

# **Israel's Third Sector**

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Third sector organizations in Israel are coping at present with rapid changes forced upon them by the government's economic and social policy, a significant decrease in public resources, and various legal requirements, including those of public transparency and accountability. The organizations' agenda is dictated not only by the priorities set by the institutions themselves, but also by the great demand for their services stemming from the reduction in state resources, among other things. And if all of this were not enough, the sector is also contending with difficulties rooted in the organizations' current composition and operating methods, which are not necessarily conducive to strategic thinking and the ability to adapt to changing situations. From this perspective, a clearer picture of the sector's strengths and weaknesses is presently coming into view than was previously possible.

In this paper we present the general background for the third sector organizations' activity and development, and trends in the Western world (particularly in the US and Great Britain) that may be predictive of coming trends in Israel. In general, Israel is a part of the Western world, and developments occurring in the West reach Israel and have experiential and practical implications here. Thus, an understanding of what is going on around the world today will make it easier to plan for the world of tomorrow.

The preliminary preparatory work for this report was carried out during January-June 2004 by the undersigned, with the assistance of Ms. Suzanne Aisenberg as an adjunct member and Prof. Benjamin Gidron as academic advisor. For purposes of the study a comprehensive survey of the professional literature in the field was conducted, relevant materials were collected in Israel and abroad, meetings were held with various parties in Israel, and an examination was made of similar issues in the US and Britain, including a trip to the US (March-April 2004). In June 2004 Ms. Suzanne Aisenberg visited Israel. Within the context of this visit a series of meetings was held with various parties in Israel (from the government, the third sector, foundations, JDC-Israel, the Jewish Agency,

federation representatives, etc.), at which research questions were brought up and discussions held on the various issues raised.

Keren Yad Hanadiv and the Kahanoff Foundation, which have been active in Israel for many years, lent their support to this research, and received detailed recommendations deriving from this study.

I would like to thank the Kahanoff Foundation and Keren Yad Hanadiv for their support, and all of individuals and organizations, in Israel and abroad, that aided in the preparation of this report by giving of their time, offering useful advice, providing needed materials and enabling us to examine the various issues and to submit our recommendations.

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# Introduction

Israel's third sector is considered to be one of the largest in the world in terms of contribution to the GDP and the number of those employed in it. It has been an important factor in Israel's economy and society since the early days of Jewish settlement in Eretz Israel at the end of the 19<sup>th</sup> century. It might presumably have been anticipated that in the democratic State of Israel, which seeks to be a focal point for the Jewish world, the third sector would set the standard for proper conduct, for full and unrestrained engagement of the various problems afflicting the State and its society, and for the effort to find solutions to these problems. In personal terms, and in terms of contribution and voluntarism, Israel does indeed occupy a highly respectable place on the world pyramid. The charitable and mutual assistance activities that take place in Israel are imbued with the spirit of time-honored Jewish tradition. However, the organizational status of the various bodies seeking to provide solutions reflects a large gap between theory and practice, between personal giving and the organizational framework.

This is not the place in which to expand on the history of Israeli civil society or the political system's impact on it starting with the period of the Second Aliya and continuing with the founding of the State. The Yishuv leadership prior to the founding of the State, and the Israeli governments since, have sought to hold the reins of Israel's society and economy, whether for ideological reasons or out of a desire to stay in power, and this has served greatly to limit civil society. Civil initiatives seeking to grow have found themselves dependent on public funds and on policies dictated by those in control of the public coffers. The process of awakening that has characterized civil society throughout the world, both in the West and in Eastern Europe, since the last quarter of the 20<sup>th</sup> century, has not passed over Israel. Processes taking place in local Israeli reality conform to a worldwide trend, and Israel's civil society is reaping the benefits.

The processes that have been taking place around the world have been accompanied by the development of a variety of theories regarding civil society and its place within the

State. New definitions for old phenomena, the inclusion of new concepts in academic disciplines [and] the development of research and publication activities addressing the various changes occurring, serve to deepen our thinking and to raise new dilemmas. “Civil society” has taken on a new meaning, or, indeed, meanings, during the modern age. The term “third sector” has been coined, reflecting the trend toward dividing society into three sectors while addressing the place and the status of each of them and the relations between them.

In the current age, which has been variously characterized as “the end of ideology,” “the end of the era of political parties,” “globalization,” and “limiting the role of government,” the books of David Riesman<sup>1</sup> and Walter Lippmann<sup>2</sup> reveal newly-relevant insights. The citizen is expected to take part in building the society in which he lives. He cannot be passive and wait on the sidelines. The activity of the individual will be integrated with that of his fellows; nonprofit organizations will be established, a new spirit will swell the sails of civil society and third sector organizations will seek to play an ever-greater role.

The accelerated development of civil society and third sector organizations, a process which, as mentioned above, started during the last century, has brought a set of concepts relating to voluntary and civil action into the formal legal domain, resulting in new legislation on NPOs, the creation of supervisory and control frameworks, increased public scrutiny, expectations of transparency and accountability, and a desire to protect the public from fraudulent behavior on the part of bodies seeking to represent themselves as acting for the good of others. As these phenomena have increased, the organizations have had to adopt new methods of governance and appropriate norms, demonstrate productivity clearly, and increase efficiency. The privatization process that is sweeping the world, including Israel, has led to an increase in tension and competitiveness. On the one hand – the state seeks to decrease its involvement, while on the other hand – for-profit corporations seek to participate in public activity and in the provision of public services. At the same time, organizations whose task it is to represent public issues and

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<sup>1</sup> David Riesman, *The Lonely Crowd*, New Haven & London: Yale University Press, 1950.

<sup>2</sup> Walter Lippmann, *The Good Society*, New York: Grosset & Dunlap, 1936.

to influence policy makers find themselves in a new environment that makes it difficult for them to function.

Playing a role in this ongoing process necessitates the taking of responsibility, the development of appropriate tools and the strengthening of the organizations. These needs arise not only in Israel, but throughout the world. There is public outcry against the severe improprieties that are occasionally discovered and which invite harsh and justified public criticism. The organizational response is usually along the lines of “One rotten apple spoils the bunch.” While the “rotten apple” phenomenon does exist and should not be downplayed, this cannot be considered an adequate response. Public activity, whether general or specific, demands responsibility and trustworthiness where the property of other is concerned. From this perspective, one’s own actions are those in need of examination, not those of others.

There is constant discourse regarding the proper method of managing an NPO – whether it should be viewed as an organization like any other or as one with characteristics which distinguish it from commercial corporations or public bodies. Since an NPO is, by definition, a private body acting for the public benefit, it cannot be considered to be a public body in the sense of being an arm of the state or of one of the governmental branches. Business corporations motivated by the quest for profit are strong and dynamic forces. NPOs, which belong to neither of these two categories, are motivated by values and the desire to achieve goals, to realize a vision. Are these idealistic motivations sufficient to make adherence to proper managerial norms unnecessary? The answer, clearly, is no. Thus, a definition of norms and rules of governance appropriate for this type of organization is needed. Yet this is not enough. The secret of success lies in the actual assimilation and enforcement of these norms and rules. The question that arises is, thus, that of who should be responsible for determining the norms, who should create the necessary infrastructures and tools and oversee their enforcement. It was mentioned previously that activity on behalf of the public requires the taking of responsibility. This means that the responsibility for what is being done is that of the third sector itself. Concepts such as self-regulation and self-policing have become cornerstones of the

current approach. This does not make the state and its laws superfluous. Laws define the frameworks, what is permissible and what is not. The state, and only the state, has the power to enforce the law. The domain created by the law is the space in which civil society functions and in which third sector organizations conduct their activities. This space may expand or contract as a function of the national culture, the political system and the personal, civil and public responsibility taken by the society and its organizations.

With regard to the important role played by civil society, British Prime Minister Tony Blair has stated<sup>3</sup>: “In the modern world it is simply not possible to have a dynamic and vibrant society and economy without a dynamic and vibrant voluntary sector.”

The existence of a strong democracy depends on the existence of a “dynamic and vibrant” civil society. In order for such a society to exist, it must have available to it the tools necessary to conduct its activities in a proper manner. Many countries are dealing with the issue of how to impart these tools to organizations. There is no single answer. There is no magic solution. Every society has to find its own means of making the necessary improvements. Great similarities exist between the US, European countries and Israel regarding issues on the national agenda, charities and third sector organizations. All of these countries are struggling with the same dilemmas and the same priorities. The problems are similar, but the solutions are different and varied.

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<sup>3</sup> *Private Action, Public Benefit*, A Review of Charities and the Wider Not-for-Profit Sector, Strategy Unit, Cabinet Office, London, 2002, p. 5 – Foreword by the Prime Minister.

# Section 1 – The Third Sector in Israel

## General

Various theories exist regarding the conditions which brought about the growth of the third sector and the role it plays in society. Among these theories are those based on approaches underscoring market failure<sup>4</sup>, organizational failure of the voluntary sector<sup>5</sup>, the will of the state to involve certain populations in governance<sup>6</sup>, various social theories<sup>7</sup>, or civil society and the civil organizations that grow out of it<sup>8</sup>. In this paper we will not discuss the various theories at length, except as necessary in certain contexts<sup>9</sup>.

Third sector organizational expansion has led to efforts on the part of researchers to define the unique nature of the third sector organization. We prefer the definition

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- <sup>4</sup> For more on market failure leading to the growth of the third sector, see:  
Burton A. Wiesbrod, *The Nonprofit Economy*, Cambridge, MA: Harvard University Press, 1988.  
Henry Hansmann, "The Role of the Nonprofit Enterprise", *Yale Law Journal*, 89, 1980, pp. 835-901.  
Henry Hansmann, "Economic Theory of the Nonprofit Organizations", in: W.W. Powell (ed.), *The Nonprofit Sector: A Research Handbook*, New Haven, CN: Yale University Press, 1987, pp. 27-42.
- <sup>5</sup> Lester M. Salamon, *Partners in Public Service*, Baltimore, MD: Johns Hopkins University Press, 1995.
- <sup>6</sup> Estelle James, "The Nonprofit Sector in Comparative Perspective", in: W.W. Powell (ed.), *The Nonprofit Sector, Research Handbook*, New Haven, CN: Yale University Press 1987, pp. 397-415.
- <sup>7</sup> Lester M. Salamon & Helmut K. Anheier, "Social Origins of Civil Society: Explaining the Nonprofit Sector Cross-Nationally", *Voluntas*, 9(3), 1998, pp. 213-248.
- <sup>8</sup> An extensive literature exists in this area. See:  
Jean Cohen & Andrew Arato, *Civil Society and Political Theory*, Cambridge, MA: MIT Press, 1999.  
Robert Fullinwider (ed.), *Civil Society, Democracy and Civil Renewal*, Laham, MD: Rowman & Littlefield, 1999.  
Sudipta Kaviraj & Sunil Khilnani (eds.), *Civil Society*, New Delhi, India: Cambridge University Press, 2001.  
Adam Seligman, *The Idea of Civil Society*, New York: The Free Press, 1992.
- <sup>9</sup> For more information see: Benjamin Gidron, Michal Bar and Hagai Katz, *The Third Sector in Israel*, Hakibbutz Hameuhad, Tel Aviv, 2003.  
Walter W. Powell (ed.), *The Nonprofit Sector*, New Haven & London: Yale University Press, 1987.  
David C. Hammack, *Making the Nonprofit Sector in the United States*, Bloomington & Indianapolis, ID: Indiana University Press, 1998.  
David Billis & Margaret Harris (eds.), *Voluntary Agencies*, London: McMillan, 1996.  
Steven J. Ott (ed.), *Understanding Nonprofit Organizations*, Boulder, CO: Westview, 2001.  
Steven J. Ott (ed.), *The Nature of the Nonprofit Sector*, Boulder, CO: Westview, 2001.

formulated by Johns Hopkins University within the framework of the international comparative research that it has conducted<sup>10</sup>. A third sector organization is:<sup>11</sup>

- (1) Legally registered – The organization is an entity formally recognized within the legal framework of the state.
- (2) Private – The organization has been established by private individuals, and functions as such.
- (3) Not profit-distributing – The organization does not distribute its profits or assets to its members or officers.
- (4) Self-governing – The organization is run independently by its members and is not controlled, whether directly or indirectly, by any external party.
- (5) Voluntary – Some or all of the activity conducted by the organization is voluntary. To meet this criterion it is enough that members of the board be employed on a voluntary, non-salaried basis.

This definition includes and addresses two aspects of the organizations: the external aspect – formal incorporation/private enterprise; and the internal aspect – the organization’s internal board, the prohibition on profit distribution, independence and voluntarism.

When assessing the degree to which organizations conform to this definition, it frequently becomes apparent that various organizations do not meet these five criteria, and thus should not be considered third sector organizations.

## **Historical development**

Israel’s third sector had its beginnings during the pre-State period. Yishuv society was rooted in the age-old Jewish historical tradition<sup>12</sup>. During the pre-State period third

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<sup>10</sup> “The Johns Hopkins University Comparative Nonprofit Sector Project.” Within the framework of this project studies have been conducted of the third sector and its organizations in 22 countries, including Israel.

<sup>11</sup> Lester M. Salamon, Helmut K. Anheier, Regina List, Stefan Toepler, S. Wojciech Sokolowski and Ass, *Global Civil Society, Dimensions of the Nonprofit Sector*, Baltimore, MD: The Johns Hopkins Center for Civil Studies, 1999, pp. 3-4.

<sup>12</sup> On the development of Israel’s third sector, see:

sector organizations functioned under the auspices of the Yishuv leadership, and within the framework of secondary centers run by the various political parties and political and religious streams. These organizations were incorporated under Ottoman and Mandate law, with a minority of them functioning as foreign corporations in Eretz Israel<sup>13</sup>. Religious-traditional Judaism does not recognize the concept of “civil society.” The extensive rabbinical literature has not, over the generations, addressed this concept at all. Consultation of the sources reveals that the subject of “civilized society” was addressed. The traditional Jewish perspective takes the view that “all Jews are responsible for each other.” The individual is a member of the community. If we try to understand the concept in this way – in terms of ethics, equality and social justice, cooperation and mutual assistance, group activity on behalf of the entire public – we will find the existence of a traditional Jewish form of civil society which functioned in the community through charitable works and through communal frameworks which addressed the needs of individuals, in the public and the familial-personal domains<sup>14</sup>.

World Jewish organizations of the modern type began to come into existence at the end of the 19<sup>th</sup> century<sup>15</sup>. Their activity led to a far-reaching change in the functioning of the Jewish communities and were a major influence on the developing pre-State Yishuv<sup>16</sup>. Some of these organizations still exist today.

Zionist settlement in Eretz Israel led to the development of new and different kinds of civil society organizations<sup>17</sup> which were not tied to Jewish religious tradition, in contrast to similar activities in the past. The Zionist establishment channeled the activity of these

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Dov, Ben Meir, *Voluntary Work in Israel*, Jerusalem: Karta, 1988, p. 11-169.

Nissan, Limor, *Nonprofit Boards*, Jerusalem: The Voluntary and Nonprofit Sector, 2002, p. 21-62.

Ilana Silber & Zeev Rosenhek, *The Historical Development of the Israeli Third Sector*, Beer-Sheva: Israeli Center for Third Sector Research, The Johns Hopkins Comparative Nonprofit Sector Project, Ben Gurion University of the Negev, 2000. (1<sup>st</sup> printing, 1999).

<sup>13</sup> Usually falling into this category were international Jewish organizations such as Hadassa and WIZO.

<sup>14</sup> Nissan, Limor, *Not by the Spirit Only*, Jerusalem: The Voluntary and Nonprofit Sector, 2002, p. 21-28.

<sup>15</sup> The first coordinated fundraising campaign in the US took place in Boston in 1895.

<sup>16</sup> Among these organizations were : Bnei Brith (1843); the Society for the Settlement of Eretz Yisrael (1860); Kol Yisrael Chaverim (1862); Agudat Achim (1871); ORT (1880); The Jewish Colonization Association (JCA) (1891); Agudat Ezra (1901); the JDC (1914); Hias (1909). Some of these organizations are still in existence.

organizations toward a defined goal, and incorporated those which served the Zionist vision. This was an important turning point which represented a break with the traditional charitable and voluntary occupations of the old world. Traditional aid organizations were replaced by those conforming to a new set of criteria, with a different kind of mission. Not necessarily a mission of philanthropy, but rather a civil and political mission; the formation of goals bearing a new kind of charge, for a local culture in the process of development<sup>18</sup>. Many years would pass before Israeli society came to produce its own independent organizations reflecting the will of the public and seeking to address its needs, with no dependency on the government or on political parties.

During the period of the British Mandate, thousands of societies, Jewish and non-Jewish, were registered in Palestine (within the Ottoman legal framework)<sup>19</sup>. Examination of the data on these organizations that were compiled during the early years of the State<sup>20</sup> reveals the major areas for which organizations were formed, including professional

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<sup>17</sup> Organizations such as the following were founded: societies for leasing land to farmers, for water allocation, for the distribution and sale of agricultural produce, for public health, etc.

<sup>18</sup> The arrival of the Second Aliya was a turning point. While the First Aliya represented a break with the “Old Yishuv” and its traditions, the Second Aliya was responsible for the formation of the culture of political parties and their secondary centers through which it sought to mold and guide Yishuv society.

<sup>19</sup> The departure of the British and the lack of an orderly transfer of organization files led to the loss of many of them, and so there is no reliable documentation of the societies that existed just prior to the founding of the State. However, in 1954, in a Knesset speech, while proposing the Associations Law, the then Justice Minister Pinchas Rosen (who submitted the bill in the name of Interior Minister Israel Rokeach, absent due to illness) stated that, “*When the British regime ended there were about 5,000 societies...Since the founding of the State, reports have been received of the establishment of about 2,600 such societies.*” It should be noted that these data refer only to Ottoman societies and do not include charitable trusts (“hekdeshot”) that were registered by the religious courts (Jewish and Muslim). Speech of the Justice Minister, *Divrei HaKnesset*, Session 509, 11 Kislev 5715 (6.12.1954), p. 247.

<sup>20</sup> The registration of organizations was done by the Ministry of the Interior in accordance with the Ottoman Societies Law. However, via an internal arrangement all requests submitted to the Interior Ministry to register an association were transferred to the Israel Police, which had to render its opinion prior to the association’s registration. This arrangement was necessary in order to prevent the registration of hostile or criminal bodies. Thus, the orderly lists that are in existence are from the Police and not from the Interior Ministry (the Police division of the State Archive). In 1949 the Interior Ministry asked the associations to renew their registration with the Israeli government. The Israeli Police instructed those in charge of the Interior Ministry districts to produce lists of associations registered during the period March 1949 – July 1950. These data, though they are incomplete and do not include associations that were not registered but which continued their activity, enable an idea to be formed of the scope and variety of activity of the Ottoman organizations during this period. Israel State Archive, Police Division, L 2/2176.

societies<sup>21</sup>, business organizations, cultural and charitable organizations. According to Eisenstadt<sup>22</sup>, in the pre-State period there existed a large number of voluntary organizations, covering a wide variety of fields, in addition to support frameworks based on social affiliation. Eisenstadt states that most of these organizations shared four characteristics: firstly, they were related to social movements and organizations with political connotations; secondly, they fulfilled functions that were essential to the community; thirdly, they served as a bridge between the Jewish settlement enterprise and the centers of power and influence; and fourthly, they viewed themselves as realizing the Zionist ideal, in the sense of “national rebirth.”

