

Newsletter

ISRAELI CENTER FOR THIRD SECTOR RESEARCH



BEN GURION UNIVERSITY OF THE NEGEV

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ICTR's 11th Annual Spring Conference

Between Self and Government Regulation

One of the most important current issues on the third sector agenda both globally and in Israel is the issue of State regulation and the sector's ability to undertake self-regulation initiatives. In the conference, experts from abroad and from Israel will discuss this issue. The keynote lecture will be presented by Prof. Mark Sidel from the University of Iowa, who is the President Elect of ISTR and a world renowned expert in comparative and international philanthropy and nonprofit law. Prof. Sidel is a member of the Independent Sector's National

Advisory Committee on Self-Regulation of the Nonprofit Sector. Israeli speakers on the topic of regulation include experts such as Adv. Yaron Keidar, Dr. Nissan Limor, Prof. Yair E. Orgler, Dr. Eliezer Brauner, Adv. Ophir Katz. In addition to that, ICTR staff will present current research findings from the center's database and research, and Israeli scholars from various institutions will present new research in parallel sessions (see conference schedule on page 7) ■

Interview with Prof. Sidel on page 9

New publication

Philanthropy in Israel 2006 Patterns of Giving and Volunteering of the Israeli Public

Hagai Katz, Esther Levinson, Benjamin Gidron

The issue of Israeli philanthropy (giving and volunteering) came up with full force in the wake of the Second Lebanon War and the important role played by voluntary organizations, individual volunteers and donors of all sorts in supporting the civilian population of northern Israel. But, as the research shows this is not a one time occurrence. The patterns of philanthropy in Israel are deeply rooted and impressively widely spread. Tracking these patterns provides an additional prism with which to examine Israeli society.

Biennial surveys

This report of research findings on the patterns of giving and volunteering among

the (Jewish) public in Israel, is important not only by virtue of the findings it presents and the analysis of their meaning.

Significantly, this is only the first step in a new project - which will henceforth include continuous biennial surveys, following the example set in many other countries. The research was made possible through a generous grant from the Samuel Sebba Foundation.

The following are major findings from the research:

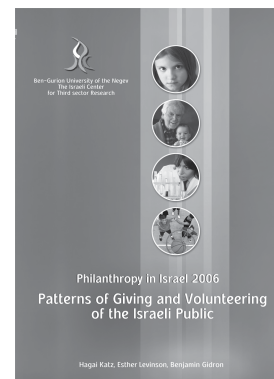
Rates of Philanthropy

44% of the adult Jewish population is involved in volunteer work. 19% of respondents contribute their time in formal frameworks

(through organizations) and 33% do so informally (directly with Individuals and families). 7% of volunteers participate in both formal and informal volunteer work. 83% of the adult Jewish population make donations. 72% do so through formal channels and 42% do so informally. 30% of the population donate both through formal and informal channels.

Extent of philanthropic activity

Volunteers in formal frameworks dedicate an average of 21.6 hours per month to working in organizations. Only half of volunteers dedicate 4 hours a week or more to unpaid work in organizations. In the informal channel, volunteers dedicate an



average of 14.8 per month. Less than 5% of the volunteers in informal frameworks dedicate more than 22 hours per month to volunteering.

The average donation to organizations is 750 NIS per household per year. Half of the households sampled donated less than 350 NIS per year to organizations. ■

For further information on how to obtain "Philanthropy in Israel 2006" (English Version) please contact ICTR's office ictr@bgu.ac.il

Save the date:
Ben-Gurion University

Between Self and Government Regulation

ICTR's 11th Annual Conference, March 12, 2008

Supervision and Regulation in the Third Sector

Dr. Nissan Limor

In the past few years, we are witnessing a growing demand for supervision and regulation over Third Sector organizations. The demand is supported both by the public and government, due to four major causes: (1) The sincere wish to learn more about the mechanisms of organizations who are working to advance common issues that are for the greater good and public benefit, and who are supported by public or government funding. (2) The exposure of unlawful, dishonest, illegal and inappropriate conduct, as well as conflict of interests in nonprofit organizations. (3) The increase in terrorist activities and the connections concerning the transfer of funds between the nonprofit organizations and the terrorist groups. (4) The blurring and changing boundaries between the three sectors as a result of privatization, commercialization and competition.

