages. A six-member panel represented three countries in each category.

A concrete proposal which emerged from the discussion was to encourage voluntary "mentorships" in which a new association and an experienced one decide to pair up so that experiences can be passed along.

Some Experiences Shared

The session began with a discussion of some of the reason for developing an association. This included:

- to strengthen the sector
- to have a greater impact

One association in Eastern Europe functions without a formal structure and the decision has been made to not develop such a structure until the need becomes apparent. So far, there are no membership dues; rather, each member organization contributes in-kind resources.

Often a specific situation acts as a catalyst to move the organization to become more structured. In one European country, the form of an association was chosen in order to be able to create a sound financial basis for the organization, and assure sustainability through collective membership and contributions. A government subsidy became a catalyst to formalizing the organization. Membership dues range from a minimum to a maximum, determined by the amount of resources spent annually on grantmaking.

In one Latin American country, an association had been functioning on an informal basis for five years when a congressman misused philanthropic funds and the whole sector lost its credibility. It became necessary to formalize the association to work to regain credibility. A major challenge for many groups is financing. Some feel membership dues are important, not necessarily to pay for services, but for the development of the overall association. Some have kept dues to a minimum. Others feel that from the beginning, membership dues must be set high enough to cover the core costs of the organization and establish financial viability. Some have not required dues from member organizations from developing countries for the first few years of their participation. It was reported that even in larger, long-standing associations in Europe and the US, dues are only one component, with other funds coming from selling services and from large donations.

Suggestions for Associations in Their Early Stages

Associations must develop in accordance with financial resources available. A European association suggests not developing too rapidly. It's a long process. The important thing is to position yourself, and prioritize what you can do. A Mexican association feels the "positioning" of your association must be not only an outward process, but also an inward one, and it must involve the board.

One European group believes that at the beginning, you may not know exactly where you're going or how to get there, but a fundamental ingredient is the willingness to move forward. But even willingness may not be enough; those involved must first define for what purpose they want to develop an association. If the process is not going well, it may not be the right time. An initial attempt in Europe failed, but several years later, it succeeded. Three Asian groups feel that it's necessary to begin by educating and creating a consciousness, before even talking about developing an association. In some countries there is a tradition of hierarchical, not horizontal, organization, and the process involves changing values and changing notions of participating and working for the common good.

One challenge is to coordinate efforts within the association and analyze what each member organization can contribute. One Asian group emphasizes that member organizations may play different roles at different critical moments. A suggestion is to ask member organizations to host the association's general assemblies. A European association feels this encourages ownership and strong commitment to the association. It builds general assemblies around issues that members have expressed an interest in.

An Asian group recommends to keep your focus on a limited number of activities. Work toward improving the quality of your services. Flexibility is important. And, most agree that there is not only one model to follow. Experiences vary, depending on the context in different countries or regions.

To succeed, you need the will and commitment by a key group of people, or a critical mass.

Governance & Boards of Directors of Associations

After a discussion of the role and responsibility of boards this session looked at some possible situations on how boards function and the problems/conflicts that could possibly occur along with how to deal with these issues.

Boards have:

- a legal role (in some countries, they are legally required);
- a functional role (fulfilling specific responsibilities); and
- a symbolic role (related to the credibility, legitimacy, and accountability of organizations).

Universally-recognized standard of conduct for board members:

- Duty of obedience - being true to the organization's mission
- Duty of care - exercising caution and sound judgment in decision-making, preparing for meetings and participating in discussions, reading relevant materials and asking good questions
- Duty of loyalty - putting individual interests aside for the good of the organization

Responsibilities of nonprofit boards:

1. Determine the organization's mission and purposes.
2. Select the chief executive.
3. Support the chief executive and assess his/her performance.
4. Ensure effective organizational planning.
5. Ensure adequate resources.
6. Manage resources effectively.
7. Determine, monitor, and strengthen the organization's programs and services.
8. Enhance the organization's public standing.
9. Ensure legal and ethical integrity and maintain accountability.
10. Recruit and orient new board members and assess board performance.

Discussion

One participant questioned the use of the word "manage" in Responsibility No. 6: "Manage resources effectively," since it's important to maintain the difference between "governing" (by boards) and "managing" (by the executive staff).

Other responsibilities of boards mentioned by participants:

- *to bring new members into the association*
- *to represent the association*
- *to promote the association as a "living, breathing advertisement"*
- *to defend and protect the organization publicly*
- *to evaluate the executive director*
- *to approve budget and annual accounts, to define parameters of strategy, to address membership issues*
- *to enhance resources, both human (by increasing membership) and financial*
- *to serve as a guardian of the organization's mission, value and policy*

Participants agreed that there are many responsibilities which are joint board/staff responsibilities. In younger organizations, the board tends to be more involved. Boards for associations covering various countries tend to be very complex!

Roles or dimensions of board work:

1. *Legal - Each country has its own laws. In the case of the US, boards are legally required.*
2. *Functional - The work of the board in doing and fulfilling responsibilities that others cannot do for them.*
3. *Symbolic - Organizations need to have credibility, accountability and legitimacy, and boards have something to do with all of this.*

What are some other roles or dimensions which are unique to association boards?

- *Boards of associations function democratically. Board members are the custodians of the association's values.*
- *I've heard the word "representational" mentioned, but we've decided to use the word "reflect" - that board members reflect, instead of represent.*
- *On our board we try to achieve a balance that reflects membership - for example, differences in sizes of foundations, whether large, medium or small. This is even in our constitution, although there are no rules for how to achieve this balance. Second, we try to have a mix of both trustees and executive directors. Plus, we make sure we have both women and men, and different ethnic groups.*
- *Representation is also an issue for us, to include each of the different kinds of foundations and associations, and to include both trustees and staff. But what's really important is that everyone has to take off their individual "hats" when they're sitting on the board.*
- *My experience is that there's a lot of importance placed on the board's symbolic role, and that the board should reflect. In South Africa, we're concerned about being gender-sensitive and about having racial balance.*
- *Our board reflects small/medium/large foundations, directors/trustees, geographical factors, and a certain expertise including legal, fiscal, social, and contacts with authorities. Our statutes allow for a maximum of one-third of our members to be outsiders. It makes a difference what stage you're in. At the beginning, we needed a lot of legal and fiscal expertise from the outside.*
- *We have a management board, but not a board of directors yet, because we're still creating things and thinking things through.*
- *Boards look different over time. At NCNB we talk about organizational, governing, and institutional boards. But it's not that static. It's important to look at different parts of the world.*
- *In South Africa, an issue which is emerging is whether to pay board members for attending meetings - to motivate them. In developing countries, some people can't afford to be on a board without receiving pay.*
- *It depends on the situation. For us, it would compromise our position if we were paid, because transparency is an important issue.*
- *It can be a legal issue. For us, board members cannot be paid - they must be volunteers. Often this is specified in the statutes. Sometimes tax-exempt status is given only when everything is done on a volunteer basis.*
- *Some of our independent foundations realize that if board members are not paid, they'll be limited to only retired persons, and they won't have a breadth of expertise. Some groups are working on being able to compensate for loss of earnings without violating the principles of volunteerism.*
- *We decided not to pay expenses, because how do you do it? Pay air fare for one? taxi for another? and parking for another? We think their own associations can cover their expenses. In the United States and Europe there are very clear rules, but in developing countries we don't have the same kind of legal framework.*
- *We work with both grantmakers and grantseekers, and we find that it does make a difference to reimburse people - because you want them to attend meetings!*
- *I've seen some use a sliding-scale approach, depending on individual budgets.*