With the founding of the State and the continuation of the arrangements that existed during the Mandatory period, the Ottoman law of 1909<sup>23</sup> served as the framework in which citizens could associate in the formation of an NPO. In 1954 a law was proposed by the government – the Associations Law, which did not succeed in passing the Knesset’s three-reading hurdle<sup>24</sup>. Only in 1980 did a governmental bill pass and become the Associations Law of 5740-1980. The Associations Law requires that a group of people seeking to function as an association be registered in the Registry of Associations. The Ottoman law which preceded it required that the authorities be notified of the establishment of a society, and prior registration was not a condition. The Associations Law has been amended four times since 1980, the third amendment, in 1996, being significant for its imparting of extensive authority to the Registrar of Associations for supervision and control, and for the requiring of reports. Many claim that the

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<sup>21</sup> The professional societies, which accounted for about 30% of the organizations, sought to improve the professional status and to promote the particular interests of each group. Associations were also formed for other kinds of groups, such as tradesmen, small business owners, etc. It appears that the latter learned to appreciate the power of joint organization and representation of their interests. Charitable organizations accounted for about a quarter of the organizations, and were divided between traditional charities and new mutual aid organizations. Nearly a sixth of the organizations were new immigrant organizations, based on country of origin. Cultural and artistic organizations constituted about 7%, with a similar percentage in the field of education and research. Yael Yishai, *Interest Groups in Israel*, Tel Aviv: Am Oved, 1987, p. 51-59.

<sup>22</sup> Shmuel Noah Eisenstadt, “The social conditions for the development of voluntary organizations – Israel,” in: Shmuel Noah Eisenstadt et al., *Israeli Social Structure*, Jerusalem: Akademon, 1969, p. 229.

<sup>23</sup> This law was based on the French law of 1901. The French law represented a breakthrough since it permitted the establishment of nonprofit organizations, something that had been prohibited in France since the days of the French Revolution.

Associations Law in its current form is unsatisfactory and fails to address the various problems faced by NPOs in the modern age.

## **The number of third sector organizations in Israel**

Various data exist regarding the number of voluntary NPOs in Israel. In order to understand the complexity of the data, the following two points should be considered:

1. Method of incorporation – Israeli legislation enables a body to be registered as a nonprofit corporation via several laws providing for the establishment of a legal entity of this type, including: the Ottoman Societies Law no. 121<sup>25</sup>; the Associations Law, 5740-1980; the Trusts Law, 5739-1979<sup>26</sup>; the Companies Law, 5759-1999<sup>27</sup>; the Cooperative Societies Ordinance; the Parties Law, 5752-1992; the Council for Higher Education Law, 5718-1958. The attempt to arrive at the number of organizations registered via each of these laws is complex and liable to produce incomplete data. Calculations based on legal incorporation are only partial without crossing them with data from the tax authorities which determine the “nonprofit<sup>28</sup>” or “public institutional<sup>29</sup>” status of a corporation.

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<sup>24</sup> Bill 220, 5.12.1954

<sup>25</sup> Since the Associations Law of 5740-1980 took effect on 1.4.1981, it is no longer possible to register new corporations according to the Ottoman Societies Law no. 121. The Associations Law did not cancel the Ottoman societies and thus there still exist organizations that were incorporated via this old law (which was based on the Ottoman law of 1909). Recently, the Registrar of Associations has been making a special effort to incorporate the still-active societies within the framework of the Associations Law.

<sup>26</sup> This law addresses the registration of charitable trusts. It should be noted that a charitable trust is not a legal entity according to Israeli law. In addition to the Justice Ministry’s Registrar of Charitable Trusts, which deals with civil trusts, the rabbinical court has parallel authority with regard to those charitable trusts that are registered with it (Article 41 (a) of the Trust Law).

<sup>27</sup> The new Companies Law, which took effect on 1.2.2000, enables the incorporation of a company whose articles of association state that it was established for the purpose of achieving public objectives only and that profit distribution to its shareholders is forbidden (Article 11 [b]). This law was preceded by the Companies Ordinance [combined version], 5743-1983, which enabled the establishment of a “company for the public benefit” (Article 32).

<sup>28</sup> The concept “nonprofit institution” is taken from the Value Added Tax Law, 5736-1975, which distinguishes between a “registered business” and a “nonprofit institution” and defines the concept: (1) the state, local authority or conurbation; (2) a group of people, in association or not in association,

2. Active organizations – registration of corporations with the statutory registrar is not enough to indicate the number of those which are truly active. The statutory registrars are supposed to receive ongoing reports, but the actual situation is unsatisfactory. In order to obtain a rough idea of the number of effective organizations, we will have to cross data from three main sources:
- (a) The Registrar of Associations – according to the Registrar’s data, forms for the payment of yearly fees were sent to approximately 22,000 associations in 2004<sup>30</sup>. About 7,000 paid, about 9,000 declared themselves exempt from payment of the fee<sup>31</sup>, and about 6,000 did not respond<sup>32</sup>.
  - (b) The Income Tax Commission – according to Income Tax Commission data, there are approximately 16,000 active NPO files.
  - (c) The Ministry of Finance’s Accountant General – The number of NPOs receiving state assistance (from government ministries and estates), according to Accountant General data, comes to about 4,000.

The number of organizations active in any concrete way (including the employment of salaried workers) may be estimated, according to the above data, to be between 7,000 and 9,000 associations, including those receiving support from local government and other bodies (the JDC, the Jewish Agency, foundations, federations, etc.). In these data we do not include small associations that serve synagogues, community funds, the activity of individual members, etc.

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whose activity is not for profit and which is not a financial institution; (3) a corporation established by law which is not registered as a company, a cooperative society or a partnership; (4) a “kapat gemel” (providence fund) exempt from income tax according to article 2(9) of the Income Tax Ordinance.

<sup>29</sup> The Income Tax Ordinance does not make use of the term “nonprofit institution,” but rather of the term “public institution.” The latter is defined in Section 9(2) as: “a group of at least seven people most of whom are not related to each other, or a charitable trust most of whose trustees are not related to each other, and which exists and acts in the pursuit of a public aim, and whose assets and income are used only for the purpose of achieving the public objective...”

<sup>30</sup> This figure is compatible with the estimation that only 65% of the organizations are active. See: Benjamin Gidron, Yael Alon and Rinat Ben-Nun, *Report of the Database on Israel’s Third Sector*, Israeli Center for Third Sector Research, Ben-Gurion University, Be’er-Sheva, 2003, p. 17.

<sup>31</sup> By law, those associations whose annual financial turnover amounts to less than NIS 300 thousand, and which do not employ salaried workers, are exempt from paying the yearly Associations Registrar fee.

We have enumerated above the characteristics of a third sector organization. By applying these tests to organizations registered as associations and companies for public benefit, a significant number of organizations may be found which do not meet the five criteria. Among these are associations which lack the status of a public institution (for income tax purposes) or of an NPO (for VAT)<sup>33</sup>, associations controlled by external parties and which are not run independently<sup>34</sup> or charitable trusts which do not pass the test of incorporation<sup>35</sup>.

## **The place of third sector organizations in the Israeli economy**

Israel's third sector occupies a respectable place within the country's economy. It accounts for nearly a tenth of Israel's economic activity. According to 1997 data, the percentage of those employed in the sector's organizations was about 9.7% (not including the agricultural branch), the equivalent of approximately 206,000 full-time employees (FTEs). Current trends indicate that this rate is on the rise<sup>36</sup>. To this should be added the work performed by volunteers, which was estimated that year as amounting to the equivalent of about 40,000 FTEs. In total, including volunteer work, the sector accounts for approximately 11.5% of all non-agricultural employment<sup>37</sup>.

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<sup>32</sup> As of June 1, 2004. The data were obtained at a meeting with Ms. Ruth Shalgi, Registrar of Associations at that time.

<sup>33</sup> An example of an association of this type is "Acadamon."

<sup>34</sup> An example of this is the municipal associations. It should be noted that, according to the Associations Law [article 26(a)(1)], all or some committee members must be appointed by one person or body and not by the general meeting. In this context, a corporation may also be a member or may appoint someone to represent it.

<sup>35</sup> According to Israeli law – the Trusts Law, 5739-1979 (through which charitable trusts (hekdeshot) are created), charitable trusts are not legal personalities. This applies as well to trusts registered with the religious courts.

<sup>36</sup> This fact was confirmed during a conversation with Ms. Nava Brenner of the Central Bureau of Statistics.

<sup>37</sup> Benjamin Gidron, Michal Bar and Hagai Katz, *The Third Sector in Israel*, Tel Aviv: Hakibbutz Hameuhad, 2003, chapt. 2.

The total ongoing expenditures of third sector organizations in 1997 came to about NIS 53 billion, about 14.3% of the GDP for that year. In certain fields, especially education, welfare, health and religion, the third sector presence was even higher<sup>38</sup>.

Israel's third sector is one of the largest in the world in proportion to the entire economy. In a comparative study conducted by Johns Hopkins<sup>39</sup>, Israel's third sector was rated fourth out of the 22 countries that were studied<sup>40</sup>. Its share of the entire (non-agricultural) workforce was almost double the average for those countries included in the study, and higher than that of the US and Great Britain.

The third sector is funded mainly by public budgetary sources<sup>41</sup>. According to data from 1995<sup>42</sup>, these sources accounted for approximately 64% of the sector's entire income, with about 26% coming from earned income (membership dues and service fees) and about 12% from donations. In 1998, about 38% of the organizations received assistance from the public budget<sup>43</sup>.

The current state of the sector in Great Britain is as follows<sup>44</sup>: Approximately 39% of the organizations' income comes from the public budget, about 48% is earned (membership dues and service fees), and about 12% is from donations. In the US it was found that about 19% of the NPOs' income came from isolated donations, about 7.5% from government grants and about 73.5% from services and programs run by the

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<sup>38</sup> Ibid.

<sup>39</sup> See: Lester M. Salamon, Helmut K. Anheier, Regina List, Stefan Toepler, S. Wojciech Sokolowski and Ass. Baltimore, MD., *Global Civil Society, Dimensions of the Nonprofit Sector*, The Johns Hopkins Center for Civil Studies, 1999.

<sup>40</sup> Israel came before the Netherlands, Ireland and Belgium.

<sup>41</sup> In this context the public budget is that of the government, the local authorities, corporations established by law and bodies funded by the State or the local authorities and through which budgets are transferred to third parties.

Benjamin Gidron, Hagai Katz and Michal Bar, *The Third Sector in Israel 2000 – The Roles of the Sector*, Be'er-Sheva: Israeli Center for Third Sector Research, Ben-Gurion University, Be'er-Sheva, 2000.

<sup>42</sup> 1995 data, Galnoor Committee Report, p. 29.

<sup>43</sup> Galnoor Committee Report, *ibid.*

<sup>44</sup> Data for 1990. See:

Jeremy Kendall & Martin Knapp, *The Voluntary Sector in the UK*, Manchester, UK & New York: Manchester University Press, 1977, p. 109, table 4.1.

organizations. The latter include services provided to the state<sup>45</sup>. Although these data have not been updated during the last decade, they are indicative, and any deviations from them are irrelevant to the purpose of understanding the trends and the overall picture.

In Israel the percentage of income coming from donations is high by international standards and second only to that of the US, where the percentage is approximately 13%<sup>46</sup>. Most of this funding comes from abroad. Household donations constitute about a seventh of all donations (in 1997 these donations amounted to about NIS 465 million)<sup>47</sup>. There is no precise information regarding the share of the second sector – the business sector. Based on data published in public company executive reports<sup>48</sup> for 2001, it appears that total donations that year reached NIS 53 million<sup>49</sup>.

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<sup>45</sup> Data for 1992, see:  
Virginia A. Hodgkinson & Murray S. Weitzman, *Nonprofit Almanac 1996-1997* San Francisco, CA: Jossey-Bass, 1997.

<sup>46</sup> Galnoor Committee Report, *ibid.*  
Laster M. Salamon & Helmut K. Anheier, *The Emerging Sector Revisited*, Baltimore, MD: Johns Hopkins University, Center for Civil Society Studies, 1998.

<sup>47</sup> Shmuel Shye, Alon Lazar, Rivka Duchin, Benjamin Gidron, *Philanthropy in Israel: Patterns of Giving and Volunteering in the Israeli Public*, Be'er-Sheva: Israeli Center for Third Sector Research, Ben-Gurion University, 1999.

<sup>48</sup> According to Amendment 10 to the Securities Regulations (Immediate Periodical Reports), 5730-1970 (Reg. Order 6130 of 1.11.2001), public companies must publish their donation policy in their executive reports, and mention the donations that were actually made or for which there are formal commitments.

<sup>49</sup> This figure is for 193 companies (out of the 663 registered companies that year). See: Nissan Limor, *Not by the Spirit Only*, Jerusalem: The Voluntary and Nonprofit Sector, 2002, p. 86.  
On corporate giving, see: *The MAALA Ranking – Which Companies in Israel Excelled in Social Responsibility*, Tel Aviv: MAALA – Business for Social Responsibility in Israel, 2004.

## Chapter 2 – Government Policy on the Third Sector

We have noted above the existence of various theories regarding the third sector's growth and its place in Israel's social fabric. Regardless of the theory to which one subscribes, it is clear that in the current environment there is a pressing need to define the relationship between the sector and the Israeli government.

A number of relationship patterns between the state and the third sector have appeared around the world. Third sector organizations are variously viewed as continuing, complementing, or opposing government activity. Some see third sector-government relations as a reflection of the type of government in question – liberal, social-liberal, corporate or state<sup>50</sup>.

In the US, civil society organizations sprang from below, from the community. These are the entities which determined the nature of the society and developed services for it, in an independent manner<sup>51</sup>. On this subject James J. Fishman writes<sup>52</sup>:

*"Americans of all ages, all conditions, and all dispositions constantly form associations. They have not only commercial and manufacturing companies, in which all take part, but associations of thousand other kinds, religious, moral, serious, futile, general or restricted, enormous or diminutive. The Americans make associations to give entertainments, to found seminars, to build inns, to construct churches, to diffuse books, to send missionaries to the antipodes; in*

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<sup>50</sup> See: Benjamin Gidron, Michal Bar and Hagai Katz, *The Third Sector in Israel*, Hakibbutz Hameuhad, Tel Aviv, 2003.

Benjamin Gidron, Ralph M. Kramer & Lester M. Salamon, *Government and the Third Sector*, San Francisco, CA: Jossey-Bass, 1992.

Lester M. Salamon & Helmut K. Anheier, *The Emerging Sector Revisited*, Center for Civil Society Studies, Baltimore, MD: Johns Hopkins University, 1998.

Elizabeth T. Boris & Eugene C. Steuerle (eds.), *Nonprofits & Government*, Washington, DC: The Urban Institute Press, 1998.

<sup>51</sup> David C. Hammack, *Making the Nonprofit Sector in the United States*, Bloomington & Indianapolis, IN: Indiana University Press, 1998.

<sup>52</sup> James J. Fishman, "The Development of Nonprofit Corporation Law and An Agenda for Reform", *Emory Law Journal*, 62, 1985, p. 617.

*this manner they found hospitals, prisons, and schools. If it is proposed to inculcate some truth or to foster some feeling by the encouragement of great example, they form a society."*

According to the American approach, the less the government intervenes in citizens' lives, the better. Civil society strictly maintains its independence and opposes any legislation or activity that may be interpreted as limiting its freedom. The American government, whether at the federal or the state level, occasionally takes a policy stand on issues pertaining to civil society activity, but, in accordance with American cultural norms, it avoids interfering with the activity itself and with the conduct of civil society organizations.

President George W. Bush, who attaches great importance to the personal responsibility of each citizen, has addressed this issue, stating<sup>53</sup>:

*"A government that promises to feed the hungry, clothe the poor, heal the sick and solve all our problems not only fails in trying to be all things to all people, but also limits our own incentive to love our neighbor, to care for our families, to become involved in our communities."*

From the point of view of the government, whether federal or state, the main test is that of improving its functioning and rendering it more efficient, providing more services and limiting expenditures<sup>54</sup>. This attitude was brought into sharp relief during the administration of President Bill Clinton (1993-2001), which adopted the concept of 'reinventing government', acted to strengthen third sector organizations and supported the founding of NPOs by the government ('government-created charitable organizations' – GCCOs)<sup>55</sup>. The current President, who passed the "Charitable Choice" legislation, has created a framework for supporting church ('faith-based') organizations (FBOs)<sup>56</sup> which enables these organizations to take on the responsibility of providing services in place of

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<sup>53</sup> Speech by President George W. Bush at Texas A&M University. See: Fred Glennon, "Blessed Be the Ties That Bind? The Challenge of Charitable Choice and Moral Obligation", *Journal of Church and State*, 42, 2000, p. 836, note 23.

<sup>54</sup> See: David Osborne & Ted Gaebler, *Reinventing Government*, New York: Plume Books, 1993.

<sup>55</sup> See: Nancy J. Knauer, "reinventing Government: The Promise of Institutional Choice and Government Created Charitable Organizations", *NY Law School Law Review*, 41, 1996-1997, pp. 945-999. Michael Fromkin, "Reinventing the Government Corporation", *University of Illinois Law Review*, 1995, pp. 543-697.

those that had been provided by the government (federal or state). These services are meant to complement government activity, with public participation and donations.

During the last quarter of the previous century, legislation pertaining to NPOs was passed or amended in countries around the world<sup>57</sup>. In light of the great increase in the number of NPOs and the negative phenomena that have been discovered and extensively publicized regarding such organizations, particularly after 9/11<sup>58</sup>, the American government has sought in recent years to increase its supervision of these organizations. NPOs are perceived as lacking in transparency and accountability<sup>59</sup>. The issue is a contentious one, at both the ideological and the practical levels. However, there is no apparent argument regarding the changing trend – from lack of supervision to partial supervision of one form or another<sup>60</sup>. The two entities called upon to play a supervisory role are the attorney general’s office in each state<sup>61</sup> and the federal tax authorities (the IRS).