Government supervision and regulation is implemented through three directives: laws of incorporations, taxation, and legislature on fundraising. These laws that exist in different measures in every country, define the space in which the nonprofit organizations operate, are regulated and supervised. The measure in which legislation or lack of exists, directly influences the framework of nonprofit activities. The balance between the three is defined by each country according to its political culture and local circumstances. In Israel for example, there is no legislation that regulates directly fundraising and the major legislative reform concerning not-for-profit organizations has been

in the Law of Incorporation, with minor regard to taxation legislation. In the US, for example, legislative reforms are presented in the tax legislation, as well as in funding and incorporation legislation, the emphasis and measures varying from state to state.

The ability of a government to supervise and regulate fully, is limited. Expansion of legislation, directives and supervisory mechanisms are not sufficient to fully eradicate negative occurrences. Additional investment and development of new tools and means, increase the supervision, but at the same time increase the overall burden on the organization and can disrupt its ability to fully achieve its inherent potential. The often found response to this problem lays in the relationship and division of labor between the state and society. Proper management is not only in the interest of the state. Responsibility lies also with the public and the nonprofit organizations. Therefore, one of the responses available is self regulation. That is to say - the public and the organizations partner in supervision and control of third sector organizations. This partnership is two-dimensional: (1) Increasing of transparency and allowing stakeholders to better acquaint themselves with the organizations and its avenues of activity. (2) Through a third sector self regulative mechanism, implemented by an umbrella or sectoral organization.

The existence of a partnership and division of supervision between the state and the third sector is a necessary infrastructure, but it is not

sufficient. The regulation must be two-sided. 'Regulation' as an adjustment mechanism, means facilitating and impeding, accelerating or restraining. That is, on the one hand it should be a deterring factor with an enforcing punitive ability, when the need arises, and on the other hand a motivating and encouraging factor to the third sector to utilize its self regulative means. Supervision and regulation, as means of prevention, deterrence or enforcement address the here and now. Yet, their existence limits and restricts growth and innovation. Therefore we also need to look into the future and elucidate tomorrow's vision. A strategic look into the future, based on policies which define our goals, alongside arrangements that offer incentives, encourage and motivate self regulation is also needed, resulting in balanced supervisory measures. These two elements do not necessarily need to be held by a single supervisory agency. Which is why coordination becomes especially important.

The increased regulative measures taken by the Israeli government towards the third sector, has been a constant source of tension and anxiety in the past few years. Its result has been a willingness to rethink the relationship between state and society, develop a dialog and co-operative measures for a division of responsibility between the two. After sixty years of neglect in formation of government policies towards the third sector, we are currently witnessing the first sprouts of progression taken by the present government. The anticipation among the organizations is immense, and with it, a hope for a new beginning in the state-society relationship. ■

Dr. Nissan Limor, Israeli Center for Third Sector Research, Ben Gurion University of the Negev



Changing the mission of the nonprofit organization and increasing transparency:

Does amendment no.6 to the Law of Companies -2007 mean more regulation?

Adv. Ophir Katz

In the second half of 2007 the Knesset passed an amendment to the Companies' Law 2007 (amendment no. 6). The amendment refers mainly to provisions in sections of the Companies' Law which concern Incorporation for Public Benefit; the modification includes also an amendment in the Nonprofit Societies Law (amendment no.10 to the Nonprofit Societies Law 1980)

This amendment to the Law of Companies comes primarily to resolve an ambiguity and inconsistency between the provisions in the Law of Incorporations (section 11b), and provisions in other laws guiding the management of nonprofit organizations in the Israeli legal system, including the Law of Nonprofit Societies (Amutot) and section D in the Law of Trusteeship 1979, which deals with Public Benefit Companies. The amendment cancelled section D in the Law of Trusteeship, and added to the Companies' Law a detailed section that deals with Public Benefit Companies. The new section in the Companies' Law includes reference to many concerns such as the internal comptroller committee, internal auditor, the financial report, compulsory reporting guidelines, criteria for changes in the organization's mission, shares, director and top management compensation, transaction between stakeholders, dismantling, merging etc. This article will deal with some of these provisions.

The balance between the right to incorporate and the amount of state intervention in incorporation and the regulative measures conferred on nonprofit activities by the state have always been among the major causes for tension between the third sector and the government. The amended legislation incorporates an increase in regulation in some fields, but on others it strengthens the nonprofit organization.