Conclusions from small group discussions on four case studies

- Term limits and their effect on the board
 1. For a membership organization, it's important to rotate people through the board, for renewal and representation and involvement, and so that all have the opportunity to develop leadership skills. When there are term limits, there is less hesitation to bring young members on the board. However, it's important to avoid changing the entire board at the same time, so that senior members can orient new members, and to avoid loss of collective memory and history. One suggestion is a minimum of four years and a maximum of six years for each term on the board, but allowing members to serve more than one term if they sit out for a year. Another suggestion is to create a council of senior advisors, so senior members move off the board but remain involved.
 2. We see the importance of limits as, first, so the board will be continuously renewed, but still have some stability. Second, it's easier to recruit board members if expectations are clarified - to clarify that "this isn't a life sentence!" There's concern about the potential loss of institutional memory. Some suggest allowing board members to come back after a break, or to form a separate, honorary board. But this doesn't mean there shouldn't be limits. If you can, it's good to institutionalize limits from the very beginning - it's harder later.
- On hiring a member of the board
 1. In general, it is not recommended to hire a board member for a staff position.
 2. There are three possible ways to view this situation. First, to consider it as a clear conflict of interest, and ask the board member to decide if he wants to remain on the board or join the staff. Second, that the answer isn't always "yes" or "no," but rather must be decided on a case-by-case basis. Third, to use the "disclose and manage" approach. But our conclusion is that in most cases, we don't recommend it because it is too likely to be problematic. Also, it is recommended to develop a conflict of interest policy.
- On the role of board members in fundraising
 1. Board members should not be responsible for organizing fundraising, but their participation is vital.
- The founding executive doesn't believe he/she should be evaluated by the board.
 1. The board must be accountable and needs to have a process for evaluating the executive director.
 2. We would suggest setting up an evaluation of the entire program, and as part of that, assess the director - to avoid putting him/her on the spot.
- When some board members have more power than others
 1. If there's a sense that the needs of small foundations aren't being addressed, that's a board issue and must be confronted by the board. It's difficult when a board member says "I'd like for us to do this project, and my association will fund it." We have to be constantly alert and aware of this kind of situation.
 2. We have heard an interesting approach that was taken in Taiwan. The association recognized openly that, "In our culture, we are known to be deferential to power," but it declared that "we aren't going to function that way here."

Information Exchange Among Associations

Interest was expressed by a number of participants in developing ways to exchange information after the Oaxaca meeting to continue dialogue on some of the issues raised in sessions, continue the conversations that took place in the hallways, and consult with others on day-to-day challenges.

Ideas for Information Exchange Among Associations

What kind of information do we want to exchange?

- Organizational activities
- Classifications systems
- Strategies for information collecting, etc.
- Legal, fiscal environment for funding
- Funding information
- Association development
- Building new funding strategies
- Corporate giving
- Experience in developing directories

How can we exchange information?

- Listserv (useful with tangible questions and fixed answers)
- Electronic newsletters (with editorial direction that could be rotated)
- Writing articles that can be published on the Internet and generate discussion (also on Internet)
- Conferencing site (electronic)
- Pairing up between organizations
- Sharing case studies and bibliographies on particular issues
- Creating a network (not a formal structure) to continue and expand IMAG
- Using the IMAG website and expanding upon it
- Creating an association directory that includes people to contact for specific information
- Maintaining the mailing list
- Website directories, hyperlinks

Other Issues Raised

Are we talking about information that is unique to each country, or are we talking about information that can be shared among different countries?

The problem is not only to find the information but what to do with the quantity of information - how to find what is useful and where to put it? It's difficult to cope with so much information! The top has been blown off information. There are lots of information providers. We need to be those best organized. And, we need to guide users on how to use our information.

Placing information on the Internet is important for adding to our credibility.

Directories & Libraries

Collecting information on foundations:

- For your foundation directories, use survey questionnaires by mail. It's easier if you send what you already have in your database, and ask for corrections. Some foundations may not want to offer information; however if they see you already have information, but perhaps something is incorrect, they will be much more likely to fill out the questionnaire, to make any needed corrections.
- Another source of information is what foundations generate in terms of annual reports, publications, and other wonderful resources.

- Websites are marvelous sources for collecting information.
- Some association members are interested in databases because they want to know what others are doing. They will offer their information because they want to be transparent. They can then serve as leaders in setting standards.

Managing and organizing information:

- Define your universe - what it is you want to collect.
- Make sure you use a database that can be built upon or expanded over time. And, choose a commonly-used database so you can easily find technical assistance.
- Very important tools are taxonomies and indexing systems for classifying information.
- Create your own standards, and make sure information is accurate before you put it in your database.

Outputs

- Directories can be printed or electronic. Some continue to feel that printed directories are easier to use, but you can put your database on CD-ROM, or on the web, for a fee.
- Open access libraries play an important role, since having information publicly available avoids accusations of secrecy. You can start with something small and gradually develop it over time.

Member Services

The member services workshop was designed with the objective to discuss key concepts and principles underlying effective member services using examples and exploring models/vehicles for delivery. The group split during the session to discuss at length three topics:

- convening members
- information sharing and knowledge creation
- representing the interests of grantmakers to government and the wider public

We involve members in planning activities. We don't do anything without first talking to members to find out if it's going to be relevant for them. We ask ourselves: What do members need in terms of tools and resources to launch their program in their communities?

We move our board meetings to where our members are. This isn't inexpensive or easy for us, but we believe it's important. Our members are invited to attend the board meetings, and to not only observe, but to participate. And we plan a social time to talk with them about how we're doing in meeting their needs.

Three challenges we face are:

1. How to manage members' growing expectations when we have only a modest, if any, increase in human resources?
2. What is our role in accountability, best practices and setting standards?
3. How do we accommodate, respect and understand all of our differences?

Our boards need to be "up front," anticipating, "staying ahead of the "curve," and in touch with the membership. We need to build links with other organizations, the media and government; this helps us to place our work in the larger context, to see where we can build partnerships, and to develop networks of advisors.

We see ourselves as an organization that listens carefully to our members, responds and anticipates. Our focus is on being relationship-oriented.