A different approach may be found in Great Britain (and in other countries, including Canada, Ireland and Australia). The various charitable organizations are rooted in the activity of the church and of the upper class; they did not grow out of the community. Their formation took place within the state legal framework as it developed from the period of Queen Elizabeth I in the early 17<sup>th</sup> century<sup>62</sup>. The government considers the

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<sup>56</sup> FBO – “faith-based organization.”

<sup>57</sup> These laws have names such as “Nonprofit Corporation Law,” Not-for-Profit Corporation Law,” or they appear in the context of trust legislation, etc.

<sup>58</sup> The increase in supervisory mechanisms seen since 9/11 is meant to enable the authorities to monitor financial transactions.

<sup>59</sup> See such treatments of the subject as:

“...*Lack of transparency and absence of accountability that characteristic of so many exempt organizations*”, Frances R. Hill, “Targeting Exemption for Charitable Efficiency: Designing A Nondiversion Constraint”, *Southern Methodist University Law Review*, 56, 2003, p. 679.

“... *A persistent problem of the nonprofit sector – its lack of accountability to the public*”, James J. Fishman, “Improving Charitable Accountability”, *Maryland Law Review*, 62, 2003, p.222.

<sup>60</sup> A bill to amend federal law so as to provide for increasing supervision via the tax authorities, is currently under review by the US Congress.

<sup>61</sup> It should be noted that only 40 states in the US have a supervisory mechanism for these organizations under state attorney general auspices; in New York, which has the largest concentration in the US of NGOs, the State Attorney General’s office has a staff of only 14 dealing with this area.

<sup>62</sup> See: *The Statute of Charitable Uses, 1601*.

Gareth Jones, *History of the Law of Charity 1532-1827*, Cambridge, UK: Cambridge University Press, 1969, pp. 16-56.

needs of society and the economy, and it seeks to mobilize third sector organizations to fulfill these needs, as they are perceived by the state.

An NPO is defined in a government document as follows<sup>63</sup>:

*"A business with primarily social objectives whose surplus are principally reinvested for that purpose in the business or in the community."*

The same document later enumerates the British government's expectations of an organization that seeks to act as the initiator of a social project:

- (1) Leadership and initiative.
- (2) It must serve as an intermediary between the state, which seeks to provide the service, and the service recipients. This capability is not a trivial one. It requires understanding of both sides – that of the service provider and that of the recipient.
- (3) Proper attitude toward the task and the ability to train its employees to perform it.
- (4) The ability to achieve demonstrable results.
- (5) The ability to raise additional funds to strengthen and improve its activity.

British government policy takes the view that the government cannot or should not be directly involved in the provision of services to the public. In light of this, the government encourages third sector organization activity and establishes additional organizations, assists with the necessary infrastructures and guides the organizations toward activity on issues and in fields that serve its policy.

A report submitted by the British Interior Minister to Parliament in 1989 states<sup>64</sup>:

*"The importance of the voluntary sector does not, however, lie just in its capacity to deliver services funded by Government; nor is it any part of Government's policy to place on voluntary organisations the burden of delivering the essential services for which it is right that the Government should remain responsible. The*

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<sup>63</sup> *Social Enterprise: A Strategy for Success*, London: Department of Trade and Industry, HM government, 2002, p.7.

<sup>64</sup> *Charities: A Framework for the Future*, Presented to Parliament by the Secretary of State for Home Department, (Cm 694), H.M. Stationary Office, London, May 1989, p. 2.

*Government seek a free, vigorous and creative partnership in which each partner is able to make its distinctive contribution. What the voluntary sector has essentially to offer is its practical grass roots experience, its ability to respond swiftly and flexibly to changing needs and circumstances, and perhaps above all its capacity to innovate. In this sense, enterprise and voluntary activity go hand in hand'.*

Processes that began during the 1980s have ripened into declared policies of the British government, as expressed in the “White Paper” of 2002<sup>65</sup>:

*"The Government needs a voluntary and community sector that is strong, independent and has the capacity, where it wishes, to be a partner in delivering world-class public services. To help achieve this, the Government will increase funding to build capacity in the sector and increase community participation. It will work to get the funding relationship right. Fully implementing the Compact and its Codes will be a key step towards more effective partnership. In addition, the Government will set up an investment fund worth £125 million over three years to help voluntary and community organisations in their public service work".*

The Prime Minister’s Strategy Unit published (2002) a report outlining its policy and the actions to be taken<sup>66</sup>. Likewise, a national Compact exists which provides for cooperation between the government and the third sector.

In addition to serving as a basis for cooperation, the Compact recognizes the third sector’s independence and responsibility for its own activities. It also provides for state supervision of the sector via a government agency, the Charity Commission<sup>67</sup>.

Another example may be found in Canada where a government minister for the third sector has been appointed, and where a similar Accord has been signed. These examples taken from Britain and Canada represent proactive policy which encourages and supports third sector development.

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<sup>65</sup> See: [http://www.hm-treasury.gov.uk/spending\\_review/spend\\_sr02/report/spend\\_sr02\\_repchap30.cfm](http://www.hm-treasury.gov.uk/spending_review/spend_sr02/report/spend_sr02_repchap30.cfm)

<sup>66</sup> *Private Action, Public Benefit*, A review of Charities and the Wider Not-for-Profit Sector, London, Strategy Unit, Cabinet Office, 2002.

<sup>67</sup> John Morison. "The Government-Voluntary Sector compacts: Governance, Governmentality, and Civil Society". *Journal of Law and Society*, 27(1), 2000, pp. 98-132.

## **The situation in Israel**

Government policy, or, more precisely, the lack of a clear policy toward the third sector in Israel, leads to ambiguousness. This situation makes it difficult for decisions to be made by the relevant parties: government ministries, third sector organizations, foundations and supporting bodies.

Even during the pre-State period the leadership approach was one of directing society from above, with the objective of creating a new Israeli society, a “melting-pot.” The dominant ideology and the emphasis on the building of the State as the supreme value communicated a clear message – the individual should subdue his personal will in favor of the national objective<sup>68</sup>. A patronizing attitude prevailed which regarded the third sector as an extension of the government, its secondary centers or the political parties. Few lasting organizations were created through private or independent initiative. Such organizations had to identify or associate themselves with a particular ideological-political stream in order to receive support. Political influence on organizations and their funding have never ceased. The third sector organizations’ heavy reliance on public funding (as a result of the kind of policy delineated above) has led to these organizations being highly dependent on the government and has served to stifle their public voice to a great degree. As a result, it is no wonder that policy on civil society organizations and the third sector is vague, undefined, and subject to change with each new government and its needs.

Needless to say, this situation creates many difficulties for third sector organizations, does not promote orderly functioning, and necessitates an unmediated relationship with the government and close connection to the political system, with everything that that implies. This situation does not encourage the adoption of clear strategies or sound conduct. When government policy is unclear and prone to sudden changes, when the available resources and the means of their distribution frequently depend more on the

needs of the current government than on those of society, great efforts must be made to preserve the organization's objectives and to advance its goals. On the other hand, this system has been a source of easy money for some organizations. That is, those organizations belonging to the right factions or compatible with the pragmatic interests of government ministries and political entities have received funds without necessarily having to demonstrate success or sound management<sup>69</sup>. Moreover, there are claims that organizations have tended to go after the money, rather than pursuing the objectives that they originally defined for themselves and which appear in their articles of incorporation<sup>70</sup>. This has at times resulted in unwillingness to formulate a clear vision or to draw up a multi-year strategy.

Since the end of the last century we have been witnessing the beginnings of a change: a new awakening of Israeli civil society, a desire to let independent public voices be heard, a demand that public resources be equitably distributed, an insistence on transparency and a recognition of the contribution made by the third sector to Israeli society and economy. The public no longer regards the government as the sole authority, and it is demanding to play an active role in decision-making that affects it. This trend mirrors processes that are taking place in the rest of the world and which have been gaining momentum particularly since the fall of the FSU and the rise of privatization and globalization.

Moreover, third sector organizations, whether they are advocacy organizations seeking to advance certain issues (sometimes in opposition to government policy) or service-providing organizations finding it difficult to plan for the future, have understood that preaching is not enough. The time has come to take the initiative, to act independently, to improve their operating methods and their public status. As a result, we are witnessing

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<sup>68</sup> This attitude characterized both the Right and the Left. It was also applicable to the religious streams which viewed the Jewish religion and tradition as the blueprint for the Jewish state which arose after two thousand years of exile.

<sup>69</sup> Moti Telias, Yosef Katan and Benjamin Gidron, *National and Local Government Policy towards the Third Sector in Israel*, Be'er-Sheva: Israeli Center for Third Sector Research, Ben-Gurion University, 2000.

<sup>70</sup> An interesting phenomenon prevalent in Israel is that of the frequent discrepancy between the objectives defined in an organization's articles of association, and its actual activity. This phenomenon works in both directions: either the existing activity does not conform to the objectives stated in the articles of association, or the activity necessary to achieve the defined objectives is not pursued.

the formation of umbrella organizations, infrastructure organizations and broad activity on the part of the organizations aimed at strengthening themselves, developing their capabilities, training their staff, etc.

A special committee formed to deal with policy issues – the Review Committee of Government Policy toward the Third Sector in Israel – headed by Prof. Yitzhak Galnoor (henceforth: the Galnoor Committee)<sup>71</sup> – highlighted the problems caused by this state of affairs. It should be noted that this committee was not set up by the government, but within the framework of an academic institution. The initiating entity was the Israeli Center for Third Sector Research at Ben-Gurion University. The Committee's main recommendations regarding government policy were as follows<sup>72</sup>:

1. Government recognition of third sector organizations' special contribution to Israeli society and to the Israeli economy;
2. A declaration by the government of its intention to regulate the relationship between the governmental authorities and the third sector, through a clear, declared, transparent and consistent policy, that will in no way compromise the autonomy of third sector organizations;
3. Recognition of the importance of public funding for the third sector, and the urgent need to regulate such funding.
4. Effort on the part of the government to ensure that support for third sector organizations is based on equitable criteria.
5. Mandated full disclosure of information to third sector organizations.
6. Encouragement and support of third sector organization capacity building.

Again, in the absence of declared government policy supportive of the third sector, the sector itself has to take responsibility and act to improve its public image and its abilities,

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<sup>71</sup> The Committee was established in 2001 by the Israeli Center for Third Sector Research at Ben-Gurion University. Committee members: Prof. Yitzhak Galnoor, Chair, Ariella Ophir, Adv., Prof. Arie Arnon, Michal Bar, Yoram Gabai, Prof. Benjamin Gidron, Dr. Bassel Ghattas, Sara Silberstein-Hipsh, Ophir Katz, Adv., Rachel Liel, Nissan Limor, Walid Mulla, Amir Machul, Avi Armoni, Prof. Yosef Katan, Dr. Varda Shiffer and Dr. Emmanuel Sharon. The Committee published its concluding report in June 2003.

and to ensure sound governance. This conclusion is not simply based on analysis of the current situation, but arose again and again during interviews with various parties while preparing this paper. It should be noted that remarks of this nature came not only from the third sector umbrella and infrastructure organizations, or from the organizations themselves, but also from government bodies and from philanthropic foundations. The latter regard the third sector as having sole responsibility for improving its status, and expect it to act accordingly.

## **Public funding of Israel's third sector**

In Israel, as mentioned previously, public funds account for the lion's share of third sector funding (about 64%). The reason for this is rooted in the generations-long Israeli government policy of shouldering the burden of addressing the needs of the country and its citizens, combined with the desire to subjugate third sector organizations to the government.

Receiving government funding usually means taking the easy way out. While such funding involves bureaucracy, time and delays in fund transfers, ultimately the professional criteria and level of professional and other supervision are not demanding. We have already pointed out that improvement in organizational governance and efficiency is the result of external requirements. When government budgets are handed out indiscriminately, as easy money, there is no particular incentive to change. Since state budgets are the main funding source, the situation would seem to speak for itself.

There are two main methods for the transfer of state funds to organizations, beyond legally-mandated allocations: grants and contracts (purchase of services). Despite the fact that these two methods differ from each other, in local reality they overlap and at times it is difficult to determine why one method rather than the other was employed. Presumably, the method chosen appeared easier and more convenient to the government

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<sup>72</sup> See Galnoor Committee Report, p. 6-7.

ministry in question, and furthered whatever intentions lay behind the decision. Total government transfer to public nonprofit organizations, through all methods, increased from 6.35% of the GDP in 1990, to 8.3% in 2000 and 8.8% in 2003. This increase reflects government policy regarding privatization, and a decline in the government's direct involvement in providing services<sup>73</sup>.

In order to obtain funding via the grants method, an organization seeking a government allocation/grant has to meet criteria set by the relevant government ministry<sup>74</sup>. Once these criteria have been met, the request for assistance is brought before the ministry's grant's committee, which renders its decision. This arrangement is based on the Foundations of the Budget Law, 5745-1985. By government decision (1998)<sup>75</sup>, an entity seeking to obtain government assistance must produce a "sound management" authorization from the Registrar of Associations. Submission of a request is conditional upon this authorization. Yet, in spite of this, the updated method which sought to do away with the formerly problematic "special allocations" still exists, and funds are still granted based on political and other interests<sup>76</sup>.

The second method by which funds are transferred to organizations is by means of tenders. By law, goods and services that the state seeks to procure, whether for its own use or as a public service, require a tender process<sup>77</sup>. The entity seeking to procure a good or service (the government, a local authority or any other body to which the law applies), publishes a tender in which it enumerates the prerequisite conditions that must

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<sup>73</sup> Bank of Israel Annual Report – 2003, Statistical Appendix A.3.9(a) - Receipts and Expenditure of the Components of General Government, 1988-2003.

At: [http://www.bankisrael.gov.il/deptdata/mehkar/doch03/eng/a\\_3\\_9a\\_e.xls](http://www.bankisrael.gov.il/deptdata/mehkar/doch03/eng/a_3_9a_e.xls).

<sup>74</sup> By law (the Foundations of the Budget Law – 5745-1985), government ministries have to publish criteria for every budgetary item from which financial assistance is granted. Currently, the ministries publish drafts of their criteria and, after receiving public feedback, the committee makes its decision which is then published in the records.

<sup>75</sup> By government decision [No. 4418 (BK/128) of 15.10.1998], the body seeking support from the state must produce an authorization from the Registrar of Associations. In Section (2) of the decision it is stipulated that: "*The Registrar will determine...[A] whether the association meets all legal requirements; [B] whether the association's assets and income are used exclusively to promote the association's objectives.*"

<sup>76</sup> See: Amnon De-Hartoch, *Government Support of Public Institutions: Legislation vs. Reality*, Jerusalem: Floersheimer Institute for Policy Studies, 1999.

<sup>77</sup> Mandatory Tenders Law, 5752-1992.

be met by the parties seeking to submit proposals, as well as the specifications, provision conditions and other conditions regarding the goods/services to be procured. The bidder whose proposal surpasses those of the competitors wins the tender. Within this system, no importance is attached to the bidder's legal organizational status, be it a for-profit business firm or an NPO. Nevertheless, NPOs are required to present a "proper management certification" and to conform to Accountant General guidelines for NPOs regarding board expenditure rates, director salary payments, etc.

With regard to the need to distinguish clearly between the two methods of fund allocation, in 1998 the Accountant General published guidelines for distinguishing between grants and procurement, based on four tests: (A) Government task – if the funded activity is a task that the government is obligated to perform, then it is considered to be a service procurement; if there is no obligation to perform the task and the government merely wishes to contribute to its funding, then it is considered to be support. (B) Amount of the funding – if the government funds the entire activity, it is considered to be service procurement, and if the funding is partial then it is grants. (C) Initiative for the activity – if the initiative for the activity and the main interest in performing it are those of the performing body itself, then it is considered to be support. (D) Guidelines and instructions – if the activity of the body receiving the funds is carried out according to a plan formulated by the body itself, with no governmental guidelines or instructions, then it is grants. In audits performed by the State Comptroller in the past, and even in the recent past, there was found to be "switching" back and forth between grants and service procurement<sup>78</sup>.

From the point of view of the organizations, the lack of clarity poses difficulties for them in terms of governance. The grants method seems to make things easier. There is, however, a catch. Requests for support may only be submitted only after the state budget has been approved (late December, unless the budget vote has been postponed due to political conflicts in the Knesset), grants committee deliberations take time, and the funding may be delayed months longer. This means that an organization will either be

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<sup>78</sup> Annual Report of the State Comptroller No. 53B, 2002, p. 844.

prevented from engaging in activity until the process is completed, or it will take a risk and begin its activity before receiving a budgetary commitment to cover its expenses. Taking the tender route means that the organization has to conduct itself as a business, prepare a proposal, arrange guarantors, etc. Organizations experienced in the provision of goods or services may be able to meet these requirements. However, as privatization and use of the tender system increase, the line between voluntary and commercial action becomes blurred<sup>79</sup>. As has been noted by one author in the field: “An NPO is a business like any other”<sup>80</sup>.

Until recently, the presence of a surplus in a financial statement was viewed by the government as a warning sign. That is, the government was reluctant to approve further allocations to an organization that managed to accumulate cash. However, a surplus and ready cash are essential to any organization seeking to maintain its financial health and to pursue its ongoing activity in a sound manner – or, for that matter, to be prepared for its own closing day, when it will have to make good on all of its commitments to employees and suppliers. In Israel, where the funding of government commitments is not continuously assured, this is particularly important. It should be remembered that in many cases state authorization of grant allocations comes later than the actual activity year<sup>81</sup>. Funding that comes in the light of reporting on activity and supplier credit periods, as determined by the Accountant General, creates at times untenable situations for NPOs seeking to obtain bank credit<sup>82</sup>. As a result, organizations need working capital in order to pursue ongoing activity. It should be noted here that the granting of bank capital in the US involves a financial background check that is conducted by the bank. The latter considers the nature of the agreement and the ability of the organization to

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<sup>79</sup> See: Burton A. Wiesbrod (Ed.), *To Profit or Not to Profit*, The Commercial Transformation of the Nonprofit Sector, Cambridge, UK & New York: Cambridge University Press, 2003 (1<sup>st</sup> edition 1998).

<sup>80</sup> See publication of Rafael Haft’s *Financial Reporting of Nonprofit Organizations*, BDO Ziv Haft, in cooperation with The Voluntary and Nonprofit Sector, Tel Aviv, 2003.

<sup>81</sup> The authorization time period is dependent upon Knesset approval of the state budget, on the time at which the request for funding was submitted, and on internal ministerial processes.

<sup>82</sup> It should be noted in this context that in the US a government contract serves as collateral for the opening of a bank credit line. In Israel the situation is different. NPOs have difficulty obtaining bank credit without concrete collateral (usually real estate), and a government contract does not constitute sufficient collateral. In its defense, the banking system claims that a state contract ensures neither funding nor payment dates.

meet its commitments under the accompanying conditions determined by the state. The bank, in conducting a serious financial check, serves as an additional evaluating party. Israel's banking system does not invest in developing the NPO market, because it does not perceive this market as representing significant potential for business<sup>83</sup>.