It'll begin with a very central new provision which revoked the regulator's authority in determining what is 'Public Benefit'. During the discussions in the parliament's

legal committee the standpoint of the representatives of the third sector on this issue was accepted. They argued that it is unacceptable to leave the decision whether a particular cause is in the benefit of the public or not to the discretion of state officials and bureaucrats. Rather, they insisted that the definition of 'public benefit' will be circumscribed by the legislator, and indeed the amended law now lists the missions that will be regarded as 'Public Benefit'. Although this amendment refers to Public Benefit Companies, this definition can be applied to other types of organizations, as in this amendment the Knesset made clear how it defines 'Public Benefit'.

Contrastingly, the newly amended law includes a few provisions which increase the regulatory power of the Registrar of Endowments and the Registrar of Nonprofit Societies. Let us discuss two of the more major amendments: those related to changes in mission and those related to reporting and transparency.

The new law gives special standing to the registrars in decisions concerning introducing changes to the mission of a public benefit company or a nonprofit society. Prior to the amendment the registrar did not have the discretion or authority to approve or disapprove a change in mission of Public Benefit companies. The current amendment bestows the Registrar and the courts with the authority to approve or disapprove the change in mission of a Public Benefit Company. The reasoning behind this amendment is the need to ensure that public resources and donations made for a particular mission will not be used for a mission other than those intended by the donor and/or public. Within the Nonprofit Societies Law such a provision already existed before the amendment in the Companies' Law, and thus for nonprofit societies the amendment only clarified the division of authority between the registrar and the courts.

The second fundamental amendment is the demand for increased transparency and accountability. In this case too, the

reporting requirements from Public Benefit Companies, as stated by the Companies' Law before the amendment, were minimal and much lower than those expected from Nonprofit Societies. The new amendment made the reporting requested from both types of organizations the same, and added additional reporting requirements to both laws, stating that both Nonprofit Societies and Public Benefit Companies will be required to submit an executive report which will be added to the annual financial report.

Beyond the authority granted to the Registrars of Endowments and Nonprofit Societies - the amendment provides the Minister of Justice with the ability and authority to instate regulations which have bearing on the activities of the Nonprofit Society and Public Benefit Company. However, such regulations need to be ratified by the parliament's legal committee, which allows for some leeway for public intervention, if such will be needed.

The increase in regulative authority, by large, impairs the freedom of incorporation and the right of the individual to act as she sees fit as long as she is within the boundaries of the law. The strengthening of the Registrars' authority in the case of a change in mission cannot be justified. The need to apply for an approval of the regulator for a change in mission implies that the parliament doesn't trust decision makers in the nonprofit sector to make proper use of donations, and therefore the state has to supervise them. This stance is not correct and should not be tolerated.

On the other hand, the increasing requirements for transparency through equalizing the reporting requirements of Public Benefit companies to those of Nonprofit Societies and the requirement for an annual executive report are a positive change for all those working in the third sector. ■

Adv. Ophir Katz is an expert in Nonprofit Law. Adv. Katz chairs the Israeli Civic Leadership Association (ICLA) Committee for the examination of Laws related to Nonprofit Incorporation.

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The 11th ICTR Spring Conference Between Self and Government Regulation

An Interview with Prof. Mark Sidel, Conference Keynote speaker on Third Sector Regulation



Prof. Mark Sidel

As an expert in comparative Asian law can you tell us about regulative nonprofit western legislature vs. Asian law, and what we can learn from it?

Asia is an example of the wide diversity and variety of systems of regulation of the third sector - nonprofit, philanthropic and other voluntary organizations. There are countries with a strong and directive government relationship with the nonprofit sector, fully reflected in strict regulation, tight control of the registration of voluntary sector organizations, significant reporting requirements, and other relatively controlled regulatory policies. Strong states such as China and Vietnam, of course, epitomize this type, and their heritage of Leninist politics and a very limited role of independent citizen action makes these policies unsurprising.

But other countries in Asia display a somewhat different pattern - though here too we can see the influence of strong states. In India, for example, where charities and voluntary sector regulation has its roots in British colonial practice, we continue to see detailed regulation and strong state influence, but at the same time a thoroughly vibrant nonprofit sector and constant jockeying, with sometimes intense conflict, between the state and the nonprofit sector. Two particular features of the Indian scene are noteworthy. The first is that India, along with the Philippines and Pakistan, have developed the most active and vibrant experiments in nonprofit self-regulation in recent years. And the second is that India, partly as a result of British legal and political legacies and partly because of the intense concern of successive Indian governments of all political persuasions, seeks to understand,

control and regulate flows of foreign funds to the Indian voluntary sector through strict regulation.