Discussion

On providing information regarding taxation issues:

Some associations focus on lobbying and playing an advocacy role for their members. Some see their role as interpreting information and making sure it's available to members. One group tries to provide general information on this area, and feels that if members need more specific information, they need to go to a professional.

One association depends on receiving free advice on tax issues from law firms that donate their time. Others depend on having one person on their staff who "really understands" tax laws. Some groups publish materials on tax issues or use publications from other groups, always trying to keep the information brief and easy to understand. Another idea is to set up a system for providing this information on a website. One group has found that new and prospective members are especially interested in accessing information on tax issues.

On publishing a magazine for members:

A number of participants emphasized the importance of publishing a magazine for their members: to "get our message across," to establish credibility and to create a public profile. One association did a survey and found that 86% of its members consider its magazine to be its most important service. A number of participants have found it difficult to maintain this service because of the costs. Some associations raise money to subsidize this service, since membership fees alone don't cover it; only if the magazine has a large circulation can advertising help with costs.

On membership fees:

Issues raised included:

- *how to structure membership fees in response to the diversity of groups and their different-sized budgets*
- *the challenge of responding to members who ask "why should we join and what do we get for our money?"*

Other issues:

Important services to members were identified as providing networking opportunities and providing leadership in setting standards and developing best practices.

Long-standing "committees" have been replaced with short-term, task-oriented working groups organized for specific projects.

Two levels of information services were identified:

- *collecting, verifying and publishing information*
- *analyzing information and providing useful material and tools*

The challenge in representing the interests of grantmakers to government is to build a positive relationship, based on providing services the government cannot provide.

Resource Development

This session was designed to allow participants to share their experience with establishing a sound financial base - including time to discuss these models and their applicability for others. In addition there was a presentation to consider the importance of non-financial resources.

1. Bob Moffat, New Zealand Association of Philanthropic Trusts

Some suggestions regarding finances and fundraising:

- In managing your finances, develop your strategy. Aim for self-sufficiency.
- Methods of fundraising can include sponsorships, special events, conferences, status dinners with speakers, publications, and newsletter advertising. It can also include selling products such as a fund seekers database, funders database, and an award and scholarship database.
- It's necessary to work to influence public policy, and demonstrate to politicians the value of philanthropy. We also need to develop partnerships and collaborate with others. And, we need to focus on values, encouraging philanthropy as a philosophy.

Right now, we're concentrating on our member services. Once we've consolidated them, we can start looking at endowments. It's a big challenge to establish philanthropy in the minds of decision-makers and the wider community, and it involves re-educating people about giving, and encouraging wealthy individuals to set up trusts.

2. Jorge Villalobos, CEMEFI, Mexico

CEMEFI's experience in the search for sustainability:

During CEMEFI's first years, nearly all the funds were provided by a gift from its founder, and we also received funds from a couple of large US foundations. Then, the key became how to diversify funding. We developed a plan to substitute the founder's gift with income from fees and services. Later, we began to seek corporate donations. In the case of our magazine, costs are covered by advertising. We are making great gains, but are still working to achieve sustainability. We want to limit funds from international foundations to only 20%, to be used only for additional programs, not for core costs. We recognize that our goal may not be realistic and we may need to define sustainability as covering core costs, while still seeking funding from other sources for additional programs.

For us, sustainability is an equilibrium between income and expenditures. We've looked at keeping a limit on overhead, and placing a limit on number of staff. We've made a strategic decision to not accept government support in order to maintain our independence.

3. Elizabeth Cham, Philanthropy Australia

Seeking resources other than money:

We began to seek more services from the people around us. We formed a volunteer committee of journalists and designers to improve our quarterly journal, and we found a corporate member with a printing press. All our legal advice is provided on a pro bono basis. A member donated office space for three years. We've kept our staff small and only part-time.

We changed publishers for our directory, so we received more of the income. The cover design, legal advice and database for our directory were all based on pro bono work. When the board wanted to know how we could become a sustainable, national-level organization, we found master's degree students to take this on as their project and they did a great job. When we encourage businesses to contribute on a pro bono basis, we suggest to them that this is part of the new way of doing business in our changing world. We make personal contacts with the help of members and board members.

We set up a resource center for grantseekers. Membership fees bring in substantial income, and selling directories of scholarships and awards for higher education has also become an important source of income. Hopefully, this center can sustain itself in the future. When we ask for pro bono contributions, we are always very firm about what people can expect in return. It's a matter of reconsidering resources, and building partnerships.

Discussion

One participant feels pro bono support is fine in the beginning but cannot be maintained long-term. Another has had negative experiences with pro bono work which has led to extra time required by a limited staff. Others feel it's necessary to achieve a mix between pro bono work and paid work. And, others emphasize the importance of asking members to serve as volunteers so they will get more involved and their expertise can be harnessed.

One participant from Eastern Europe believes a strategy of this kind forces one to be creative, and to leave no stone unturned. And, you are offering people something even greater than they are giving in return.

4. Katherine Pearson, The Ford Foundation, Kenya

Ideas about money:

- In general, people prefer to avoid talking about money or asking for it. But, we find ourselves in jobs in which we need to talk about it, and if we don't ask for it, we won't get it. There are assets in every community, regardless of where it is in the world. We are the facilitators, the bridge-builders, who make it possible to use resources to make a difference.
- The first step toward sustainability is to establish a five-year plan. Endowments make it possible to keep membership dues low. One way to raise money is to increase membership.
- It's important to have a healthy relationship with money and not feel intimidated about it. Money is power, and philanthropy gives people the opportunity for power and for equal exchange of services. Philanthropy is not about begging; it can be used to control but it can also be used to empower. Give your own money away to truly understand the nature of giving money.
- You won't get it if you don't ask for it. Ask people for gifts three times a year. Some members will give even if they also pay dues. People give money to people. It's all about relationships.
- Do your research! Develop lists of potential donors; buy databases.

In terms of funding sources:

- Dues represent the sustainability of your organization. Dues should be high enough to cover operations, to ensure the organizational body can play its leadership role. Grant donations from foundations and corporations are best used as seed money or for special programs.
- Develop an asset development strategy. Look at the categories of planned/deferred gifts; endowments; grants (from government, corporate and private foundations, etc.); and products/services (what you can market). Look at who within your organization has the skills to develop your strategy. Assess the merits of your membership services.
- Work to build relationships with your members. Focus on retaining your members, acquiring new members, and planning for the long-term.

Discussion

A Canadian association keeps membership dues low, so they remain accessible to all, and consequently, finds an unexpected advantage in that it's then possible to return to some members and ask them for additional support to help fund special initiatives.

A participant from Europe suggests that perhaps sustainability doesn't mean total financial independence, rather, that part of the answer is having predictable income.

A participant from Africa suggests organizing programs so they will not end when funding ends, and setting structures in motion.

Many groups find it difficult to sustain themselves with membership dues. A participant from Western Europe says the reality is that not all members pay their dues. One participant from Eastern Europe believes it may take several years to reach the point that dues are a substantial part of income.