Various studies conducted in Israel<sup>84</sup> have found that the necessary surplus should be no less than six months' activity, depending on the kind of activity, the nature and duration of commitments vis-à-vis employees, external factors and financing sources<sup>85</sup>. Based on conversations conducted during the course of preparing this report it became clear that the problem in Israel is not the existence of organizational surpluses, but rather the lack of them, something that makes it exceedingly difficult for an organization to conduct its ongoing activity and that even places in doubt its financial stability and its ability to cover its commitments to employees, suppliers and other third parties, if and when the organization should cease to function.<sup>86</sup>

Recently, the government decided to appoint a committee to reexamine the issue of state assistance to public institutions and organizations.<sup>87</sup> Formation of the committee came in the wake of State Comptroller reports. The committee began its work in July 2004, has called upon figures from the third sector, academia, etc., and is making use of the Galnoor Committee recommendations. The committee is expected to submit its recommendations before the end of 2004.

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<sup>83</sup> It should be noted that the Bank of Jerusalem has recently developed special programs for NPOs.

<sup>84</sup> Studies conducted by the author of this report for the purpose of addressing this issue.

<sup>85</sup> Based on standards of the American organization BBB Wise Giving Alliance, a formula has been devised for surpluses:

*“10. Avoid accumulating funds that could be used for current program activities. To meet this standard, the charity's unrestricted net assets available for use should not be more than three times the size of the past year's expenses or three times the size of the current year's budget, whichever is higher”.*

See: <http://www.give.org/standards/spring03standards.PDF>, p. 2, section 10.

According to standards set by Charity Navigator, return capital changes in accordance with the field of activity and ranges between 8.9 months of activity and 2.2 years of activity. See: [www.charitynavigator.org](http://www.charitynavigator.org)

<sup>86</sup> This view of the situation was strengthened in a conversation with Ms. Rachel Newman, Senior Field Director, Public and Nonprofit Institutions, Income Tax Commission.

Another important issue for which the government is endeavoring to create a set of rules is that of board expenditures and senior officer salaries. In 2001 the Interior Minister appointed a public committee to determine criteria for the salaries of senior association office holders<sup>88</sup>. The committee, headed by Mr. Ya'akov Efrati (henceforth: the Efrati Committee), came quickly to realize how difficult it would be to create a salary table, not merely due to the variety and broad scope of the organizations and their fields of activity, but also due to legal considerations and the right of an autonomous corporation to determine the salaries to be paid to its employees<sup>89</sup>. There is the additional fact that many organizations have tied their salary scales to those of the public sector, and, as is well known, the breadth and variety of this sector cannot be encompassed clearly within a single table. In any case, the Committee focused on setting administrative and general expenditure levels. Although the Committee's report was never published, the section dealing with board expenditures<sup>90</sup> has been used by the Accountant General, the Registrar of Associations and, recently, the Income Tax Commission<sup>91</sup>. The guidelines call for a maximum level of administrative expenditures not to exceed 25% (with the possibility of

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<sup>87</sup> Government Decisions 1506 of 12.2.2004 and 1595 of 4.3.2004. The committee chairman is former Finance Minister Yoram Aridor. All committee's members are state officials.

<sup>88</sup> State employees, representatives of the various ministries and representatives of the umbrella organization, The Voluntary and Nonprofit Sector (R.A.) were appointed to serve on the committee.

<sup>89</sup> The author of this report appeared before the committee, as chairman of the Public Committee on Standards and Accreditation for the Voluntary and Nonprofit Sector (henceforth: the Standards Committee), and asserted that the government has no legal authority to determine the salaries of NPO employees. The government has both the authority and the obligation to decide that it is not willing to allocate grants from the public budget to an organization that pays salaries above a certain ceiling. The standard devised by the Standards Committee was presented to the Efrati Committee. According to this standard, the setting of an association CEO salary that does not exceed that of a government director-general salary, does not necessitate any special procedure. A salary exceeding that of a government director-general requires a special procedure within the association, transparency and justification. The government will take into account the procedure, justifications, etc., when examining the judgment that was employed in each specific case, in accordance with the issue in question, the association's field of activity and government policy.

<sup>90</sup> The Voluntary and Nonprofit Sector, which was represented on the Committee, objects to the rules that were actually adopted.

<sup>91</sup> Circular of the Income and Property Tax Commission's Public and Nonprofit Institutions Department, No. 2533404, undated. Published July 2004. According to the instructions publicized in this circular, a public institution will not be approved for Section 46 of the Income Tax Directive, and its status as a public institution will be cancelled if the rate of its administrative and general expenditures rises above 22%, for associations whose annual turnover does not exceed NIS 10 million, or 7% for associations whose annual turnover exceeds NIS 100 million. Between these two extremes there are three additional levels.

an additional 1% to 5% during the first five years of activity)<sup>92</sup>, to include fundraising expenditures and the salary of the CEO, even if the CEO's employment involves significant activity and time on his part. With regard to fundraising expenditures, it was determined that these should not exceed 25%<sup>93</sup>. The ceilings that were set by these rules are lower than those of US standards. It must be remembered that costs, particularly those of fundraising, are lower there than in Israel<sup>94</sup>. The guidelines that were published reflect a harsh policy. Their applicability to all organizations, not only to those receiving support from the public budget, indicates the government's intention increasingly to intervene. The term "supervision" replaces a broad and constructive policy and does away with cooperation, with the sector's endeavor to shoulder responsibility, and with the view of the third sector as a vital and necessary component of a modern democratic society. It appears that the attitude expressed in the previously-quoted statement of British Prime Minister Tony Blair has yet to find acceptance within Israel's political-social reality.

## **Association supervision and the Registrar of Associations**

The issue of the supervision of nonprofit organizations exists in Israel as it does elsewhere. In the US, as mentioned earlier, there are two supervisory mechanisms: the laws of the state in which the organization is registered, and the federal tax authorities<sup>95</sup>.

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<sup>92</sup> For the full guidelines see: *'Proper Management of Associations,'* Registrar of Associations, Ministry of the Interior, 2002, p. 21-24.

Based on standards of the American organization BBB Wise Giving Alliance, a formula was devised according to which the rate of expenditure on activity should not drop below 35%. See:

<http://www.give.org/standards/spring03standards.PDF>, p. 2, section 8.

<sup>93</sup> Based on standards for the State of Maryland, it was determined that, for a five-year mean calculation, fundraising expenditures should not exceed 33%. See:

[http://www.marylandnonprofits.org/html/standards/04\\_02.asp](http://www.marylandnonprofits.org/html/standards/04_02.asp)

Based on standards of the American organization BBB Wise Giving Alliance, a formula was devised according to which the rate of expenditure on fundraising should not exceed 35%. See:

<http://www.give.org/standards/spring03standards.PDF>, p. 2, section 9.

<sup>94</sup> For example: fundraising via telemarketing or companies specializing in fundraising from private entities. The reason for this is the lack of competition and the cost of creating an infrastructure in this area. Example: the number of telemarketing companies active in the US during 2002 was estimated at two thousand. See: Ian Ayres & Matthew Funk, "Marketing Privacy", *Yale Journal on Regulation*, 20(1), 2003, p. 77.

<sup>95</sup> The tax authorities usually exercise more effective supervision.

In Great Britain two similar mechanisms exist: the Charity Commission and the tax authorities. In Israel a complex mechanism of supervision and control has been created by external and internal parties.

The subject of supervision raises a number of questions: firstly, who is the party being protected via the supervisory mechanism – organization members, friends and volunteers, donors, foundations and grant allocators, or the general public? Secondly, what is to be supervised – a sound corporate-legal framework, financial issues, or professional activity? Thirdly, who is to do the supervising – the state, the public or the organization and its institutions?

Beyond the legal aspects of the issue and the tools that the law provides to the government, in accordance with the laws of the state, there is an expectation that the organizations shoulder responsibility, whether as organizations or via their directors; not only the larger organizations but the smaller ones as well<sup>96</sup>. On the role of the public board, see below.

Israel's Associations Law creates an internal supervisory mechanism via the association's institutions (general assembly, board and audit committee). The audit committee, in the format stipulated by the Associations Law, is a special entity that has no counterpart in laws pertaining to other kinds of corporations, including nonprofit corporations. In the US many are calling for nonprofit profit organizations to be obligated to institute mechanisms of this kind. In addition to the association's institutions there are three other parties involved: the legal advisor, the association's accountant and the internal auditor<sup>97</sup>.

Beyond this internal supervisory mechanism, Israel has an additional network – an external one covering the organization's activity, and with apparently sufficient resources

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<sup>96</sup> David W. Barrett, "A Call for More Lenient Director Liability Standards for Small, Charitable Nonprofit Organization", *Indiana Law Journal*, 71, 1995/6, pp. 967-1001.  
Peggy Sasso, "Searching for Trust in the Not-for-Profit Boardroom: Looking Beyond the Duty of Obedience to Ensure Accountability", *UCLA Law Review*, 50, 2002/3, pp. 1485-1546.

to perform effective supervision. This network comprises governmental bodies, including the Registrar of Associations, the tax authorities, government ministries which make allocations from the public budget or which have a contractual relationship, and the Accountant General; the broader public, including the community, friends, donors, volunteers, and, of course, the media; service recipients within the general public and the community; other public organizations including foundations which act as umbrella or infrastructure organizations, or which award grants. A broad network of supervisory entities exists, yet it is not enough. The problem appears to be with the method, not with the mechanism.

The Associations Law calls for the existence of, and grants authority to, a Registrar of Associations<sup>98</sup> to carry out certain tasks specified by the Law. Until the passing of Amendment No. 3 to the Associations Law (1996), the Registrar's functions were limited. Amendment No. 3 gave the Registrar's broader powers enabling it to increase its supervision of associations, and, as stated in the amendment proposal<sup>99</sup>:

*“The Knesset viewed the main task of the Associations Law to be that of creating a governmental supervisory mechanism for all activities of the association, in order that the public, which contributes both private and government funds to the associations, may be assured that these funds are used for their intended purposes...Based on the experience accumulated since the Associations Law, 5750-1980 was passed, various changes appear to be necessary so that the Law's original objectives may be achieved.”*

The government's intention to increase its degree of supervision of third sector organizations is not a new one. At the time the first bill for an associations law was brought up for review by the Knesset's (1954), Minister Pinchas Rosen stated in his speech before the Knesset plenum<sup>100</sup>:

*“The flaws of the existing law [the Ottoman law], are many and serious... These flaws have enabled many people to found public societies easily, and to conceal undesirable activities under the guise of a legally sanctioned society...”* And the

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<sup>97</sup> An internal auditor is not mandated by the Associations Law or by the Internal Auditing Law, 5762-1992. However, many organizations, especially the larger ones, regard the internal auditor as a valuable tool.

<sup>98</sup> Associations Law, 5750-1980, Section 63.

<sup>99</sup> Bill 2431, 2.8.1995.

<sup>100</sup> Knesset session 509, 6.12.1954, *Divrei HaKnesset*, 17, p. 247.

bill stipulates: “*Supervision of the associations shall be carried out by the Registrar of Associations,*” whose responsibilities are enumerated by the law<sup>101</sup>.

The State Comptroller charged with auditing government activities and the Registrar of Associations warned repeatedly of failings on the part of the Registrar, the government ministries and the Accountant General. In a 1996 report<sup>102</sup>, the Comptroller points to supervisory deficiencies and calls for them to be addressed. As a result of this report the government decided that an entity seeking state support would have to present an “authorization of sound management” issued by the Registrar of Associations<sup>103</sup>.

In a re-audit conducted five years later<sup>104</sup>, the State Comptroller determined that: “*In actuality, for those associations which receive support or which provide services to the government ministries, neither the Registrar of Associations nor the Accountant General requires proper disclosure...*”<sup>105</sup>. And he continues: “*It was found that up until the completion of the audit the Registrar failed to publish these rules [regarding supervision and control by the Registrar], even though he intervenes at times in association management.*” And he later adds: “*Thus, the Registrar by law has various powers of intervention in the management of associations, and it was found that he does exercise them, which represents an improvement over the findings of Annual Report 47. However, it was also found that the Registrar has not published the rules that are meant to govern the intervention*”<sup>106</sup>.

The failure to abide by rules and mandated operating methods has been taken up in the courtroom, where it was determined that<sup>107</sup>:

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<sup>101</sup> Bill No. 219, 5.12.1954.

<sup>102</sup> State Comptroller Report No. 47, 1996, p. 590-612.

<sup>103</sup> According to the government decision [No. 4418 (BK/128) of 15.10.1998], the entity seeking government financial support must produce an authorization from the Registrar of Associations. Section (2) of the decision states that: “*The Registrar will determine... [A] whether the association meets all legal requirements; [B] whether the association’s assets and income are used exclusively to promote the association’s objectives.*”

<sup>104</sup> State Comptroller Report No. 52B, 2001, p. 795-819.

<sup>105</sup> State Comptroller Report No. 52B, 2001, p. 813.

<sup>106</sup> State Comptroller Report No. 52B, 2001, p. 815.

<sup>107</sup> Judge Varda Elshayach, PSR (Tel-Aviv-Jaffa) 2624/99 [dissolution case] – Registrar of Associations vs. the International Criminal Police Organization. Decision rendered on 15.7.2001.

*“The basic assumption is that the Registrar of Associations is an administrative authority to which the principle of administrative legality applies. Whatever is not permitted to him by law, explicitly or inexplicitly, is prohibited.”... “The role of the Registrar is a supervisory one. The Registrar is an administrative authority whose task is to monitor and to balance...not for the sake of ‘benefit to the authority’, such as in the filling of state coffers, the enforcement of rules of governmental policy, etc., but rather for the public benefit and the protection of the individual rights of members of the various associations, which without supervision are liable to suffer significantly. I can only repeat, at this point, the time-honored insight that unchecked power nearly always corrupts and leads to the violation of individual rights.”...*

Both the criticism of the State Comptroller and the remarks of the judge would appear to represent the atmosphere and the reality that existed at that time. Despite the criticism, the deliberations, the committees and the decisions that have been rendered since then, it is difficult to overcome the feeling that little progress has been made. It appears that the attempt to make the state fully and solely responsible for supervision has not proved to be the desired solution, as perceived by the government. The question that arises is whether the government can, in fact, perform efficient supervision of tens of thousands of organizations, and whether it has the means to do so. Other countries long ago discovered that the government lacks the capability of efficiently supervising civil activity, and they are not prepared to allocate the resources necessary to supervise a sector whose direct financial contribution to the state is minimal<sup>108</sup>.

Moreover, government policy is vague with regard to the actual activities to be supervised – activity within the framework of the Associations Law, taxation or professional operative issues; it is also vague regarding the definition of the entities to be supervised – all organizations, those which receive support from the state budget, those that provide services to the state within a contractual framework, or all of the above. Considering the multifarious nature of the activities of third sector organizations, and the multiplicity of these organizations, the results are not surprising.

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<sup>108</sup> In contrast to business corporations which pay taxes and represent an essential segment of state income, the NPO sector is not essential in this way. Thus, there is no tendency to invest special resources, apart from those needed for enforcement in cases of legal transgression, to the extent that limited budgetary means enable this.

From the organizations' perspective the message is confusing but, above all, it contains no incentive for real improvement in their operation. We have already mentioned that in the absence of guidelines, when the requirements of those who allocate budgets and grants are unclear, and when funding is readily obtained and there are minimal demands regarding objectives, timetables, demonstrated success, etc., why should an organization bother doing what it is not required to do?

In the US distinctions have long been made between the various types of organization, and the laws address this. California state law<sup>109</sup> distinguishes between three types of nonprofit organization: public benefit corporations, religious corporations and mutual benefit corporations. New York state law<sup>110</sup> distinguishes between four types of NPO: membership organizations, charitable organizations, nonprofit organizations organized for business purposes, and nonprofit organizations formed for business or non-business for purposes specified in the Authorization Law. The first two types, under New York State law, resemble the Israeli "amuta" (association), the first one requiring the existence of members while the second can be run by the board. The third type appears to be an entity that forms under the Associations Law, seeks to maximize its profits, but does not distribute them to its members or officers (an entity that has neither the status of a public nor of a nonprofit institution). The fourth type is a particular kind of organization whose formation is mandated by law or which has legal authority to promote a specific, defined objective.

In Israel, the Associations Law does not distinguish between various types of organizations. Nevertheless, distinctions may be made according to a number of characteristics: firstly, organizations with the status of 'public institution' for income tax purposes, or of 'nonprofit organization' for VAT purposes. Secondly, organizations recognized as eligible to receive tax-deductible contributions (according to Section 46 of the Income Tax Ordinance). Thirdly, organizations which receive a budget from the state and those which do not. Fourthly, among those entities that receive public funding, a

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<sup>109</sup> California Nonprofit Corporation Law.

<sup>110</sup> New York Not-for-Profit Corporation Law.

distinction is made between grants or grants and contractual arrangements for the provision of services, whether directly to the government or to the population to which the government seeks to provide a particular service, and funds it via its budget.

The attempt to embrace all organizations within one law, with uniform rules, with guidelines and tables that are supposed to address every kind of organization and every situation, cannot succeed in achieving its goal. Unlimited use cannot be made of supervisors, and thus it is doubtful whether their use can promote the objective for which they are employed.

## **Section 3 – Third Sector Umbrella and Infrastructure Organizations**

### **Umbrella organizations**

The development of umbrella organizations for the third sector is part of the development of the sector as a whole. Their formation is the result of two separate trends: one – the desire to create joint frameworks by and for the organizations, to meet their internal needs; two – the need to create super-frameworks in order to contend with external influences and pressures.

The desire on the part of the organizations themselves to create super-frameworks is a completely expected development. Just as the formation of a private organization creates synergy by virtue of the formation process itself, so the coming-together of organizations within a joint framework should create synergy, empower the member organizations and enhance their ability to act. A necessary condition of the existence of a joint framework is the existence of a shared frame of reference, as well as the ability to work to promote shared interests and to provide the member organizations with needed services.

Some umbrella organizations seek to play the role of a representative organization, not necessarily on behalf of its members but rather on behalf of a specific sector or of civil society, in general or segments thereof.

The establishment of an umbrella organization is possible as a result of state legislation, the influence of external parties, or as a reaction to the environment. The *International Center for Nonprofit Law* (ICNL), an organization dealing with NPO legislation, advises the World Bank and developing countries and emphasizes the importance of the existence of umbrella organizations and the need to anchor their status in the laws of the state. While a joint framework rooted in the desire of its members to promote a particular

interest constitutes a kind of ‘professional society’, a framework that stems from a broader social or civil-public vision exists to promote the interest of the sector, which is not necessarily identical to that of the individual organization.