What are the current global and local regulative trends? where do you see regulation on nonprofits in the next few years?

There are a number of trends in state-nonprofit regulation, but one of the ones that seems most prominent - and that I'll discuss at the March meeting - are the increasing moves toward nonprofit self-regulation in a number of countries. Both governments and the nonprofit sector are encouraging nonprofit self-regulation, and there are many motivations for that - an issue I'll discuss because why we undertake nonprofit self-regulation is often as important as the fact that it's occurring and how it occurs. As discussed briefly below, one reason for the emergence of new nonprofit self-regulation initiatives is that a government moves to further regulate or control the nonprofit sector, and we have seen that recently, for example, in the United States.

What do you see as a successful self regulative initiative?

Successful nonprofit self-regulation initiatives can take a number of diverse forms, and there isn't a single model for successful ones. Some are more educational in nature; others intended to more immediately and directly affect nonprofit governance and behavior. One element that always needs to be considered is how to encourage, or even pressure, nonprofit organizations or parts of the sector to take self-regulation seriously. Here in the US backing up self-regulation with the availability of government funding (for example, by conditioning government funding for hospitals on

successfully meeting accreditation standards) is one such useful tool. In the Philippines, nonprofit self-regulation has played a direct role in government determinations of tax favored status for certified organizations.

Two major regulative measures have been taken in the ^{email:} few years in the US: the ANTI-TERRORIST FINANCING GUIDELINES for charities, and the Sarbanes Oxley act and its nonprofit type measures such as nonprofit organizations leading major self regulative initiatives in response?

Nonprofit self-regulation often develops as a response to government regulatory initiatives and tightening, and you've given two excellent examples of that in the United States - the Treasury's Anti-Terrorist Financing Guidelines, and the Sarbanes-Oxley Act, examples of executive and legislative branch pressure on or regulation of the voluntary sector. Partly - we might say largely - in response to that, parts of the American nonprofit sector (primarily charities and foundations working overseas) developed the Principles of International Charity as a response to the Treasury Guidelines. And I've just spent about 18 months as a member of the National Advisory Committee on Self-Regulation of the Nonprofit Sector, a group assisting the Panel on the Nonprofit Sector convened by Independent Sector, which has drafted a new set of self-regulatory Principles for Good Governance and Ethical Practice for the American nonprofit sector at least partly in response to legislative pressure on the sector. I'll discuss all of these developments during the keynote in March. ■



Researchers Forum

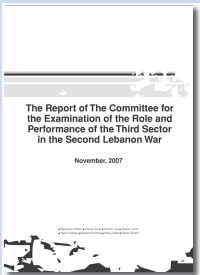
The **Researchers Forum** convened in October (2007). Dr. Rupert Strachwitz, Director of the Maecenata Institute for Philanthropy and Civil Society in Berlin was the forum's guest speaker. Participated and presented their researches also: Dr. Debbie Haski-Leventhal, from the Guilford Glazer School of Business & Management, at Ben-Gurion University and the Paul Baerwald School of Social Work and Welfare, at

the Hebrew University in Jerusalem, who presented her research on: "A Cross Cultural Study of students' Vocational Choice and Voluntary Action". The research examines the connection between the vocational preferences of students and their inclination to volunteer.

Ms. Inbal Abbou, a doctoral student at the Guilford Glazer School of Business & Management, at Ben-Gurion University, presented

her research on "Perceptions, Approaches and Decision Making Processes Among Clients in the Nursing Market", the research provides surprising findings about the awareness of clients to the differences between nonprofit organizations and businesses competing in the same market, the findings have practical implications for management and marketing of nonprofit organization services in mixed markets. ■

**The Israeli Center for Third-Sector Research
congratulates
Dr. Nissan Limor and Dr. Esther Zihlinsky
On receiving their doctoral degree**



Report of the Committee for the examination of the role and performance of the Third Sector in the Second Lebanon War

The report is the output of a year of discussions concerning the role that third sector organizations in Israel played during the Second Lebanon War. The committee, which was established by the Israeli Civic Leadership Association (ICLA), was chaired by Prof. Benjamin Gidron (ICTR). The Second