Strengthening Information Services Through Technology

This session was designed to show by example what colleague organizations are doing with technology - a review of databases, E-mail, the Internet, fax-on-demand, fax broadcasts, etc., was covered.

1. Patrick Johnston, Canadian Centre for Philanthropy

It's very important to begin by establishing a clear rationale for why you want to increase your use of technology. We spent a lot of time developing a blueprint. Remember that technology is simply a set of tools. In the end, the content is the most important, because the best technology without content isn't useful or valuable to your members.

We have a policy that whatever we provide on Internet, we also provide in a hard copy to members. We don't want to discriminate against smaller groups - even though this means we need to do things both ways until everyone has access to Internet

Limiting access to some information on your website to only subscribers is one way of generating income. However, in Canada, a small country in terms of population, our website is not a significant income-generating source for us.

You may need outside expertise to help develop your master plan or blueprint. Don't create a level of technology that your organization cannot deal with. Be realistic and first, define what you expect to get out of using technology.

Although we're at different points in different countries, it's a matter of time - someday we'll all look back and wonder how we managed without Internet. And, even for "technophobes" like myself, it's possible to confront such fears! Good use of technology is efficient and it even has the potential to reduce costs.

Three possible uses of new technology:

1. Broadcast Fax - We use broadcast fax when we want to send the same information to 750 people. Instead of printing copies, stuffing envelopes and mailing them, we send the information to a company that sends it out electronically according to a mailing list we provide and update regularly. In Canada, for up to 2-3 pages, it's actually cheaper this way.
2. Website - We spent a lot of time visiting other websites and learning from them, picking and choosing what we liked and wanted to use for our own website. One of our website services is the "Members Circle" which is only accessible to our members, who receive an ID number and a password. We also post all of our publications, including back issues of newsletters. And, we have a Resource Center Library.
3. Directories - Although we provide hard copies of our "Canadian Directory to Foundations and Grants," it is also available on Internet - with the advantage that we can constantly update the information.

In our case, we've used consultants to help us, and two of our staff spend time updating our website. We received funding from a foundation to develop an online resource center, and we've used in-house funds and have also received donations.

2. Neil Burnett, European Foundation Centre, Belgium

Our increased use of technology means we will have increased costs for a period time, but we recognize we can't move completely away from the phone-fax-letter culture. We are currently using:

- an Internet site (free)
- an extranet site (only for members and associates)
- an intranet site (for staff only - for work-in-progress not yet ready for members, or for mailing lists we don't make public, etc.)

While we originally used the Internet as a replacement for phone calls and for simple researching, we now also use it for an internal network of communication, for automatically responding to certain requests with an "auto-responder," and for detailed research. We have a mailing list with 6,000 names, a bibliographic database with an updated listing of 700 books with abstracts, and a Funders Online Database with a search engine for funders with websites.

The web is used to find and move "active" information. An annual report, for example, may be too costly to put online. Users may request long documents or more detail, to be received at their E-mail address or in a hard copy.

In the case of the European Foundation Centre, it has developed a full network without ever having a technology budget. One staff person has served as the "technology expert" plus other outside experts have been consulted, but these services have never been paid for. Software available free to nonprofits has been downloaded from the web. Other funding has come in randomly.

Recommended DOs:

- Include everyone in your organization. Let everyone have access, and help them know how to use it.
- Train your staff and help them get involved by suggesting that they check out personal interests (gardening, music, etc.) to get familiar with the tools.
- Hire or train an Internet specialist.
- Look on the web to see what for-profit associations are doing. They service their memberships in similar ways, and we can learn from them.

Recommended DON'Ts:

- Don't wait - begin now, even if minimally. It won't cost a lot to begin some simple use.
- Don't spend a lot of money developing your website. Keep it clear, simple and easy to use. Expensive websites are too complicated for users.
- Don't underestimate the importance of using the Internet, and don't underestimate how fast everything changes.

Questions and Answers

Q: Do you keep track of the numbers of visitors to your website, and the amount of time they spend at your site?

A: Our web server is working to deliver these figures to us so we can read them in a user-friendly way.

Q: Is updating your Foundation Directory a huge task?

A: We've reconfigured our staffing positions so one in-house person updates our Foundation Directory, and another person is in charge of updating the rest of the website. We did not hire new staff, but rather shifted responsibilities of current staff.

Q: Are you planning to include information in French, in addition to English?

A: We are working with a counterpart foundation in French, and are trying to come up with an arrangement, although we're not sure we will be completely bilingual. In the case of the European Foundation Centre, the decision has been to include only English, because if others languages would be included, it would have to be 15 of them.

3. Valerie Lies, Donors Forum of Chicago, USA

Technology is a basic, organizational building block, as important as staff-building or board-building. The technological infrastructure we need to do our work is considered along with our other basic necessities such as office furniture and writing materials. Our younger, less-fearful, very-immersed-in-technology staff initiated the move to increasing our use of technology.

Part of fundraising is marketing and packaging. Members and boards are much more aware of the importance of technology, and this is significant because it makes it easier to find funding for technology.

We like to cover part of our technology costs with our operational reserve monies, demonstrating to our members and other funders that we are investing in technology because we think it's important.

Remember that if you accept donations, make sure they fit into your technological infrastructure, so they don't end up being more trouble than they are worth. The use of skilled volunteers working on a pro bono basis will cut hours of costly staff time.

On how to raise funds to cover costs of increasing technology:

1. In your budget for each special project, include the costs for delivering those services with the use of technology.
2. Remember to include support and maintenance costs and staff training costs related to technology in your budget proposals.
3. We devote some of our general budget to technology, and in our requests for funding, we specify only certain areas needing extra funding.
4. Try to use volunteers to provide some of the needed consultation.
5. Corporations and telecommunications companies seem to be more aware of the need for technology, and may be more responsive than others to requests for funding.
6. First, we educated our staff on how technology could help them do their job better and help the overall organization; then, we integrated technology into our operating plan and budget proposal; and then we worked at educating our board, demonstrating how websites can be used, etc., at board meetings. We also provide seminars, etc., for our member associations, because the better-informed they are, the better success they will have at raising the needed funds for technology.

Discussion

Participants expressed concern over how to convince board members of the importance of using new technologies and how to find the necessary staff time for developing such services.