In any case, the situation in the US is a result of the development of various levels of umbrella organizations, some parallel to each other and some in a hierarchical arrangement<sup>111</sup>. The higher up an umbrella organization is in the hierarchy, the more distant it is from the individual organization and the more it seeks to represent the sector as a whole. The Independent Sector (IS), at the highest level of the hierarchy of NPO umbrella organizations, encompasses umbrella organizations and federations of umbrella organizations at the state level, foundations, etc. There is one main goal – that of [representing] the third sector – but the methods of organizing and pursuing activities are varied. An umbrella organization that deals with a particular professional field and provides services to organizations within a defined geographic region does not usually address policy issues vis-à-vis the federal government. Thus, a web of organizations has been created to serve and represent the frameworks active in the field.

Three key issues arise from the existence of umbrella organizations, especially those which seek to be comprehensive and to embrace a broad field of activity: (1) the tension between addressing member needs and representing them as a professional association; (2) the delicate balance between their quasi-state role vis-à-vis the organizations and the state itself; (3) enforcement ability vis-à-vis the organizations that voluntarily join the umbrella organization. The tension between these three issues existed in the past, exists in the present, and will continue to exist in the future. The point of equilibrium will most likely be found in dependence on the law of the state, in the surrounding culture, the interests of the various parties involved, and the power wielded by fellow players.

There is an additional facet to the question of the umbrella organizations’ place and role. The question occasionally arises of why so many organizations are necessary. This

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<sup>111</sup> Based on statements made by Mr. Klinghoffer, President of the *International Center for Not-for-Profit Law* (ICNL), in an interview with him, on March 30, 2004, Washington.

position is represented, with almost no exceptions, not by the organizations themselves but by government entities, foundations and donors. While the organizations feel that there is room in civil society for a thousand flowers to bloom and that natural processes (that is, market forces) should be allowed to run their course, others believe that the superabundance of organizations leads to inefficient competition and wasted resources. Ministry of Labor and Social Affairs Director General, Dov Goldberger, has remarked<sup>112</sup>: “How can activity be efficient when there are 69 organizations in a particular field? There isn’t enough time to meet with each of them, to address the concerns of each of them – and this is just in one field out of the many with which the Ministry has to deal. The solution – they have to organize themselves and interact with us via joint representation. Here we have an example of policy which encourages organizations to enter into joint frameworks, to form umbrella organizations.”

Another state approach lies in the area of the state’s, or more precisely the government’s, desire to achieve legitimacy for its policy and actions. This approach seeks to create secondary centers in various fields, through which a mechanism, a two-way channel may be created to convey state messages and to be legitimized. The British government operates in this way, having defined a policy of mobilizing the third sector to address societal and economic needs which the government is not willing or able to address on its own<sup>113</sup>. This policy was adopted by Israel (prior to the founding of the State), though it was usually implemented via the political system, with the creation of channels and institutions connected, directly or indirectly, to its own mechanisms.

Despite the fact that umbrella organizations in the third sector seek to represent the sector or the subfields of it in which they are active, it appears that their membership rate is low. Published data and various studies have shown that the size of an umbrella organization’s membership seldom rises above a small percentage of the organizations active in the field. World experience indicates that organizations embrace only 5%-7% of all

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<sup>112</sup> Statements made during two interviews with him, on May 10, 2004 and June 24, 2004.

<sup>113</sup> See: *Private Action, Public Benefit*.

organizations<sup>114</sup>. This fact may be explained in two ways: one – the “free rider” phenomenon which is widespread in the third sector. Organizations are happy to reap the benefits of umbrella organization activity, but they are less pleased to pay membership dues or to bear the costs involved in promoting sectoral objectives<sup>115</sup>. The second reason is that the organizations that join are usually the larger ones or those seeking to play an active role in the sector’s public activity. Neither of these – the large organizations and the ones aspiring to public activity – account for a large share of the sector. The situation is, of course, different when an umbrella organization imparts to its members a particular statutory status (such as accreditation, etc.), in the way that a professional agency issues a business license<sup>116</sup>.

The low rate of umbrella organization membership brings with it the problem of funding. The lack of a large membership and low membership dues means that umbrella organizations need additional sources of income. These are obtained via the sale of a variety of services to members and others, via donations and, primarily, via foundations. At times, umbrella organization fundraising creates competition between the sector’s organizations, including those belonging to the umbrella organization itself, which leads to problems with the fundraising enterprise. These difficulties stem from the policy prevalent among umbrella organizations of not competing with the sector’s organizations, whether in terms of activity or in terms of funding sources. It should be recalled that foundations and grant sources usually seek to finance specific projects and tend not to allocate resources for infrastructures. Thus, when an umbrella organization applies to a foundation willing to contribute toward infrastructure, it is directly competing with the fundraising activities of the sector’s organizations.

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<sup>114</sup> The Maryland Association of Nonprofit Organizations, considered a good umbrella organization, has a membership of about 1,400 out of approximately 19,000 organizations registered according to Section (c) 501. Another approximately 3,500 organizations are registered according to other subsections of Section 501. That is, the membership rate, whether calculated according to the lower or the higher figure, ranges from 7.4% to 6.2%. In an interview with the organization’s CEO, Mr. Peter Berns, he affirmed that his organization reflects typical membership trends for the better and stronger umbrella organizations.

<sup>115</sup> For this reason umbrella organizations tend to set low or scaled membership dues, so that the smaller organizations pay little while the larger ones pay the maximum.

## **Infrastructure organizations**

Umbrella organizations seek to represent an issue, a specific interest, whether it be a general one or one pertaining specifically to its membership. An infrastructure organization is an organization established for the purpose of assisting other organizations by providing them with infrastructure services – consultation and training, various kinds of tools, etc., to improve their governance and functioning, and to enhance their ability to achieve their objectives.

Infrastructure organizations serve a variety of organizations. There are those which limit themselves to working with a particular segment, while others do not. Two directions of activity may be identified among infrastructure organizations: assistance in infrastructure development and assistance to small organizations. Foundations and grant sources usually avoid assisting organizations with infrastructure development. They prefer their support to be used for a particular activity, a concrete project with visible achievements. Infrastructures are not attractive. They tend to be taken for granted, and donors expect an organization already to have its capabilities in place when it comes seeking support, and then to conduct the intended activity.

Organizations' ability to raise funds for infrastructure development is limited. Organizations usually make use of carryovers where possible, or of cash surpluses (from worker rights, supplier credit, and the like), when investing in infrastructure development, in the hope of future improvement. Such action serves to undermine the organization's financial stability. Therefore, organizations hesitate to take decisions on this issue, and in many cases refrain from making the investment. Organizations for social change, or those which are not service providers and are thus unable to accumulate surpluses, find themselves in a more difficult position, especially if their activity is aimed at decision-makers at the political level.

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<sup>116</sup> For example: in the US, the percentage of institutions of higher education which participate in accreditation-granting regional umbrella organizations is quite high, though lower than 100%.

A second type of organization which needs infrastructure support is that of small or new entities. These are the source of new initiatives, fresh ideas and great flexibility, much more so than the large and well-established organizations. The reluctance to assist these organizations is often due to the resources needed from the grant source, which seeks to monitor the organization that it is supporting. Supporting entities generally refrain from taking the responsibility of fully funding an organization of any kind. They limit their support and direct it toward defined goals. In this way a vicious circle is created. Support for a small or new organization is usually minor. The investment in small-scale support, from the point of view of the donating party, is not necessarily less than that invested in large-scale support or in an established organization. At times the opposite is true. The result is that, from the perspective of the funding party, the efficiency ratio between support provided and donor investment is low.

Infrastructure organizations are professional organizations which seek to be active in their own field and to distance themselves as much as possible from public-political activity or from representing a particular issue. Their main activities are advising and assisting new or established organizations. The organizations usually specialize in a particular field, population or type of service. The cost of the service they provide is often greater than the fee demanded from the recipient organization. For this reason, most infrastructure organizations are supported by foundations or by a government budget dedicated to addressing NPO infrastructure development needs.

Some umbrella organizations engage in what may be classified as infrastructure-type activity. That is, these organizations have a dual role: representation and infrastructure. Umbrella organizations take a favorable view of this combination, since it strengthens the relationship between them and their member organizations and provides added value for membership dues, particularly when the price of services provided to members is lower than that paid by non-members. The existence of infrastructure activity, whether provided directly or via entities associated with the umbrella organization, is perceived to be a strengthening factor for the umbrella organization.

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Institutions exist which are willing to offer academic studies without being accredited.

The British government, within the context of its general policy of support for the third sector, has decided to devote significant budgetary resources to the Active Community Unit (ACU) of the Home Office (the interior ministry), in order to strengthen the infrastructures and capabilities of the sector and its organizations<sup>117</sup>. Other governments, such as those of Canada, Ireland and Australia, also dedicate resources to strengthening the third sector and its infrastructures. This involvement has two sides to it. There are those who feel that it is the government's duty to act in this way, while others seek to distance the third sector from the government and to maintain its autonomy. Whatever one's approach may be, the need to strengthen the sector's infrastructures is understood and recognized as one of the most important aspects of the quest to improve the organizations' ability to fulfill the functions that they have taken upon themselves.

## **Umbrella organizations in Israel**

In Israel there is actually one umbrella organization – The Voluntary and Nonprofit Sector (R.A.), founded in 1986 at the initiative of JDC-Israel, which has continued to be involved with the organization since its establishment<sup>118</sup>. This framework has turned into the sector's de facto representative organization, and it fulfills this function within the various forums in which it participates. There are other organizations which deal with specific fields and which do not view themselves as all-inclusive umbrella organizations for the entire sector; in addition, there are organizations (funds) which act in conjunction with groups of organizations and serve as a source of assistance and support for them.

The National Council for Voluntarism (R.A.) is another body that seeks to address the entire sector, from the perspective of voluntarism. There is a longstanding arrangement between the Voluntary and Nonprofit Sector association and the National Council for Voluntarism, according to which the Council has responsibility for promoting

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<sup>117</sup> See: *The Role of the Voluntary Sector in Service Delivery*, London: HM Treasury, 2002, Ch. # 4. [http://www.hm-treasury.gov.uk/spending\\_review/spend\\_ccr/spend\\_ccr\\_voluntary/ccr\\_voluntary\\_report.cfm](http://www.hm-treasury.gov.uk/spending_review/spend_ccr/spend_ccr_voluntary/ccr_voluntary_report.cfm) [Last visited, July 2004].

voluntarism and is the liaison with government ministries in this area, while the VNPS deals with organizations, represents them before the public and the government, and handles social issues<sup>119</sup>.

During the last few years there has been a certain degree of openness towards NPO representatives; they are called upon to address the Knesset, government bodies consult with them, and so on.

### **Umbrella organization – The Voluntary and Nonprofit Sector (R.A.)**

As mentioned previously, this organization was founded in 1986 to serve as a representative framework and an umbrella organization for third sector organizations. The 13 objectives enumerated in the organization's articles of association may be summarized in four: representation of the third sector as a whole; promotion of voluntary activity in Israel; a framework for its members; provision of training services, in-service training, etc.<sup>120</sup>. The comprehensive formulation of the organization's objectives unavoidably creates tension between the function of sectoral representation and that of representing the member organizations themselves.

According to the VNPS's articles of association: *“At least two thirds of the composition of the Board of Directors must consist of representatives of voluntary or nonprofit organizations who serve as chairpersons/CEOs of the member organizations”*<sup>121</sup>. That is, in spite of its stated objectives which emphasize representation of the entire sector, the organization's structure creates a clear identity of representation of its members, rather

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<sup>118</sup> See: <http://www.migzar3.org.il>

<sup>119</sup> About two years ago the possibility was examined of organizationally combining the Council and the VNPS. No further initiatives were taken in this area due to the inability to find a mechanism that would preserve the Council's autonomy.

<sup>120</sup> In a document submitted by the association to the examinations staff (on 20.6.2004), three functions are mentioned: (1) in-sector; (2) representation; (3) building partnerships.

<sup>121</sup> Section 10 (B), articles of association of the Voluntary and Nonprofit Sector (R.A.).

than of the sector<sup>122</sup>. In other words, the nature of the organization's representative activity is determined by the attitude of its member organizations, and not by a broad view of the third sector's place within Israel's social fabric. More will be said below on the significance of the Board of Directors composition.

Three member populations exist within the organization: members – national organizations (full members); associate members – non-national organizations (with privileges similar to those of the members, except for the right to vote and to run for office in the association's institutions); individuals or corporations which have been admitted in recognition of their activity and contribution to the sector (this category includes public representatives on the Board). The total number of member organizations with the category of full member is about 375 organizations<sup>123</sup>, with an additional 315 associate members<sup>124</sup>. In an evaluation it was stated that VNPS members (including associates) constitute about 7% of all relevant organizations<sup>125</sup>. It should be noted that most national organizations in Israel are members of the umbrella organization<sup>126</sup>, while some organizations, particularly the religiously affiliated ones, are not interested in joining<sup>127</sup>. Moreover, a number of national organizations have branches which may

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<sup>122</sup> Actually, out of 25 Board members, 17 are representatives of, and position holders in, organizations. These include 15 CEOs/Deputy CEOs and 2 chairpersons. 8 are public representatives, 2 of them representatives of supportive organizations (JDC-Israel and the Jewish Agency); 3 are academics and 3 are professionally involved with, or were formerly employed in, NPOs.

<sup>123</sup> To follow is an abbreviated list of the rules for admission at the "member" level – this status is given to an organization which meets one of the following definitions: (1) an organization which is active in all parts of the country; (2) an organization whose objectives have direct significance for the public in all parts of the country; (3) an organization whose annual operating budget is greater than NIS 10 million, or which employ at least 1,000 volunteers, and whose objectives have significance for the greater public; (4) special institutions – institutions of higher education, museums, associations of friends of member organizations, and public hospitals.

<sup>124</sup> The number of members and associate members of the organization has grown significantly since 2000. In 2000 there were 316 members, in 2001 – 365, in 2002 – 468, in 2003 – 588, and, as of July 2004 – 689 members and associates. This represents a membership increase of 118% for these years. This growth is the result of a change in policy regarding the admission of new members, and the creation of the new status of "associate member."

<sup>125</sup> In the umbrella organization in Israel, there are some 680 members, who comprise between approximately 5%-9% of all associations (assuming there are between 8,000-16,000 active associations). It should be noted that member associations in the umbrella organization are nation-wide and large in their scope of activity in the country.

<sup>126</sup> According to VNPS estimate, about 90% of the national organizations are members of the umbrella organization.

<sup>127</sup> Nevertheless, many religious organizations are interested in receiving VNPS services. For example, hundreds of religious organizations have been aided in their self-examination activity by materials

themselves be independent associations<sup>128</sup>. That is, in addition to the formal number of members and associate members, hundreds of other organizations may be viewed as members of the umbrella organization. Membership dues differ for full and associate members<sup>129</sup>. Membership dues for full members vary in accordance with financial turnover, ranging from NIS 450 per year to over NIS 2,000 per year for the larger associations. Associate member dues are NIS 450 per year, irrespective of financial turnover.

The organization's activities are funded by foundations, membership dues and independent income. The 2004 budget was based on income of \$405,000, of which 49% came from foundations (\$200,000), and 51% from earned income, of which 17% were from member dues (\$70,000) and 33% from activity income (\$135,000)<sup>130</sup>. Since its founding, the umbrella organization policy has been to refrain from seeking financial assistance from the government. The rationale was to ensure that the organization would not be dependent on the government, even indirectly or seemingly.

We mentioned earlier the representation dilemma that stems from the VNPS board's structure and composition. This issue is becoming more complex at a time when the mainly state-supported national organizations (the full members whose representatives constitute the majority of the board) are liable to find themselves in a conflict between sectoral representation and their connection with the government. The government is usually unfavorably disposed towards an organization which receives state support while opposing it in public or legal conflicts<sup>131</sup>. The sensitive nature of this issue becomes even more apparent when the board is headed by a representative of an organization that is

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prepared by the Standards Committee. Materials received from the umbrella organization were photocopied by religious organizations and distributed among them.

<sup>128</sup> Among the national organizations are such associations as WIZO, with over one hundred branches around the country; the Israel Association of Community Centers has about two hundred branches; Eshel and its branches in the various local authorities, and others.

<sup>129</sup> For new members, whether full or associate, first-year dues are NIS 250.

<sup>130</sup> The 2003 budget was based on an income rate of 54% (\$280,000), with 46% (\$237,000) from independent income.

<sup>131</sup> Based on unambiguous statements made by government representatives with whom we met, who complained about organizations which receive government support while at the same time engaging in public and legal activity against the government.

supported by the government or which is a party to a contractual relationship with the state for service provision. This was the state of affairs for the VNPS during almost the entire period of its existence, and most probably deterred the organization and its head from taking public stands in opposition to those of the government.

In addition to its functions of representation and assisting members, the VNPS engages in a variety of other activities including conferences, study days and in-service training courses, the publication of professional documents, the standards and accreditation project, economic activities (purchase vouchers, large-scale purchases), etc.

Criticism of the umbrella organization usually addresses two main issues: firstly, the lack of focus in the messages it conveys to the public; secondly, those VNPS activities which could conceivably be carried out by other parties (particularly the in-service training courses, study days and similar activities).

The first type of criticism springs from the tension that exists between the VNPS's two main functions of representing its member organizations and of representing the sector and civil society as a whole. This tension takes on an additional dimension due to the reluctance of publicly-supported organizations to oppose government policy, and due to the difficulty of reaching a consensus or a uniform, sector-wide stand on fundamental issues.

The second type of criticism is equally complex. The kinds of activity which could potentially be performed by others may be divided into two subsets: firstly – those activities carried out for the purpose of increasing income. The more strained the budget situation becomes, the more energies the organization diverts to income-generating activities. On the one hand, this is a necessity under current circumstances; on the other hand, the more resources that are invested in this kind of activity, the less likelihood there is of mobilizing for public activity, for development and representation of the sector, and, thus, for developing new funding sources. It appears that this issue needs to be

deliberated on by the organization's board, from the perspective of the organization's objectives, policy and available resources.

The second category of activity which could be carried out by others has to do with the initiation of new activity, and the organization's degree of involvement once a new initiative has become established and sustainable without the organization's assistance. In the final analysis, if there is no intention of expanding the organization and of turning it into a large bureaucratic body, then there must be a clear policy of transferring activities to other entities – be they subsidiaries or external bodies unconnected to the umbrella organization<sup>132</sup>.

Beyond the aforementioned, the activities engaged in directly by the VNPS on behalf of its members or the general public have the effect of generating unmediated contact and interaction between itself and its member organizations, and among the member organizations themselves. Moreover, the VNPS comes into direct contact with organizational populations which have yet to join the umbrella organization, so that they may become acquainted with VNPS activities, benefit from its services, and seek to become members.