Lebanon War highlighted the issue of government-civil society relations, bringing it to public debate. The involvement of third sector organizations during the war was in all aspects of civic life and citizens' wellbeing. The committee made various recommendations concerning improvement of early coordination and cooperation in periods of crisis. The recommendations point at steps that can be undertaken among third sector organizations themselves, as well as between them and the local and national government, the private sector and donors. The regularization of the relationships will improve the cooperation in times of tranquility and effectiveness in times of crises. Committee members are: Prof. Gidron (chair), Dr. Nissan Limor, Ms. Rachel Liel, Ms. Ahuva Yanai, Ms. Shlomit Amihai, Dr. Yaron Sokolov, and Ms. Meital Shlomi (The report is in Hebrew).

Special International Volunteer Day session of the Knesset Lobby for the Advancement of the Third Sector in Israel



Prof. Gidron at the "Volunteering as a Social Value" session in the Knesset

The **Knesset Lobby**, established by ICLA and Shitufim and chaired by MK Zvulun Orlev, held a special session on "Volunteering as a Social Value". The session was initiated by Yad Sarah, one of the nation's largest volunteer organizations. Prof. Gidron, presented findings from the new research "Philanthropy in Israel 2006" (see additional findings on page 1) on the extent, motivation and characteristics of volunteering in Israel. ■

"Between Self and Government Regulation"

ICTR'S 11th International Conference

- 09:00-10:00 Registration
- 10:00-11:30 Third Sector Research in Israel- Parallel Sessions
- 11:30-11:45 Coffee break
- 11:45-13:15 Greetings: Prof. Benjamin Gidron, Director, ICTR
Chair: Prof. Jimmy Weinblatt, Rector, Ben-Gurion University of the Negev
Keynote Speech: Prof. Mark Sidel, President Elect, ISTR, University of Iowa
Self Regulation in an International Framework
Discussants: Prof. Gerald Steinberg, Bar Ilan University, NGO Monitor
Adv. Yaron Keidar, former Registrar of Nonprofit Societies
- 13:15-13:30 Award for Excellence in Third Sector Research, Ph.D. Dissertation Award
- 13:30-14:15 Lunch
- 14:15-14:30 New project presentation: The Urban Organizational Mix
Mr. Yoel Belbachan, Director of ICTR Database Services
- 14:30-15:45 Is only government regulation applicable for nonprofit organizations?
Chair: Dr. Nissan Limor, Israeli Center for Third-Sector Research
Panelists: Prof. Yair E. Orgler, Tel-aviv University, Dr. Eliezer Brauner, State Comptroller's Office
Ophir Katz, Katz & Co, Law Office
- 15:45-16:00 Coffee Break
- 16:00-17:00 ICTR Research - New finding on the Israeli Third Sector
Chair: Prof. Arie Reichel, Dean of Guilford Glazer School of Business & Management
Presenters: Dr. Hagai Katz and Mr. Yoel Belbachan , Israeli Center for Third-Sector Research
Ms. Nava Brenner, Central Bureau of Statistics
- 17:00-18:00 Cocktail party in honor of Ms.Yael Elon the outgoing Director of Database Services

March 12th 2008 Ben-Gurion University of the Negev

New



Civil Society and the Third Sector in Israel Volume 1 no. 2, 2007

The following articles were published in this volume:

- Hadara Bar-Mor and Esther Iecovich**
The Relationship between Organization Formalization and Awareness of Fiduciary Duties of Board Members of Nonprofit Organizations
- Amnon Portugaly and Netanella Danieli-Miller**
Earned Revenue in Nonprofit Organizations: the Realization of Social Mission through Commercial Ventures
- Rita Rikoula S. Mano and Liora Hareven**
Strategic Choices of Survival in Social Organizations: Accountability and Change as Reactions to Environmental Influence
- Inbal Abbou**
Client Attitudes and Decision Making in the Elderly Home Care Mixed Market in Israel
- Gali Sambire and Eden Fuchs**
Social Networks and Civil Society

The journal is published in Hebrew with English Abstracts of the articles. Please contact the ICTR's office for additional details concerning the journal. email: ictr@bgu.ac.il

New

חדש



חדש! קטלוג הפרסומים המלא של המרכז הישראלי לחקר המגזר השלישי. הקטלוג מונה את כל הפרסומים של המרכז מאז הקמתו.

ICTR's Catalog of Publications
The catalog lists all of the publications in Hebrew and English published since ICTR's establishment.