Agenda

SUNDAY, 8 FEBRUARY

- 6:30-7:00 **Reception**
Welcome by Mr. Emilio Carrillo, President, Centro Mexicano para la Filantropía (CEMEFI), and Barry Gaberman, Chair, IMAG Planning Committee

Sponsored by the Amoco Foundation
- 7:00-9:00 **Opening Dinner**

The Special Role of Philanthropy in Support of Civil Society Worldwide
Ms. Victoria Garchitorena, League of Corporate Foundations, Philippines

Sponsored by the Amoco Foundation
-

MONDAY, 9 FEBRUARY

- 8:30-9:30 **Breakfast Roundtables**
Overview of agenda, facilitated introduction of participants, and discussion of meeting expectations
- 10:00-1:00 **Workshop Sessions I**
- Early Stages of an Association
 - Member Services
 - Creating & Sustaining an Enabling Legal Environment
- 1:30-3:00 **Plenary Luncheon**

Promoting the Culture of Social Involvement, Giving, & Volunteering
Manuel Arango, Founder and Honorary Chair, CEMEFI, Mexico
- 3:30-4:30 **"Fishbowl" & Plenary Discussion**

Mission & Vision of Associations Serving Grantmakers
- Moderator: Helen Seidler, Council on Foundations, USA
 - Gaynor Humphreys, ACTAF, UK
 - Evelyn Berg Ioschpe, GIFE, Brazil
 - Mokhethi Moshoeshe, SAGA, South Africa
 - Ross Ramsey, Community Foundations of Canada
 - Lynn Helbling Sirinek, Donors Forum of Ohio, USA
 - Pushpa Sundar, Indian Center for Philanthropy, India
- 5:00 **Group Photograph**

TUESDAY, 10 FEBRUARY

8:00-9:00 **Breakfast Buffet with Optional Roundtable Discussions Organized by Participants According to Their Interests**

9:30-12:30 **Workshop Sessions II**

- Strengthening Information Exchange Through Technology
- Member Services (repeat)
- Creating & Sustaining an Enabling Legal Environment (repeat)

1:00-2:30 **Plenary Lunch**

Representation, Accountability, & Standards in the Grantmaking Field

Dorothy Ridings, President & CEO, Council on Foundations, USA

3:00-6:00 **Workshops Sessions III**

- Strengthening Information Exchange Through Technology (repeat)
- Governance & Boards of Directors of Associations
- Resource Development

7:00-11:30 **An Evening Organized by Fundación Comunitaria Oaxaca at the Ex-Convento de Santo Domingo (Semiformal)**

WEDNESDAY, 11 FEBRUARY

8:00-9:00 **Breakfast Buffet with Optional Roundtable Discussions Organized by Participants According to Their Interests**

9:15-12:15 **Workshop Sessions IV**

- Information Exchange Among Associations: Directories, Databases, Publications, Technology
- Governance & Boards of Directors of Associations (repeat)
- Resource Development (repeat)

12:30-1:45 **Discussion on Future Networking Possibilities**

2:00-3:30 **Closing Plenary Luncheon**

The Value of Associations Working Together

John Richardson, Director, European Foundation Centre, Belgium

Overview of the International Meeting of Associations Serving Grantmakers & Possibilities for Follow-up

Barry Gaberman, Chair, IMAG Planning Committee, USA

Participants

Argentina	Maria Herrera Vegas	Grupo de Fundaciones
Australia	Elizabeth Cham	Philanthropy Australia, Inc.
Belgium	Neil Burnett	European Foundation Centre
	Suzanne Feurt	European Foundation Centre
	Eric Kemp	European Foundation Centre
	John Richardson	European Foundation Centre
Brazil	Roberto Galassi Amaral	Grupo de Institutos, Fundações e Empresas
	Evelyn Berg Ioschpe	Grupo de Institutos, Fundações e Empresas
Bulgaria	Veliko Sherbanov	Bellagio Forum for Sustainable Development
Canada	Patrick Johnston	Canadian Centre for Philanthropy
	Richard Mulcaster	Vancouver Foundation
	Monica Patten	Community Foundations of Canada
	Ross Ramsey	Community Foundations of Canada
Colombia	Olga Lucia Toro	Colombian Center for Philanthropy
Czech Republic	Helena Ackerman	Czech Donors Forum
France	Francis Charhon	Fondation de France
Israel	Dorothy Gitter Harman	van Leer Forum
India	Pushpa Sundar	Sampradaan Indian Centre for Philanthropy
Italy	Pasquale Pesce	Bellagio Forum for Sustainable Development
Japan	Yutaka Asamura	Japan Foundation Center
Kenya	Katharine K. Pearson	Ford Foundation
Mexico	Remedios Aleman	SAR Telecommunications
	Manuel Arango	CEMEFI
	Paula Arias	OCI
	Vivian Blair	CEMEFI
	Jaime Bolanos	Fundación Comunitaria Oaxaca, AC
	Brigit Brennan	Milpas de Oaxaca, AC
	Emilio Carrillo	CEMEFI
	Hugo Cervantes	Ford Foundation
	Norm Collins	Ford Foundation
	Teresa G. de Gonzalez	Fundación Comunitaria Oaxaca, AC

	Stephanie Gamble	Milpas de Oaxaca, AC
	Guadalupe Gonzalez	CEMEFI
	Antonio Gomez Miranda	OCI
	Nancy Pearson	CEMEFI
	Jana Schroeder	Cerbizios Profesionales de Traducción e Interpretación
	Martha Smith de Rangel	CEMEFI
	Jorge Villalobos Grzybowicz	CEMEFI
	Nicole Wolf	SAR Telecommunications
The Netherlands	Rien van Gendt	Bernard van Leer Foundation
	Liesbeth J.A. Zwitter	Association of Foundations in the Netherlands
New Zealand	Bob Moffat	New Zealand Association of Philanthropic Trusts
Philippines	Jaime Faustino	Asia Pacific Philanthropy Consortium
	Victoria Garchitorena	League of Corporate Foundations
Slovak Republic	Filip Vagac	Slovak Donors Forum
South Africa	Mokhethi Moshoeshoe	Southern African Grantmakers' Association
Spain	Raimon Bergos	Coordinadora Catalana de Fundacions
	Miguel Angel Cabra de Luna	Confederation of Spanish Foundations
	Leonor Esguerra	Iberoamerican Foundation Confederation
Taiwan	Helen Riha	Himalaya Foundation
Thailand	Juree Vichit-Vadakan	Center for Philanthropy and Civil Society
United Kingdom	Libby Cooper	Charities Evaluation Services
	Gaynor Humphreys	Association of Community Trusts & Foundations (ACTAF)
	Barry Knight	Charities Evaluation Services
	Nigel Siederer	Association of Charitable Foundations
USA	Betsy Adler	Silk, Adler & Colvin
	Scott Anderson	Council on Foundations
	Junko Chano	Sasakawa Peace Foundation
	Dianne DeMaria	Ford Foundation

Lucille DiDomenico	Conference of Southwest Foundations
John Edie	Council on Foundations
Sara Engelhardt	The Foundation Center
Barry Gaberman	Ford Foundation
Elan Garonzik	Charles Stewart Mott Foundation
Christopher Harris	Council on Foundations
Rita Hilton	World Bank
Valerie S. Lies	Donors Forum of Chicago
Isabelle Mack	Council on Foundations
Joyce Malombe	World Bank
Sara Melendez	Independent Sector
Owen Mitz	Somerset Systems
Char Mollison	Council on Foundations
Skip Rhodes	Chevron Corporation
Dorothy S. Ridings	Council on Foundations
Helen Seidler	Council on Foundations
Peter Shiras	Independent Sector
Teri Siegl	CIVICUS
Thomas Silk	Silk, Adler & Colvin
Lynn Helblong Sirinek	Donors Forum of Chicago
Caroline Tower	Forum of Regional Associations of Grantmakers
Eliana Vera	National Center for Nonprofit Boards
David Winder	Synergos Institute

Planning Committee

Mr. Barry Gaberman (Chair)
The Ford Foundation, USA

Ms. Helena Ackerman
Czech Donors Forum

Ms. Vivian Blair
Centro Mexicano para la Filantropía, Mexico

Ms. Elizabeth Cham
Philanthropy Australia, Inc.