The experience of the last few years indicates that associations are pleased to receive the umbrella organization's services, including help in coping with shared issues, participation in conferences, study days, etc. Attesting to the demand for activity of this kind is the fact that conferences, study days and in-service training courses conducted by the umbrella organization attract large numbers of participants. These numbers, in our opinion, indicate a desire to receive information and training on the various topics addressed. The study day subjects – boards, auditing, office holder responsibility, fundraising, etc., reflect the "hot" issues currently on association agendas.

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<sup>132</sup> The VNPS has recently decided to transfer its accreditation program to a (nonprofit) subsidiary to be created in cooperation with JDC-Israel.

## **The National Council for Voluntarism (R.A.)**

The National Council for Voluntarism (R.A.) is another body which seeks to address the entire sector, from the perspective of voluntarism. The Council was created in 1972 by the Prime Minister's Office, and has been supported by it over the years. Over time the Council has earned public recognition and status<sup>133</sup>, and although it has not acted as an umbrella organization for voluntary organizations, the organizations have nevertheless benefited from its prestige. About three years ago the Prime Minister's Office sought to dissolve this relationship, and the Council was on the verge of collapse. Efforts on the part of its members resulted in a change of board and a revision of the articles of association, and discussions are currently underway regarding an appropriate strategic policy for the organization.

During the course of this study the question arose of merging the National Council for Voluntarism with the umbrella organization, the Voluntary and Nonprofit Sector. Those who support the idea believe that a merger of the two organizations would more effectually address the needs of the third sector and the voluntary sector in Israel. Those who oppose the idea feel that it is preferable for two organizations to exist, on the principle of "the more the merrier," and in light of the fact that the Council's administrative infrastructures are minimal.

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<sup>133</sup> The 'President's Volunteer Award' is granted in conjunction with the Council, and the Council is a party to all of the volunteer awards and prizes given by government ministries.

## Infrastructure organizations in Israel

There is one significant infrastructure organization in Israel – Shatil<sup>134</sup>. Shatil acts as an arm of the New Israel Fund, and defines its mission as that of providing consultation and training for social change organizations. That is, its activities are limited to a certain segment of the civil society and third sector organization population. Funded by the New Israel Fund and by other donations, Shatil provides services to about two hundred associations, and has developed an array of tools and materials, including high-level professional publications, which enable it to advise organizations, to aid in building infrastructures and to provide any form of support necessary to help organizations improve and strengthen their functioning and governance. Shatil's position in the field reflects a recognition of the fact that foundations and grant sources generally refrain from assisting small organizations or promoting infrastructure development, as well as a desire to aid organizations that are neither service providers nor recipients of government funding.

Shatil has recently begun to expand its services somewhat, within the limits of its current format. Despite Shatil's proven capability, it is doubtful whether the organization is prepared to expand its services to the entire third sector. However, it is willing to cooperate with other parties on infrastructure issues. In this context mention should be made of the 'National School for Non-Profit Boards of Directors that has been established at the Chaim Zippori Community Education Center in Jerusalem, on the initiative of several bodies, including Shatil<sup>135</sup>.

The model developed by Shatil for consultation and guidance has proven itself. This model should serve as an example for the creation of similar services, for organizations outside of Shatil's field of activity.

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<sup>134</sup> See: <http://www.shatil.org.il>

<sup>135</sup> Other partners are: the umbrella organization – the Voluntary and Nonprofit Sector (R.A.); JDC-Israel; the Ministry of Labor and Social Affairs; and the Israel Association of Community Centers.

Other organizations exist which aid in infrastructure development. The Israel Self-Help Center (R.A.)<sup>136</sup> (the ISHC) works to promote the creation of self-help groups for citizens with shared problems. The organization's activity includes a support and assistance framework, professional consultation and guidance. Additionally, the ISHC sees itself as an incubator for organizations that are starting out, up until the point at which they become autonomous entities. The ISHC, like other similar organizations, deals with a limited segment of the sector, and its range of influence is limited accordingly.

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<sup>136</sup> See: <http://www.selfhelp.org.il>

## Section 4 – Third Sector Organizations in Israel

In addition to looking at Israel's third sector as a whole, and the environment in which it is active, we also, within the context of this study, examined the organizations themselves, their needs, the various issues that influence their agendas and governance, from the perspective of the organizations themselves. We also examined the perspective of foundations and government entities on third sector organizations.

Before going on to survey the issues raised by the Israeli organizations, we shall present the characteristic issues brought up by NPOs abroad, or by representative umbrella organizations.

The Maryland Association of Nonprofit Organizations (MANO) has conducted a study of organization standards. The study summarizes the issues that appear to be high-priority ones for the organizations. The nine issues mapped are listed below<sup>137</sup>:

1. Conflict of Interest Policy/Statements – 61%
2. Program Evaluation – 55%
3. Advocacy Policy – 51%
4. Confidential Means to Report Impropriety – 47%
5. Financial Policies – 46%
6. Gift Acceptance Policy – 43%
7. Board Development – 39%
8. Employee Orientation – 39%
9. Internal Review of Legal Regulatory Requirements – 36%

Presentation of these data to American organizations led, almost without exception, to the mention of three main issues, not necessarily in the order suggested by the Maryland study. The three issues whose importance was emphasized were: board work development, program evaluation and financial policy. These three issues are at the heart

of the sector's organizational activity – development of board activity, the ability to evaluate organization activities, and proper channeling of organizational resources. The issues that deal with preventing negative phenomena (conflicts of interest, proper disclosure and control), are lower on the scale of priorities, since their significance is at the internal level and since it is assumed that sound management will in any case address these matters. Gift acceptance policy (no. 6) has taken on a special significance in recent years, due to the problem that arises when organizations run after money, lose their autonomy or deviate from their vision. This subject seems to be higher on the organizations' agendas than it was in the past.

Five main issues are mentioned in British material on the subject: trusteeship; fundraising, volunteer management; target setting; and performance evaluation. These issues need not necessarily be rated in this particular order; their relative importance varies among the organizations or bodies seeking to represent them.

In a document published by Britain's National Council for Voluntary Services (NCVS)<sup>138</sup>, in the section presenting focal points for deliberation, the following issues were mentioned:

(1) independence (2) representation, leadership and legitimacy; (3) lack of clarity: the need for a clear and coherent structure; (4) gaps and overlaps: the pros and cons of collaboration; (5) critical mass; (6) varying quality; (7) diversity; (8) opportunities for non-umbrella organizations to play infrastructure/supporting roles; (9) funding.

The conclusion reached in this document is that the sector's autonomy should be strengthened and that its umbrella organizations should be allowed to represent the organizations and to strengthen their infrastructures. In order to succeed at this, cooperation, responsibility, and an emphasis on quality are necessary. In the wake of the

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<sup>137</sup> Data were provided by Mr. Berns, in a meeting at the organization's headquarters in Baltimore, MD, on 31.3.2004.

<sup>138</sup> *Voluntary Sector Infrastructure: A Discussion Paper*, London: The National Council for Voluntary Organisations, 2003, §6, pp. 18-28..

study carried out by the British Treasury<sup>139</sup>, the NCVS enacted, in 2004, a program intended to strengthen third sector infrastructures in the UK – ‘ChangeUp’<sup>140</sup>. The program, which is planned to operate from June 2004 to March 2006, with a budget of about £72 million<sup>141</sup>, has 6 components:

- (1) Performance improvement, including the use of quality standards.
- (2) Workforce development, linked to the recently published skills strategy for the voluntary and community sector (VCS).
- (3) Information and communication technology (ICT).
- (4) Governance, including increasing the number and diversity of skilled trustees.
- (5) Recruiting and developing volunteers.
- (6) Financing voluntary community organization (VCO) activity, including improved access for VCS's to statutory sector procurement processes, and developing income generation skills.

As may be seen, there is no essential difference between British and American organizations with regard to the issues that occupy them. To the extent that differences exist, they are generally limited to the relative priority given to each issue. Publications from Canada, Australia and other countries present a similar picture of the topics that are on the agendas of nonprofit organizations the world over.

From the perspective of foundations and umbrella organizations, there is a manifest desire to see the organizations independent in their activity and managed by professional boards that know how to run them in a sound manner and to steer clear of negative developments such as conflicts of interest, etc. Those representing the organizations and the sector, as well as the foundations and the various funding bodies, expect the organizations to demonstrate achievements and to meet their objectives. Governance of

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<sup>139</sup> *The Role of the Voluntary and Community Sector in Service Delivery: A Cross Cutting Review*, London: HM Treasury, The Stationary Office, September 2002.

<sup>140</sup> See: <http://www.nacvs.org.uk/resources/cbis/changeup.pdf> .

<sup>141</sup> The program is being funded by the British government, via the Home Office’s Active Community Unit (ACT). See: <http://www.homeoffice.gov.uk/comrace/active/developing/changeup.html> .

this kind will help to promote the interests of the sector and its organizations, while preserving their autonomy and keeping them free of government interference. From the point of view of the foundations and the grant sources, such achievements are not only proof of proper conduct, but also serve to strengthen the organizations and to create convenient opportunities for the foundations to withdraw their support and to channel their resources to other organizations or projects.

In a document submitted prior to a meeting with Israel's umbrella organization, the Voluntary and Nonprofit Sector, the following issues were mentioned in relation to Israel's third sector organizations:

**1. Third sector internal-related weakness**

- a. Lack of professional know-how and knowledge about the unique attribute of administrating a non profit organization

**2. External causes influencing the sectors' work**

- (a) Outdated legislative infrastructure obstructing work efforts
- (b) Relations with government tainted with misconceptions, overburdened with bureaucracy
- (c) Relationship with public tainted by negative public opinion

With regard to the organizations, that is, the internal sectoral issues, four issues were mentioned which, in the umbrella organization's opinion, reflect the organizations' weaknesses or other areas that need to be addressed:

1. **Board related functions:** Chief Executive Role, Crisis Management, Sustainable Development, Leadership Development, Transparency, Ethics and Accountability. Organizational Alliances. Planning – strategic plan writing goal setting.
2. **Management related functions:** Operations Management, Performance management Business Planning, Customer Service, Policy making and implementation, Quality management and evaluation. Working with consultants,

3. **Skill development:** Computers, Internet & Web uses and techniques. Working with the press and using Public relations as a tool to promote organizational goals.
4. **Fundraising:** ethics, specialized courses leading to a 'profession status'

## **The third sector organizations' position**

In conversations conducted with association representatives, despite the dearth of resources (an acute problem, particularly at present), this issue did not take precedence over others. It was always in the background, but did not come up as a question to be dealt with in and of itself. Issues that did arise may be summarized in four main points:

1. The desire to improve the third sector organizations' public image, to promote public recognition of their activity and their importance to Israeli society.
2. The need to strengthen the organizations' capabilities. This category addresses general management, financial management, fundraising, tools for self-evaluation, public relations, etc.
3. The expectation of a clear and consistent government policy, or at least the stabilization of the current system, the setting of clear and equitable rules, a multi-year perspective and an endeavor to refrain from frequent changes. The aforementioned applies, to a lesser degree, to foundations.
4. Lack of information, research and data.

We shall address below each of these 4 points.

### **1 - Public image**

The nonprofit and voluntary organizations are beset by a sense that their activity goes unrecognized, and for most of them this is the main issue that needs to be addressed. They feel that the entire sector and its organizations are tainted by the negative publicity surrounding certain organizations and by the condemnations of these organizations issued by political and government entities. They emphasize that this is not the whole picture

and that a few isolated incidents should not be taken to reflect on the entire sector's behavior. Moreover, some of the organizations whose corrupt activities have been brought to light cannot be formally defined as third sector organizations, since they are not autonomous entities, but rather are controlled by external bodies (the government, local authorities and even political parties). Other organizations seek to provide services based on quasi-commercial activity and their system of expenditures is therefore similar to that which characterizes the business sector. This invites attacks on the part of the public and the government, despite the fact that these surpluses are used to promote the organizations' interests and are not distributed among their members. Another issue that repeatedly comes up is that of the salary levels prevailing in the sector, even though the same public scrutiny is not applied to commercial entities that provide the same services to the government and have to meet the same tender conditions. Critics further point out that NPO salary levels are based on guidelines issued by the Finance Ministry's wage director, on government ministry regulations, and on tariffs set by the ministries. These critics buttress their argument by citing the research findings of Yoram Gabai and Eldad Brick<sup>142</sup>. These findings<sup>143</sup> indicate that: The average NPO wage is similar to that of equivalent positions in the public sector, in similar fields; NPO salaries are about 20% lower than the average market wage, including the business sector. The gap between the lowest and highest salaries is more similar to that of the business sector; the level of inequity in the NPO sector is similar to that of the general market, except for certain areas to which various ideological and other explanations apply; the NPO sector's wage costs and components are generally similar to those of the public sector.

Government policy over the last few years has been problematic for third sector organizations. On the one hand, demand for services that they provide has increased, while on the other hand, competition has developed between third sector organizations and commercial entities seeking to target the same market segments. This kind of friction

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<sup>142</sup> Yoram Gabai and Eldad Brick, *The Wage Structure in Nonprofit Institutions in Israel*, Be'er-Sheva: Israeli Center for Third Sector Research, Ben-Gurion University of the Negev and the Maurice Falk Institute for Economic Research in Israel, Hebrew University, January 2002.

<sup>143</sup> *Ibid*, p. 4.

does not necessarily promote efficiency; at times, due to the limitations placed on NPOs, it is hard for them to compete.

We shall not here elaborate upon the details of the issue and the claims made by each side. It should, however, be mentioned that many organizations feel deeply affronted by the lack of appreciation shown for their work and for their important contribution to Israeli society, particularly in the current period. In light of these feelings, it is not surprising that organization representatives stated explicitly that they had entered into the accreditation process in order to differentiate themselves from other organizations, especially from those liable to find themselves the subjects of negative publicity and newspaper headlines. Others emphasized the need to strengthen the umbrella organization's spokespersonship skills and to engage in independent public relations activities (this is reflected in the organizations' desire to improve their skills in these areas).

## **2 - Improving capabilities**

Frequent changes that occur, new needs that continually arise, demands on the part of the government and the public for greater transparency, disclosure and accountability, have led NPOs to recognize the need to improve their governance. Frameworks and entities of various kinds have been created by caring people seeking to address various social needs, within their fields of professional expertise. By their very nature, voluntary organizations are sought-after for their professional activity and not for their organizational structure. As long as its activity remains limited in scope and complexity, an organization can function with a small administrative apparatus and with minimal bureaucracy. The larger the organization grows, the more professional demands are placed upon it, and the more accessible new technologies and knowledge become, the more the organization has to adjust to changing circumstances. And if we add to the equation governmental requirements, whether based on legislation, professional guidelines or demands for public transparency, the situation becomes one in which the organization is expected to function

at a high professional level, not merely in its particular field of activity but also in its board.

Organization representatives testify to the lack of administrative tools. They do not underplay this deficiency; to the contrary, they express great eagerness to obtain up-to-date management tools, to learn and become familiar with the various issues involved in modern and professional management. The large number of participants in the various training activities that take place is an indication of the desire to acquire knowledge and to improve.

Improving capabilities is a function of internal organization and external demands. Change in this area is a process that stems from strategic thinking. A strategic process necessitates a strong leadership, knowledge and capabilities relevant to the process, information, data and the ability to predict possible alternate future scenarios. Each of these capabilities is lacking to some degree. The quality and functioning of the boards will be addressed below. It should be mentioned that most of these do not function properly. Leadership is usually found if at all, in the general director and not in a public figure. The knowledge and ability needed to undertake a difficult and complex process of change are not within the reach of most organizations. Neither are information and data sufficiently accessible (see discussion of this issue), and the endeavor to predict alternate future scenarios is confounded by the lack of clear government policy regarding the areas addressed by the organizations, and by vague and changing policies toward the organizations themselves.

Recent years have witnessed the development of entities that offer services to third sector organizations. Among these are the umbrella organization, infrastructure organizations and even private entities. None of these bodies provides a comprehensive solution, as attested by the organization representatives. The lack is especially strongly felt with regard to the issues that are on the organizations' agendas, such as strategy, financial management, auditing, fundraising, and public relations.

In spite of the desire to acquire knowledge and to improve capabilities, it should be remembered that many organizations, particularly small and medium-sized ones, are frequently engaged in a struggle to survive which drains their resources in the short term and impairs their ability to invest in developing a proper infrastructure for the long term. This problem is not unique to NPOs; but in recent years, just as their need for sound infrastructures to cope with the changes forced upon them has increased in urgency, their ability to divert resources to this area has been hindered or, at times, obliterated.

It should be noted, parenthetically, that the organization representatives tended not to address the issue of board functioning. This was not because the issue is not problematic, but rather because strong directors who are aware of the boards' weakness seek to devote resources and efforts to strengthening themselves, rather than investing them in the boards and board members.

### **3 - Policy regarding NPOs**

We have discussed above the problematic nature of government policy. This issue is particularly relevant to organizations that are largely dependent on the public budget. Lack of clarity and stability leads many of them to assert that planning in such a situation is impossible. Moreover, in many cases, organizations take for granted that state allocations for their activity are long-term commitments, and they find it difficult to cope with the allocations' cessation. Organizations are sometimes informed of the cessation of funding at a late date, after the new activity year has begun. Parenthetically it should be noted that the government itself at times finds it difficult to function due to delays in approval of the state budget. It should be remembered that a fair number of organizations actually work according to the Hebrew calendar (from the beginning of the Hebrew year to its end), while the State budget is based on the civil calendar (January to December). And, if this weren't enough, budget authorizations for the organizations are often not available from the government, even in January (the timing depends on approval of the State budget and the budgetary procedures within the various ministries), and thus many organizations find themselves in impossible situations.

Within this context the issue of 'exit strategies' for organization-funding foundations and government bodies arises as well. This concept barely exists in the Israeli lexicon. As a result, both sides, the giver and the receiver, find themselves in a relationship complicated by pressure and by the obligation to address needs that do not necessarily accord with their policies and activities.

A related issue is that of that of the test by which the allocating body affirms the project's success. Measuring success and making corresponding decisions regarding continuation or cessation of support does not necessarily come easily to either party. How is success to be measured? How may results be quantified? What testing tools are to be used? Some organizations may well be disconcerted by the introduction of defined goals when they have not had to meet such requirements previously; others are unaware and since they have not been held to criteria of this nature, they make no effort to meet them. Government ministries and even, in many cases, foundations, make do with all-inclusive definitions and feel comfortable with similarly vague reports, without making any stops along the way to find out what is really going on. This vagueness is sometimes exploited when the need arises to justify decisions to cease funding.

#### **4 - Information, research and data**

The current information explosion has not passed over the third sector. Information of various kinds, whether in the form of formal governmental announcements, ministry directives, tenders, foundation RFPs, ongoing news about what is going on in the field, etc., are generally disseminated via the media. The task of collecting, studying and analyzing the information is difficult and complex, and many organizations are unskilled at compiling and storing information that is essential to their proper functioning. The umbrella organization, the Voluntary and Nonprofit Sector, publishes a periodical (*Bamigzar Hashlishi*), and even maintains an active Internet site. Many organizations have websites by means of which they disseminate valuable information. Recently, Internet journals have begun to appear which seek to update the public in general, and those involved in the civil society and third sector fields in particular (*Hazavit Hashlishit*, *Malkar Betnufa*, *Chevra Ezrachit*, and others).

A variety of publications is put out by the umbrella and infrastructure organizations, including the VNPS (its professional publications library) and Shatil; the Israeli Center for Third Sector Research at Ben-Gurion University puts out a journal as well as professional publications, research studies, etc.

Despite the important developments taking place in this area, not enough is being done. The limited number of copies produced of any given item, and the organizations' lack of basic computerized tools, make it difficult to disseminate current information.

The existence of information, whether full or partial, is only one side of the story. The basic question is that of the existence of crude data that may be processed into complex information or used to conduct research resulting in insights and conclusions about third sector processes. On this level Israel has a long way to go.

## **The attitude of government entities toward third sector organizations**

Five main issues arise from an analysis of the attitude of government ministries toward third sector organizations.

The first, and perhaps the most important, of these issues is that of trust – can they be depended on? Trust is at the basis of every society, most certainly a democratic one<sup>144</sup>. Despite the fact that third sector organizations, particularly those that receive government support, provide the government with products and services, a dual attitude tinged with doubt and mistrust still exists. This is not the place in which to expand on the phenomenon; its mere existence is enough for our present purposes. The existence of such an attitude may explain certain aspects of government policy or the lack of one toward the third sector; it may also account for the relatively little cooperation that takes

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<sup>144</sup> Mark E. Warren (ed.), *Democracy and Trust*, Cambridge, UK: Cambridge University Press, 1999.  
Adam B. Seligman, *The Problem of Trust*, Princeton, NJ: Princeton University Press, 1997.

place and for the one-way approach taken by the government toward the organizations. This distrust is accompanied by two other phenomena: firstly, the tension that exists between the government's professional bodies and those of the organizations. Not infrequently complaints are heard about organizations that seek to use their professional experience and ability to influence a decision-making process. Bureaucratic short-sightedness with regard to the value of experience accumulated by organizations in the field leads to occasional conflicts which make cooperation difficult. The second phenomenon is that of the influence exerted by the political system and its aspirations on third sector developments and activities. While third sector organizations seek to realize a vision, to attain defined objectives, the political system seeks to enforce its will, whether it is based on ideology, interest or some other reason. Since the government is the main funding party, the outcome of this tension is a foregone conclusion.

The second issue that repeatedly arises is that of the multiplicity of organizations dealing with the same field or subject. This is not an issue in Israel only. There are endless examples in the literature of this phenomenon. The term 'proliferation' comes up again and again. Almost without exception this kind of criticism comes from entities that deal with resource allocation or supervision. By contrast, civil society and third sector bodies respond, paradoxically, in the language of Adam Smith – let the market decide. Freedom of association is a basic element of freedom of expression. People have a right to form associations and the state is obliged to accept these associations, so long as they conduct their activities in a lawful manner<sup>145</sup>. Endeavors on the part of the state to unite organizations, to liquidate some and promote the activity of others, are unequivocally rejected. And thus we face a dilemma: on the one hand, people have a right to organize and to act, free of state interference; on the other hand, the state seeks to focus its activity and to conserve its resources. Presumably, clear governmental policy would be the solution. However, as we have repeatedly pointed out, such policy does not exist, and efforts to formulate policy in specific cases frequently meet with public opposition. Since political-public input has a strong bearing on the results, precedents are created and the situation becomes increasingly complex.

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<sup>145</sup> Amy Gutmann (ed.), *Freedom of Association*, Princeton, NJ: Princeton University Press, 1998.

The third issue of concern to the government is that of supervision and control. The government's responsibilities are to formulate policy, to allocate resources and to supervise implementation. In Israel the supervisory function appears to have overshadowed that of resource allocation and, certainly that of policy formulation. The government has responsibility for overall policy; complementing this is the policy outlined by the ministries and the executive echelons. The latter have great influence, and create the environment in which those who come into contact with the government have to function<sup>146</sup>. They also possess the supervisory tools. Government ministries have limited leeway regarding resource allocation, whether due to professional, political, public or other considerations. These processes are lengthy and exhausting. At times it is easier to maintain the status quo, perhaps with minor, marginal changes, than to initiate new programs and to re-organize. During the last few years, the more the system has become dependent on legal redress and has sought to defend itself publicly when negative phenomena have come to light, the more demanding the system has become in its control and supervision requirements. These requirements include reporting, whether general periodical reporting or reports on exceptional events. The proliferation of supervisory mechanisms necessitates professional resources and personnel which are not necessarily available, especially during a period of budget cuts. The Israeli government's inability to digest the quantities of information and reports with which it is inundated is shared by governments the world over<sup>147</sup>. Although it is not a problem unique to Israel, the tendency here is to burden the government with the task of information processing, rather than enlisting the aid of third sector organizations. The lack of resources, particularly when it is third sector organizations that are being dealt with, also stems from the simple fact that these organizations do not enrich the state coffers. No government is likely to want to allocate scant resources to areas that will not bring it any income. Due to the lack of personnel, the Associations Registrar has had to employ external bodies to do its

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<sup>146</sup> Michael Lipsky, *Street Level Bureaucracy*, New York: Russell Sage Foundation, 1980.

<sup>147</sup> In a visit to the New York State Attorney General's office the problem of a limited staff inadequate to the task of handling tens of thousands of complex cases, was overwhelmingly apparent.

work<sup>148</sup>. The Registrar is not the only governmental entity to outsource; other ministries resort to this method as well.

The fourth issue of concern to government entities is that of measuring productivity and ascertaining the degree to which objectives have been reached. This issue is particularly problematic for third sector organizations due to the objective difficulty of quantifying results that resist measurement. The business world's motto is that 'whatever is not measurable does not exist'. The third sector, however, deals with the world of values and quality. How are these to be tested? How can we be certain that the 'qualitative' products of an NPO are indeed superior to those of the business sector, if at all? If in the past the tendency was to be less demanding of the third sector, during the present age of privatization and tenders the situation is different. From the government's perspective, the burden of proof lies with the organizations. They have to prove that it is worthwhile to employ them. As previously mentioned, this kind of measurement is difficult and, since the organizations cannot demonstrate their worth clearly, they find themselves confronted with a ministerial apparatus that is unable to receive 'values' alone. The ministerial apparatus is expected to act according to clear rules and to form its judgments according to objective tests with equitable criteria, and it willingly conforms to these rules and tests since this makes its work easier. Lack of cooperation or genuine dialogue between the government and the third sector prevents the development of a fair solution and the organizations are obliged to come up with their own solutions.

The fifth issue that was raised by the government bodies has to do with budgetary policy and the contractual employment of third sector organizations. The limited leeway for judgment given to government ministries has already been mentioned. This issue takes on even greater importance where relations with third sector organizations are involved. On the one hand, organizations seek assistance with the initiatives and programs that they

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<sup>148</sup> In order to cover the supervisory expenditures, the associations pay a yearly fee which is higher than that paid by businesses. Although the actual sums of money are insignificant, the fact still speaks for itself. In addition, according to Section 41(a) of the Associations Law, the Registrar has the right to charge some or all investigatory expenses to the association in question, to its board members or to the party calling for the investigation, and it can require that the party calling for the investigation provide guarantees for its expenditures.

run; on the other hand, the government's commitment to assistance for a specific period is perceived as a long-term, permanent commitment. Any attempt to cease the support for a particular program, to alter budgeting policy, tariffs or level of contribution, is perceived by the organizations as a threat and leads to both internal and external pressures upon the governmental system. This occurs even when it has been determined in advance, and explicitly, that the government commitment is for a specified time period. This creates an intolerable situation for the ministries. The ministries have to be sensitive to changing needs and open to new initiatives and they cannot permanently be held hostage to past decisions, with no possibility of reexamining things. Two main factors are responsible for this state of affairs. The first one is that for many years the government would repeatedly renew its support; the support commitments would not be issued on time and the activities to be funded would be carried out based on promises of retroactive authorization (as mentioned earlier, authorizations are dependent on Knesset approval of the State budget). In many cases, once the commitment was issued there would be no defined goals or stipulated timeframes for cessation of government support for a given program, apart from the formal limitation of the specific budget year. In the absence of such goals or timeframes, it becomes objectively difficult to withdraw government support abruptly, without harming the programs. The second factor is the organizations' high level of dependency on the public budget and the lack of a general policy encouraging organizations to seek other funding sources. This situation does not leave the organizations many alternatives apart from exerting constant pressure on the government to continue its support. Thus we have a vicious circle – dependence on state resources limits the government's flexibility.

The issue of accreditation finds itself, along with other issues, confronted with ambiguous government policy. On the one hand, the advantages of the process are clear and readily understood, by ministry administrators in particular; on the other hand, the intermediate bureaucratic echelons display fear of losing their power. Making common cause with the latter is the political echelon which is hesitant to enter into overt partnerships of this kind with extra-governmental systems. Thus, despite the welcoming and encouraging attitude

which the accreditation process has invited, the ministries nevertheless hesitate to take a clear stand and to enter into cooperative efforts.

## **Foundation and federation attitudes toward third sector organizations**

Within the framework of this paper we have sought to examine the attitudes of funding bodies that are not government entities. These include foundations, federations of North American Jewish organizations, the Jewish Agency and JDC-Israel. We shall discuss below the findings of our meetings with them. We shall use the word 'foundation' to refer to all of these entities.

The term 'foundation' covers various types of organizations, large and small, Israeli and foreign, private and public, grant sources and actively involved, single- and multi-disciplinary, working in coordination with the authorities or not, etc. Each foundation has its own policy, resources and operating methods. There are great differences between them, and thus a varying view of the organizations, their advantages and disadvantages. Nevertheless, we have sought to find issues common to the foundations and upon which there is a consensus, and which reflect a joint attitude toward third sector organizations.

Israeli foundations can be divided into a number of categories:

Firstly, foundations that seek to initiate change in areas relevant to their policies. These foundations usually take the various issues of concern to them to the government and try to reach an agreement regarding joint funding. They may be active on a number of fronts simultaneously. Some serve as clearinghouses for various activities or as liaisons between associations, through which they support or operate projects.

A second type of foundation seeks to work in the field, to assist associations without cooperation, consensus or government funding being sought.

A third kind of foundation holds an intermediary position between the two described above. Some are large, others small. They include familial and public foundations. They deal with a wide variety of issues; at times they work in cooperation with the central government or with local authorities. In some cases, the foundation's share of the funding for the activity in question comes from the public budget. It is difficult to identify a clear trend within this group.

Foundations active in Israel respond directly to given needs, and they do not usually aspire to deal with the third sector as a sector, to represent it or to assist with its infrastructure development. In many cases they are not even willing to fund the overhead expenditures of organizations that they support, although they may be prepared to aid in a particular infrastructure project that they perceive as being directly related to a supported activity.

The trend toward privatization is a matter of concern to foundations. The appearance of private companies offering services similar to those provided by associations calls into question the entire issue of supporting NPOs. That is, if a service can be provided at an appropriate level of quality by a commercial entity, then what is the rationale for supporting an NPO?

North American Jewish federations that are represented in Israel operate differently from the other kinds of foundation. Decisions about fields of activity and organizations or projects to be supported, and the scope of support to be provided, are made by the federations, not by their Israeli offices. Federation activities are usually carried out jointly with government entities (the central government or local authorities), or with world Jewish organizations (the Jewish Agency and the JDC). Some of the Israeli offices assist with applications to the federations for support – they submit requests, work with the bodies seeking assistance, handle reporting, etc. The aim is to strengthen the relationship between the Israeli organizations and the federations and to make them more aware of the federations' policies regarding areas and issues for which they provide assistance in Israel. There is a gap between what Israeli organizations expect and what the federations

provide, a gap which results from their differing views of the nature and function of NPOs and their relationship both with the government and with supportive public entities. Israeli organizations do not engage in much activity directed toward the public and the community; rather, they channel their efforts toward the government, in order to receive financial support. Many associations that have a direct relationship with the North American federations succeed at direct fundraising; others, which lack such connections and capabilities, have trouble reaching the federations. The necessary conclusion is that a need exists for an advisory, training and coordination mechanism.

To a great extent, the issues that the foundations and federations raise are no different from those raised by government bodies. These issues are discussed below.

The first and most fundamental issue raised by the foundations and the federations has to do with the ability to evaluate goal attainment. Foundations are concerned to ensure that the goal, the objective for which support is being provided, will indeed be achieved. Reporting by the supported organizations does not address the effectiveness of their activity. In recent years foundations have been demanding orderly data on the organizations' products and their quality. The organizations, as well as most of the foundations, lack the knowledge and tools to measure their productivity and its quality. The result is a lack of confidence in the results of the support provided. This issue is of concern to the third sector and its supporters around the world, and Israel is no different. The last few years have not only witnessed a change in the foundations' attitude – this has been even more extreme in the federations, which want to see concrete results and to be assured of the effectiveness of their efforts to solve the problems and ease the ills plaguing Israeli society. Evaluation of the outcomes of funding is, therefore, the first item on the agenda.

The second issue has to do with the organizations' ability to perform their appointed tasks. That is, the ability to do what they have taken it upon themselves to do. Is the organization properly prepared, is its board a responsible one and is it guiding the organization toward its objective, is the staff skilled and professional, does the

organization have the necessary technology, etc.? The cries of distress coming from the organizations, particularly during the current period, raise doubts regarding their ability to cope with the internal and external problems afflicting them. Who can ensure that a framework, entity or organization that has failed up to now to understand processes and changes taking place and to prepare itself accordingly, will be able to do so in the future? All of the foundations, almost without exception, expressed the hope that the organizations would become more efficient, and they expect the organizations to do what it takes for this to happen. Within this context mention was made of the lack of infrastructure organizations able to aid the organizations in coping with the issue of capacity building.

The third issue that came up was that of reporting. Israeli organizations generally report on specific projects. Supporting bodies usually do not receive overall, comprehensive financial or executive reports on an organization's activity in general. The need for executive reports arose repeatedly in other forums<sup>149</sup>. When information on an organization's activities is limited to a particular area, it is difficult to supervise the organization properly. It should be remembered that not all foundations are equipped with clear procedural guidelines, and, as indicated above, a report of limited focus can at times create the feeling of not having been presented with the full picture. Foundations want to be able to place their trust in the organizations that they assist, and they find it difficult to tolerate situations in which the receiving party submits reports that do not reliably indicate its status, activity, and the objectives achieved. On the other hand, organizations tend to submit the kind of reports that are demanded of them, and if there are no special requirements they simply prepare the reports as they see fit. In this context, foundation representatives raised the issue of control. In their opinion, the organizations' control and internal documentation mechanisms are not at the appropriate level and need to be improved.

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<sup>149</sup> It should be mentioned in this context that the State Comptroller Report No. 47 brought up the issue of such a requirement, and discussed it further in Report No. 52B.

The fourth issue in order of importance is that of cessation of funding. Cessation or limiting of support results from the foundation's policy or change of policy, from a decrease in the foundation's resources or from other reasons having to do with the foundation's activity. In recent years, when organizations have run into difficulties, there has been increasing pressure to maintain support. The foundations find themselves obliged to display 'understanding', or to face claims that 'cessation of support will cause irreversible damage' and other statements of this sort<sup>150</sup>. Organizations became accustomed over the years to a particular method and find it hard to cope with change, any change. At times, organizations that work to promote the assimilation of new processes and transitions within the community encounter difficulties due to the communal entity's inability to absorb changes, whether due to environmental deficiencies or because the process in question depends upon a concomitant activity on the part of the authorities. As a result, the organization supported by the foundation has trouble ceasing or limiting its activity, due to the negative implications of this development. However, it should be recalled that in many cases the foundations lack clear 'exit strategies', and that this contributes to the issue's complexity.

Organization proliferation is the sixth issue. This issue raises questions among the foundations, as it does within the government, regarding the distribution of resources among them. Out of respect for the organizations' autonomy, there is no tendency to pressure them to unify, but that does not translate into a willingness to tolerate the present situation. Lack of data (discussed above) makes decision-making problematic.

The seventh issue is that of information. Lack of information is a matter of concern to the foundations, particularly the larger ones and those seeking to be active in a specific field and in need of reliable and timely information for decision-making purposes. Everyone recognizes the critical importance of up-to-date and readily-available information. Nevertheless, few foundations actually invest in information processing or in formulating

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<sup>150</sup> One of the foundations even mentioned, with a sense of profound insult, that it had been accused of being uncaring when, due to decreased resources, it was obliged to limit its support for a particular organization. The foundation resented the lack of appreciation shown for its many years of large-scale support.

an appropriate policy. There appears to be an expectation that information will come from the government, the academic world or the organizations themselves. It seems preferable to provide support for a particular organization's well-known project rather than investing in an infrastructure capable of serving many organizations. The federations, in contrast to the foundations, do tend to invest in obtaining information prior to making major decisions.

To the issue of information may be added the foundations' quest for a project clearinghouse. That is, a database (perhaps a virtual one) of information on projects and associations which would enable foundations and donors to learn about their needs, on the one hand, and the organizations' capabilities, on the other, when seeking issues to support.

Lack of information results in the organizations' being insufficiently aware of each other; there is inadequate coordination and cooperation, and the organizations function in a vacuum. Scarce information makes it hard for the organizations to present issues to the public or the government, and to demonstrate the degree of success that their activities have met with.

The accreditation issue is a familiar one to the foundations, particularly to those which are represented in Israel and are aware of similar processes taking place abroad. Their position on this issue is not uniform. The larger foundations, JDC, the Jewish Agency, etc., which are close to the donors and understand their attitude, view this process as an important one. There is an understanding that success depends on proper infrastructure, self-control and constant self-correction. There have to be continual [evaluation] processes, strategic thinking and ongoing feedback. The system prevalent in Israel – that of improvising and producing short-term achievements, is not considered acceptable. Accreditation helps to build a long-term infrastructure. Thus, as urged by one of these larger entities, "We have to move forward."

On the other hand, although there is recognition of the process's importance and its contribution to improved management of the organizations, some foundations still take a dual attitude. Within a certain group of them there is a fear that their exclusive authority to decide which organizations to support, based on their own policies, will erode. The rationale for their position lies in the fact that the process still does not embrace all of the organizations, there is still no organized cooperation with the government, and, in such a situation, why should they be the first to insist on accreditation?