Ms. Victoria Garchitorea
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Mr. Elan Garonzik
Charles Stewart Mott Foundation, USA

Ms. Evelyn Berg Ioschpe
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Ms. Monica Patten
Community Foundations of Canada

Ms. Helen Seidler
Council on Foundations, USA

Ms. Pushpa Sundar
Indian Center for Philanthropy, India

Mr. Rien van Gendt
Bernard van Leer Foundation

Coordinating Committee

The following persons served on the original IMAG Coordinating Committee. The current governing body of this network is the [WINGS Coordinating Committee](#).

Mr. Barry Gaberman (Chair)
The Ford Foundation, USA

Ms. Monica Patten (Vice Chair)
Community Foundations of Canada

Ms. Helena Ackerman
Czech Donors Forum

Mr. Rob Buchanan
Council on Foundations, USA

Ms. Elizabeth Cham
Philanthropy Australia, Inc.

Ms. Julienne Gallardo
Centro Mexicano para la Filantropía, Mexico

Ms. Victoria Garchitorea
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Ms. Gaynor Humphreys
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Mr. Eric Kemp
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Ms. Donnell Mersereau
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Mr. Mokhethi Moshoeshe
Southern African Grantmakers' Association,
South Africa

Ms. Caroline Tower
Northern California Grantmakers, USA

Mr. David Winder
The Synergos Institute, USA

Funders

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Charles Stewart Mott Foundation, Flint, Michigan, USA
The Myer Foundation, Melbourne, Australia
Open Society Institute, New York, New York, USA
David and Lucile Packard Foundation, Los Altos, California, USA
Sasakawa Peace Foundation, Tokyo, Japan
Bernard van Leer Foundation, The Hague, The Netherlands

Appendix

Supporting documents for the Workshop “Creating & Sustaining an Enabling Legal Environment”

Introduction to a Discussion of the Nonprofit Legal Context

By Thomas Silk

When we use the term legal context in connection with NGOs to what are we referring? For our discussion this morning, I want to identify three distinct concepts that we often include within that term.

We include the legal system. The substantive rules of nonprofit law. The legal procedures and the institutions that apply the law. And we mean the legal culture: the values and assumptions about the origin, nature and function of the law in that society.

We include the legal tradition: . the identification of the legal system with one of the three major legal traditions -- the civil law, common law, or socialist law tradition -- or with other widespread legal traditions.

Importantly, we also include governmental policies towards NGOs.

But what are those policies? They are seldom expressed. An adviser to the President of the Republic of Brazil could be speaking of most countries when he said, in 1991, “There never has been an explicit policy in relation to Brazilian NGOs.”

That practice appears to be changing. Three examples come to mind. The Thailand government of Prime Minister Anand, in 1993, made NGO development a government policy and initiated an extensive campaign to encourage that development. The Philippines have elevated statements of favorable policy to the constitutional level by providing in its current constitution that the policy of the state is to encourage the development of the nonprofit sector. Similarly, the 1991 Constitution of Colombia recognizes the role of NGOs and establishes that the state has the obligation to support them and to recognize them as legitimate actors in the policy process.

It will be interesting to learn from our discussion how many of the governments of the countries represented in this workshop have explicit policies toward NGOs.

The policies of most governments toward NGOs must be inferred from the presence or absence of laws and regulation. Whether those policies are favorable, hostile, or neutral toward NGOs is also another question worth exploring today.

Finally four random points that you may want to keep in mind as you think about nonprofit legal context:

In speaking of the role of law in connection with the nonprofit sector, it is all too easy, particularly in the west, to fall into the trap of viewing law exclusively as an instrument of empowerment. We need constantly to be mindful that today, in much of the world, the law, not excepting nonprofit law, is used as an instrument of social control.

A related point. Restrictive nonprofit laws, justified initially on national security grounds, often continue long after the security threat has diminished or disappeared. In Singapore and Thailand, for example, restrictive nonprofit laws enacted initially to combat triads or Chinese secret societies have continued on the books long after that perceived threat has passed. They were justified anew after World War II as necessary protections against communist groups. Although the communist threat is no longer, the oppressive laws remain on the books.

The notion of civil society may have legal theory implications that we have not yet begun seriously to address. For example, does civil society, in legal theory, undermine the basis of civil law? The main division of law in the civil law tradition is between public law and private law, reflecting the view of a legal universe populated by the individual and the state. In his classic book on civil law, published in 1969, John Henry Merryman, Professor of Law Emeritus at Stanford University, argues that our legal universe today is a much more complicated universe, peopled not only by the individual and the state, but also by a wide variety of organizations such as trade unions, cooperatives, foundations, commercial and industrial companies, consortiums and religious societies They constitute a kind of “private government,” which frequently has greater impact on the lives of large numbers of individuals than do formally constituted “public” governments. In so complicated a legal universe, simple dichotomies like public law and private law seem to lose their utility.

Finally, in comparative law, the higher the level of abstraction the further the facts recede. Similar legal traditions may, nevertheless, produce opposite legal results. For example, the association and foundation registration laws in Japan and Taiwan are substantially the same. Their legal traditions are similar. Japan’s civil code, with German roots, was adopted in 1898, and Japan imposed that legal tradition during its rule of Formosa at the turn of the century. In both countries, government agencies are vested with virtually unlimited discretion in deciding whether to permit or deny registration. In Japan the civil servants exercise their discretion in a manner that has been characterized as skeptical, hostile, and obstructionist, while in Taiwan, government employees are positive, supportive and enabling. I was told a remarkable story about an employee of a ministry responsible for registration of NGOs in Taipei. To the consternation of the ministry, the employee became so enthused by the notion of individuals were forming private organizations to benefit the public that he began to fundraise for NGOs within the ministry itself.

Registration of Nonprofit Organizations

By Betsy Buchalter Adler

Registration is the process of becoming a legal person – that is, an entity which is separate from the people who are affiliated with it or who manage it; an entity which can acquire and own property, sue and be sued, and act in its own right.

How do laws on registration affect the legal environment in which NPOs operate? This question begs another, more fundamental question: do the laws on registration affect the NPO sector in the particular country that we are considering, or does the NPO sector in that country generally operate without benefit of registration?

In many countries, a very high proportion of NPOs are not registered. In Korea, for example, 80% of NPOs are not registered. A very few countries, for example Singapore, criminalize non-registration: an organization must be registered or it is an illegal society and those affiliated with it are subject to severe consequences. The majority of countries, however, allow organizations to weigh the benefits and the drawbacks of registration and choose how they will proceed. And in a significant number of those countries, NPOs forego the benefits of registration. Why? Among the many possible answers, let us consider two: registration is simply not necessary, and registration is more trouble than it's worth.

First, the question of necessity. In a significant number of countries, ranging from the Philippines to Korea to the Netherlands to Ireland to South Africa, it is possible to form at least some kinds of NPOs privately, without governmental involvement. Associations are more likely to follow this path than foundations, because legal person status is more likely to be important where the organization will be owning and managing property. But in some countries, such as the US and the Netherlands, the necessity of registration depends on what legal form the NPO selects. A nonprofit corporation must register in order to begin its legal existence, because corporations do not exist without state recognition. But a charitable trust can achieve legal person status through the personal and private act of an individual signing a trust document. In some countries, and in some situations, the formal legal process of registration is simply irrelevant.

Suppose, however, that legal person status is essential to an organization's functional survival. In countries where personal liability for an organization's debts is a significant issue in practice, it is important to those involved with the NPO to avoid personal liability by forming the NPO as a legal person responsible for its own debts. In other countries, such as Korea, registration is a necessary prerequisite to obtaining tax benefits for the organization and its donors. Registration may be necessary in order to qualify for funding from overseas donors. If registration is a practical necessity, then there is a direct link between the ease or difficulty of the registration process in a particular country and the size, shape, and effectiveness of the nonprofit sector in that country.

While the registration process varies from country to country, some elements are common to all:

- certain documents must be prepared,
- documents must be submitted to one or more agencies of the government, and
- a government agency acts on the matter.

Before we open the floor for a discussion of how registration laws and procedures affect the nonprofit sector in the countries where you operate, let me offer some examples of how several different countries approach each of the common elements of the registration process.

What the organization must provide.

In some countries, such as Canada, the organization simply provides copies of its governing document, which generally follows a simple prescribed form that is easily available from the registering office. In other countries, such as Mexico, what you provide depends on what kind of NPO you are forming. A Private Assistance Institution, which has a preferred tax status, is heavily regulated as a consequence, and extensive information must be submitted in order to register. A Civil Association simply applies for a permit to use the name of its choice (a process that takes less than a week in most cases) and then submits a notarized copy of its founding document to the Public Registry. If a Civil Association wants preferred tax status, it files a separate application with the tax authorities after registration is complete.

Another group of countries looks upon registration as the means by which the government regulates the operations of NPOs. As a result, they ask for extensive and detailed information. In Japan, for example, a public interest corporation must provide information about its purposes and proposed activities; its charter, specifying its name, location of offices, purpose, nature of activities, board members, property managers, procedural rules, and so forth; a list of its assets and their values, including a record of contribution, bank statements, and certified copies of real property registration; projected budgets for the first two years; names, addresses, and resumes of founders and directors and their written acceptance of the position; minutes of the first meeting; and a balance sheet if the organization has already begun its activities. If the new corporation is an association, it must include a list of its original members and an application form.

Where the application is filed.

Japan, Korea, and China, among others, require NPOs to register at the governmental agency which is responsible for the field of activity in which the NPO operates. An environmental protection organization would register at the ministry governing environmental affairs, while an organization formed to assist needy children would register at the ministry of social welfare. Procedures are not consistent from ministry to ministry, yet one could view this as an appropriate response to the differences among NPOs active in different fields of endeavor.

Other countries define the registration office by geography. In Italy, for example, NPOs with national scope must apply to the President of the Republic, while NPOs with regional scope must apply to the Prefecture of the region of primary activity.

Still other countries approach registration as an element of maintaining internal order. Both Thailand and El Salvador, for example, require NPOs to register with the Ministry of Interior. In effect, NPOs in those countries must register with the police department.

What the government agency does.

There are essentially two approaches to registration: the permission approach, under which the registering agency has discretion to approve or deny registration, and the recognition approach, which involves only a formal acknowledgment that the organization has met the registration requirements.

In countries such as Korea, where registration is a matter of discretion and permission, it is common for registration to bring with it significant benefits which are not otherwise available, such as preferred tax status. In countries where registration is a ministerial act, the registering agency simply checks to make sure the name is available and the formation document is in order. Examples of this approach include Mexico (with regard to civil associations), and Canada. In these instances, another government agency – specifically, the tax authority – conducts a discretionary review, as it is the preferred tax status and not the mere fact of registration that confers the important benefit.

Introduction to a Discussion of Nonprofit Governance, Accountability, & Transparency

By Thomas Silk

This morning I want to offer for discussion a single issue of nonprofit governance, one that may not be commonly considered. In discussions of nonprofit governance, three issues are often included:

1. governance structure requirements (the dual member-manager structure of associations, and the single tier foundation structure);
2. rules of governance and internal procedures; and
3. fiduciary duties and liabilities of directors, including, increasingly, conflicts of interest issues, and accountability through litigation.

This morning, I want to propose for discussion a fourth issue: self-governance.

In your conference materials, I mention the differences between the consideration of nonprofit governance in the United States at a conference of legal experts in nonprofit law and at a seminar in Central Europe, almost ten years ago.

I had been invited to attend an international conference on nonprofit law organized by the Rockefeller Brothers Fund in 1989. It was to be held in Bratislava, part of what was then Czechoslovakia. I had been asked to arrive a day early, to hold a pre-conference seminar for the Czech delegates, mainly law professors from Central Europe, to discuss nonprofit concepts that might not be familiar to them.

We were seated around a similar but smaller conference table and several hours into the seminar one of the law professors asked me to discuss “governance.” I hesitated, uncertain about the meaning of his question. Surely, I thought, he has no interest in the sorts of issues that usually occur to American lawyers when they are asked about governance -- the very issues, of course, that were being discussed at the New York conference. Another professor, seated next to me in Bratislava, turned and whispered, “Talk about self-governance.” So for the next hour or so, we talked about the fact that, in the United States, more than one million charitable and other nonprofit organizations exist, that each of those organizations has a governing body, that each of those bodies has the legal responsibility for managing the organization, for determining its goals, objectives, and procedures – its internal rules or laws, if you will. And they perform those functions independently, without guidance from the state. In response, another professor remarked, “That sounds like over a million independent nations.”

He was talking, of course, about the independence from government control of nonprofit organizations in the United States and in much of Western Europe, from state control of organizational policy.

The spectrum of state control over the governance of NPOs can take many forms:

1. state agency controls NPO policies (China)
2. state approval of directors (Thailand)
3. directors as agents of the state (auditor)
4. state approval of budget (Korea)
5. state approval of minutes (Egypt)
6. reports to state (German opposition to tax reports)

What limitations on self-governance exist in the nonprofit legal system in the countries here today? Perhaps we can explore this in our later discussion.

Accountability/Transparency

As to accountability and transparency I want to take the exact opposite approach that I took on governance and look at clusters of issues that arise worldwide in connection with accountability, transparency, and NGOs.

Let us see what we can add to the following Nonprofit Organization (NPO) Transparency and Accountability Issues Matrix.

NPO Transparency & Accountability Issues Matrix

	TRANSPARENCY (ACCESS) Availability of internal information	ACCOUNTABILITY (REPORTS) Obligation to provide internal information	LIMITATIONS
NPO TO MEMBER	What is accessible? From whom? When? For what purposes? At what cost?	What information must be provided regularly? When? In what form?	Limits on non-member use. Reasonable times and requests. Costs/payment.
NPO TO STATE	Same	Financial reports. Conflict of interest reports. Activity reports.	Privacy claim as to financial information of NPO. (Germany) Privacy claim as to identification of donors. (US) Privacy claim as to identification of members. Invasiveness regarding governance.
NPO TO PUBLIC	Same	Tax return information (US)	Burden on NPOs. Should state (rather than the NGOs) make return information available to the public? Costs/payment?

Tax Incentives & Capital Formation

By Betsy Buchalter Adler

How does a country's tax system affect the legal environment in which NPOs operate? This question, in much of the world, is premature: it assumes that a country has a tax system that affects how people behave.

In some countries, such as Canada and the US, the tax system plays a central role in the economic behavior of individuals and organizations. The tax law not only provides the method by which the government funds itself, but also includes incentives to certain behaviors, punishments for other behaviors, and (if the income tax is progressive, imposing a higher tax rate on those with higher incomes) elements of income redistribution as well. Nonprofit organizations in such countries often go to great lengths to arrange their operations so as to qualify for tax-advantaged treatment for themselves and for their donors. A tax system that made it difficult to obtain this privileged status would be a powerful brake on the growth of the nonprofit sector. A tax system that encouraged NPOs to seek tax-exempt status, on the other hand, would contribute significantly to a vital NPO community.

In other countries, such as Vietnam and some other socialist countries, taxation plays a much less significant role in the economy. It is not surprising to find that those countries offer no tax deductions or tax credits for donors. Some countries do not use the tax system as an instrument of social policy. For example, New Zealand recently adopted a flat tax system which provides no substantial tax advantage for charitable giving. And in still other countries, the tax laws are irrelevant because there is widespread noncompliance. Tax incentives only work when people are otherwise paying tax and would like to be relieved of the obligation to do so. But even in countries that do not offer tax-based incentives for donors, NPOs themselves generally receive some significant tax relief.

The consensus in favor of reducing the tax burden on public benefit NPOs is remarkably consistent across international borders. There remains, however, a wide range of different choices as to what form the tax relief should take, what categories of NPOs should be eligible for it, and what procedures should be required for obtaining it. Moreover, within those countries that provide tax benefits to donors, there are distinctive variations as to the scope of the benefit, the varieties of organizations which may receive tax-advantaged donations, and the form of the tax benefit that the donor receives.

Because tax benefits for the NPO are more common than tax benefits for donors, let us look first at some examples of how various countries have dealt with the taxation of NPOs.

- **What is the connection between tax relief and registration?** In some countries, such as Korea, tax relief is one of the benefits of registration. No separate application is required. In other countries, such as Canada, the NPO must file a separate application for tax relief. Canadian charities must apply to Revenue Canada in order to gain tax benefits. In Mexico, one class of nonprofits gains tax-advantaged status as part of registration, while another class of nonprofits must apply separately for tax relief.
- **How does a NPO apply for tax relief in those countries where tax-preferred status does not come along with registered status?** In the Philippines, the nonprofit files an application for tax exemption, and once the decision is made, the NPO is exempt from tax until the decision is revoked. In a number of other countries, the NPO must apply each year for exemption from tax.
- **Is the granting of tax relief a matter of permission or a matter of recognition?** In Korea, a registered NPO need only send evidence of registration to the tax agency and its tax-exempt status is recognized. In most other countries, tax relief is a discretionary matter.
- **What kinds of tax may a NPO be relieved from?** Income tax exemption is the most common, but some countries allow certain NPOs to avoid paying a value-added tax or a goods/services tax, or to pay at a reduced rate. The Philippines, for example, exempts certain NPOs from paying import duties and tariffs – a significant tax benefit in any country where imported goods are heavily taxed.

In those countries where donors receive financial incentives for their gifts in the form of tax relief, there is a similarly wide variation in the laws. Here are some examples:

- **Does the tax incentive encourage gifts to all NPOs, or only to some?** In South Africa, donations are not tax-deductible unless they are made to universities and certain educational funds. In China, there is no tax incentive to give to charities, although a government agency may offer some variety of tax incentive for gifts to particular projects of that agency. Korean law contains more generous tax incentives for gifts to government agencies, political parties, and certain private school foundations than for gifts to social welfare or cultural NPOs.
- **Are donors equally eligible for tax benefits?** Some countries, such as the US, offer a more generous tax benefit to individual donors than to corporate donors, while other countries, such as South Africa, take the opposite approach. In the Philippines, wage

earners (most of whom do not file a tax return in any case) cannot claim a tax deduction for their charitable gifts, and self-employed or professional people can only claim a tax deduction if the gift goes to the government or to disaster relief organizations accredited by the government. Philippine corporations, on the other hand, may obtain significant tax benefits for their charitable gifts.

- **Who decides which organizations may receive tax-advantaged gifts?** In most countries, an agency of government makes this decision. In the Philippines, however, this function has been privatized, at least with regard to corporate donations: a private body, composed of representatives of the NPO sector, is authorized to grant or deny accreditation, and corporations may claim a charitable deduction only for donations to accredited NPOs.

Beyond the question of tax incentives, NPOs in many countries must contend with governmental regulations that directly affect their ability to form capital. Here are a few examples:

- Japan limits NPO investments to government bonds, which pay a very low rate of interest.
- Korea requires NPOs to spend half of their annual budget on direct services. Because Korean NPOs must submit their business plan and budget to the relevant ministry each year along with a year-end follow-up report, this payout is closely monitored. The nature of a Korean registered NPO's "basic endowment" can't be changed without the permission of the relevant ministry, and most ministries do not permit NPOs to invest in stocks.
- Canada imposes a disbursement quota, although charities may be able to escape this requirement if the donor conditions the gift on the charity's retaining the gift for at least 10 years.
- Singapore taxes the undistributed income of charities unless a charity spends at least 80% of its annual income and 80% of its donations for charitable purposes during the year of receipt. Exceptions are available from the Comptroller of Income Tax, if good cause is shown.