Against this background, it should be noted that the demands imposed by Diaspora Jewish donors (private, foundations and federations) upon Israeli organizations are usually lower than those that they impose upon organizations abroad. This is true not only of the previous generation, but of the younger generation that is currently taking its place within the leadership and philanthropic cadres of the Jewish world. The latter emphasize outcomes and outputs, and they are not much concerned with infrastructure or administrative, etc., issues.

We have addressed attitudes toward the third sector displayed by the government and by foundations, federations and donors. The government has a broad interest in an inclusive view of the state and society which transcends that of the foundation or the individual donor. Nevertheless, on the specific issues their approaches are similar. All of these groups, as well as the volunteer population and the public, want organizations to display accountability, transparency, sound governance, efficient management and effective activity, as well as the ability to test and to evaluate their own outputs. Policy and decision-making on areas and issues in need of development or assistance are based on information, on data and on data analysis. The lack of these makes decision-making problematic and impairs processes meant to improve efficiency and functioning. The endeavor to ensure sound governance demands that efforts be devoted to control and reporting. In Israel, as elsewhere in the world, the state and other stakeholders have trouble bearing the burden of the task on their own, and there is an expectation of greater accountability and self-supervision on the part of the third sector. In order for change to

be effected, a number of infrastructure issues need to be dealt with. These will be taken up in the next section.

## **Section 5 – Specific Issues**

The issues discussed below are ones that came up during meetings, were compiled from various sources or were submitted by the organizations. These issues need to be treated separately, and recommendations regarding them have to be reached via study and analysis. Support for the sector and its organizations will aid in improving its functioning and in the attainment of its objectives. We wish to emphasize that some of these issues are not stand-alone ones. The issues are interrelated, and thus in addressing them one must take a broad view and a balanced approach.

### **Information**

Information is basic to any intelligent decision. In the information age its importance is even greater – not only internal, system-based information, but also, and especially, broad information on the environment, the variables within it, the parties active within it and the developments occurring in it. Modern technology enables us, but not only us – our competitors and others are enabled as well – to collect data, analyze them and create new knowledge from them. Large quantities of information are housed in the endless variety of databases that exist – on personal and central computers, and in governmental, public and private information systems. The networking of these computers and the creation of a single database which is accessible to all and which enables individual persons or organizations to retrieve information and to analyze it each according to its own criteria or assumptions, is the wave of the future. Information accessibility is turning into another aspect of the concept of equality. Lack of information or its inaccessibility are indicators of inequality and inferiority. Years ago a friend of mine coined the phrase ‘information fog’. The idea was to distort information, to obfuscate and thereby to ensure superiority through access to an asset unavailable to others. Today this attitude seems ridiculous, not only because information is readily accessible and the state information systems are legally required to be open to the public, but also because it is no longer acceptable in

terms of public morality. With regard to advanced technology some say that everything depends on the price – the price of data storage and protection via electronic means, or their outright purchase.

In Israel, information accessible to the third sector and its organizations, or that which is available to decision makers and donors, is limited and partial. There is no single system that covers the entire sector, and the information that exists is not current and requires a special effort in order to compile and process it. Most of these data accumulate within the government systems. Even though the law requires that they be available for public use<sup>151</sup>, their actual accessibility is partial and fee-based.

There are three major collectors of information:

1. State authorities – including the Registrar of Associations, the tax authorities, the Finance Ministry's Accountant General division, government ministries and the Central Bureau of Statistics.
  - (a) Registrar of Associations – Beyond the fact that the Registrar's databases are not up-to-date, the Registrar maintains several databases for which any interconnection requires special processing. Access, even though it is mandated by law,<sup>152</sup> is neither easy nor convenient, and it is provided for a fee. The Registrar's Internet site does not include many details and serves mainly to address the issue of the 'sound management authorization'.
  - (b) Tax authorities – these publish no data at all. Macro data are available to academic researchers by special arrangement, on a case by case basis. It should be noted that the Income Tax Commission and the VAT authorities maintain separate databases. These should be merged once the tax departments are combined, as a recent policy decision calls for. The tax authorities do not allocate special

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<sup>151</sup> Freedom of Information Law, 5758-1998.

<sup>152</sup> Section 39(B) of the Associations Law stipulates: "*The documents submitted to the Registrar according to sections 2, 10, or 38 shall be openly available in the Registrar's office for the perusal of all.*" Section 2 – registration application, section 10, section 38 – the ongoing reports, including financial statements and appointment announcements, changes, etc.

- resources to this field, which does not represent potential for income to be collected. The tax authorities' main efforts are devoted to preventing tax evasion.
- (c) Each year, when the financial year has ended and the state account books have been closed, the Finance Ministry's Accountant General division publishes data on financial allocations to NPOs. It should be emphasized that these data do not distinguish between grants and contracts.
  - (d) Government ministries are required to publish an official list of all of their NPO allocations, for each budgetary item for which criteria have been determined, in accordance with the Foundations of the Budget Law. This publication, in *Reshumot* (Official Gazette), is issued many months after the end of the financial year.
  - (e) The Central Bureau of Statistics (CBS) collects data on third sector organizations in a partial manner<sup>153</sup>. No orderly data are available regarding types of income and expenditure, personnel, volunteers, etc. CBS data processing and publication activities are carried out within the framework of the National Accounts. These data are not macro estimates and they appear with a two-year delay. Special publications on the third sector are produced every few years, or by special request. The last special publication appeared in 1999.
2. The umbrella organization – The organization collects initial data on its member organizations. There is no regular processing of these data, and no periodic publications are produced based on them. The umbrella organization possesses additional information regarding associations that have undergone (or are currently involved in) the accreditation process. The organization's policies provide for no publication of these data.
  3. Academic institutions – Academic institutions store data taken from the state authorities or, to a lesser degree, collected through research. The main academic body

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<sup>153</sup> Current data are compiled in areas related to society (health, education, culture, recreation and sports), and to research and development. The data are validated by means of questionnaires, some via the sampling method and others via survey. Most of the data are collected from state authorities, particularly the Income Tax Commission and the VAT department.

that collects and processes information on the third sector is the Israeli Center for Third Sector Research at Ben-Gurion University. This center's database is the only one of its kind in Israel. Data included in it are collected from the state authorities, undergo a complex processing procedure, and are not continually updated (due to delays in receiving the data, which themselves are not up-to-date, and due to the processing procedures). Collection and processing of these data are a drain on the Center's financial resources. Their paucity and incompleteness do not encourage research, and in the absence of research – that is, of demand – little special processing of the data takes place. Thus, there is a vicious circle of lack of data, little research and little investment in data collection and processing.

The lack of data in Israel not only greatly impedes efforts to understand the third sector, but also does not enable policy formulators and decision makers in the government, the foundations and the associations to base their activity on reliable information. At a time when sound management requires that decisions be based on data and information, third sector entities are sorely lacking in this area. Lack of information leads to squandering of resources, new initiatives for which there is no market demand, duplication of efforts, etc. In the absence of reliable data, decision makers become accustomed to operating intuitively, and the ability to conform to professional managerial norms is impaired<sup>154</sup>. While NPOs around the world are aided by reliable data in their decision making processes, Israeli organizations fail to meet this standard.

Further discussion of the importance of a reliable, current and up-to-date database on Israel's third sector organizations would be superfluous. Still, the question arises of which entity should be entrusted with the task of maintaining such a database. On the face of it, government authorities would seem to be the appropriate party, since they are the ones who collect data on a regular basis. However, experience in Israel and around

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<sup>154</sup> A foundation seeking to be involved in a particular social field recently invested a significant sum in order to study the data existing in the field and to make an informed decision regarding its future activity. These data, which should presumably have been available from the relevant government ministries, were not accessible.

the world indicates that state authorities have trouble with routine data collection and processing, especially in areas that are low-priority for the national accounts; even the tax authorities do not invest in fields that are not expected to bring in income for the state, or which do not raise collection rates. Another candidate for the task would be the umbrella organization, the Voluntary and Nonprofit Sector. In the Western world, the umbrella organizations play an important role in the area of data collection and processing. In Israel, too, the umbrella organization aspires to play such a role, but given the lack of means, the issue's priority level is low. Another possible framework would be an academic institution. The database maintained by Ben-Gurion University's Israeli Center for Third Sector Research could be expanded, and readily-available academic expertise could be enlisted to assist in processing the data and in making it available to the state authorities, the general public and third sector organizations. The problem with this solution is the need to create mechanisms for transferring data from the state authorities, and the resources needed for this.

## **The GuideStar database**

The need for a comprehensive database is not unique to Israel. The issue arose in the US in the past. When no government body was found to be willing to take the initiative and invest the necessary resources<sup>155</sup>, the nonprofit GuideStar organization took it upon itself eight years ago to establish a database that would be accessible free of charge to the general public, with special processing tailored to the requestor's needs provided on a fee basis.

The GuideStar database is built upon reports to the US tax authorities (the IRS). Reports filed to the IRS (Form 990) are photocopied, digitalized, entered into the organization's

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<sup>155</sup> This phenomenon is not unique to the US. Governments tend not to invest in information that does not directly serve their needs, particularly in sectors from which the potential income to be gained is minimal or none.

computer system and uploaded to the organization's website<sup>156</sup>. This is possible because the reports have the status of 'public domain' documents. At the project's inception many felt that the idea was an impracticable whim; by now, however, the project has proven its success and the governmental authorities make use of the database and obtain essential information from it. In our visit to the US we were presented with various examples of this, such as the IRS, the individual states, the New York State Attorney General's office, and others.

The GuideStar database is the most comprehensive and current<sup>157</sup> one of its kind in the US for primary data – reported and specially-processed data, and secondary data – which are processed and segmented according to subject, geographic region, etc. According to figures submitted by the organization, about 30% of those entering the site are foundations and donors, about 30% are professionals in the field (attorneys, accountants, etc.), consultants and governmental parties, and about 40% are from the general public, including the media (whose use of the database is continually increasing). The praise that this enterprise has been receiving from various quarters attests to its outstanding success.

The ability to make reliable data on third sector organizations available to all those interested – government entities, scholars, consultants, NPOs, volunteers and the general public – has created a new reality:

- (1) It promotes research in the field.
- (2) It enables decision makers to make informed decisions based on reliable data.
- (3) It saves the state money on data collection and analysis.
- (4) It enables NPOs and the consultants who work with them to have the relevant data at their command when making decisions on new activities and projects.
- (5) It makes available information on third sector organization activities, at the level of the individual organization, the field of activity or the geographic region.

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<sup>156</sup> <http://www.guidestar.org> .

<sup>157</sup> Data collection and processing currently take about 18 months. The trend is to shorten the process through the submission of electronic reports and by setting shorter time frames for report submission. NPOs are required at present to submit their reports within five months of the end of the financial year; about 50% are granted 3-month extensions and about 10% receive additional 3-month extensions. The

- (6) It enables potential donors to find out about particular organizations before making their decisions.
- (7) It provides potential volunteers with comprehensive information about organizations and possible volunteering venues.

In addition to providing data, the existence of the Internet site has revolutionized the entire issue of the organizations' public transparency. There are those who believe that this has been GuideStar's most important contribution.

GuideStar's current policy is to develop similar enterprises and sites around the world, in Europe, Asia and Africa. The British government, via its Charity Commission, has commissioned a GuideStar UK website, to be developed by the American GuideStar. The site will be owned by the British government, but will be constructed and maintained by GuideStar<sup>158</sup>.

In addition, GuideStar has been in contact with other countries regarding the development of similar sites. Based on discussions with the organization's president, Mr. Robert Ottenhoff<sup>159</sup>, willingness to become involved in the Israeli scene has been expressed.

Conversations held with representatives of various relevant bodies in Israel, including associations, umbrella and infrastructure organizations, government entities and foundations, have elicited highly positive responses to the idea of a GuideStar Israel site. Senior governmental parties (from the Associations Registry, the Income Tax Commission and various government ministries) expressed strong support for the idea and even emphasized the benefits that they would reap from the existence of such a service. However, they were not able to affirm the government's willingness to allocate resources for a project of this nature. This hesitation presumably is probably due to the lack of necessary authority, or to the budgetary straits in which the government ministries

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amount of time needed for the photocopying, digitalization and Internet-uploading process is currently about 6 months.

<sup>158</sup> See: [www.guidestar.org.uk](http://www.guidestar.org.uk) . According to published reports, the British government will be paying £2.9 million (about \$4 million) for construction of the site. See: [www.guidestar.org.uk/press/](http://www.guidestar.org.uk/press/) .

currently find themselves. Despite this hesitant response regarding the availability of government resources, it is nevertheless not unlikely, in light of the senior echelon's favorable response, that the project will eventually be launched in cooperation with the government, and with its financial support.

The GuideStar model provides various types of data to state decision makers, foundations, donors, volunteers, and the general public, and has proven itself to be an effective force for change. Our recommendations thus are as follows:

## **Capacity building**

The term 'capacity building' has become a buzzword used to address the various problems, inefficiencies and states of resource scarcity that afflict voluntary and nonprofit organizations. The concept is looked upon as the key to resolving all of these issues. Many organizations, when seeking assistance, point out their need for capacity building, and likewise those who attack the third sector claim that its organizations are in need of capacity building.

There are four facets to the concept 'capacity':

- (1) Organizational capacity – organizational ability, administrative skill, the organizational and managerial capability of the workers and of the organization as a whole.
- (2) Infrastructure capacity – infrastructure resources, physical and financial resources, training and knowledge (in the organization's specific field of activity), volunteers, etc.
- (3) Technical capacity – the organization's ability to identify, absorb and make efficient use of developing technologies that are becoming routinely available. In the age of technology a high level of ability in this area is necessary to make the organization

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<sup>159</sup> In a meeting in Washington, and via subsequent correspondence.

competitive and to ensure that the products and services it provides are of the appropriate quality.

- (4) Community capacity – the organization’s connection to the environment in which it is active, its ability to build relationships with its various stakeholders, including donors, volunteers, clients, suppliers, the immediate community and the general public.

Some believe that organizational ‘capacity’ should be assessed from a strategic point of view. That is, two different types of capacity exist: one – the ability to improve and strengthen existing activity; two – a broad view which strives to effect change while maintaining openness and a willingness to consider the entire organization, its vision, operating methods, evaluation, etc. Whereas the first type of capacity indicates administrative ability to effect change and internal organizational efficiency and efficacy, the second type of capacity represents a strategic and leadership perspective. These two forms of capacity should not, in fact, be viewed as being in conflict with each other. They are, rather, complementary, and can be great assets to an organization if they are channeled toward the plane of board-senior staff relations.

Capacity building means providing tools and using them correctly. The various aspects of an organization’s capacity need to be addressed differently. Their target populations differ, but taken together they complement one another.

The basic assumption is that the organization must possess the ability to build its capacities. That is, the ability to be a learning organization which tries to build itself, not in response to some perceived lack, but rather as a general philosophy and a means of strategic thinking. This ability comes from the organization’s leadership – its board and senior officers. When the leadership does not function properly, the organization is lacking in capacity, whether generally or in a specific area. The solution to this problem is focused training for the organization’s leadership. In a separate section we have discussed the issue of boards, pointed to possible directions of activity, and presented our major recommendations. We shall nevertheless reiterate that, in the absence of the necessary attitude, values and willingness to learn, the task of leadership training will be

a long and complex one. The academic world's involvement in basic, focused training for NPO leadership is essential. This kind of training may be supplemented by in-service training courses for the population in question.

## **Organization boards**

Membership on an organization's board is the highest possible expression of civil and public involvement and responsibility. Fulfilling this public function carries with it prestige and social status, particularly when the organization in question is a large national one. A board member is not just a regular organization member, but rather a volunteer who is prepared to shoulder responsibility and to give of his time and his ability. This is indeed an impressive definition. The reality is more prosaic. NPO board membership is accompanied by issues of governance and responsibility<sup>160</sup>. Beyond the legal obligations of loyalty, responsibility and obedience there is that of public duty in its broader sense, that which gives true meaning and quality to the position and which influences the entire organization's functioning and its ability to realize its vision and its objectives efficiently and effectively.

In Israel, as in the entire Western world, this problematic issue is on the public agenda and has yet to be suitably addressed. Based on meetings with key figures and office holders abroad, and on the relevant literature, it appears that boards are, upon the whole, characterized by deficient functioning. The boards were pointed to again and again as loci of failure within voluntary and nonprofit organizations. Various parties, particularly government office holders dealing with enforcement, and parties involved in allocating budgets and grants (in foundations and government ministries) believe that boards do not function as required, do not provide necessary guidance or initiate strategic processes, do not serve as liaisons with the public and the surrounding communities, and do not provide meaningful criticism of the organizations' activities and administrators.

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<sup>160</sup> Peggy Sasso, "Searching for Trust in Not-for-Profit Boardroom: Looking Beyond the Duty of Obedience to Ensure Accountability," *UCLA Law Review*, 50, 2002-2203, pp. 1485-1546.

The research literature also addresses this issue. Various structural and managerial models have been studied and presented, but no single model has emerged from the findings. Two different levels of the problem have been identified: The first stems from inter-organizational relations, the network of interpersonal relations, procedures, etc. The second has to do with the organization's corporate culture, its accepted norms. While the first aspect of the issue may be addressed using concepts from the world of management and law, the second needs to be addressed via sociological, educational and cultural concepts. Training activities may solve the first kind of problem within a reasonable time frame, while the second requires a longer and more complex process.

In order to step beyond the theoretical plane, we shall discuss the problem below in its Israeli context, with attention to three main points:

1. The legal situation – The Associations Law, the main law dealing with NPOs, does not focus responsibility on the board membership. The law does stipulate that: *'Board members must work on behalf of the association's objectives, and in accordance with its articles of association and the decisions of its general meeting'*<sup>161</sup>, but there is no emphasis on the nature and scope of board member responsibilities, as in the Companies Law. The penal code, which addresses responsibility for compliance, directorial violations, etc., not only is not familiar to board members, but does not even provide legal precedents that might set an example or serve as deterrence.
2. The nature of the relationship between the organization, its funding source and the public – The role of the board member is a varied one; some of his functions are internal organizational ones, while others are focused on the public, the organization's stakeholders and on seeking resources from them, including personal donations. Few Israeli board members actually deal with fundraising, and even fewer

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<sup>161</sup> Associations Law, 5740-1980, Section 27.

actually contribute out of their own funds. In many cases the position of board member is perceived to be one that confers privileges with no obligations attached.

3. The relationship between board, senior staff and clients, and its implications for the surrounding environment – A mutual relationship exists between external parties, the board, the CEO, the staff and the organization's clients – the classic model posits a chain of interrelations in this order. Various studies have shown that the closer the CEO's and the staff's relationship grows with both external parties and clients, the weaker the board becomes. This model is applicable to the situation in Israel, where most funding for the sector's organizations comes from the public (this is particularly true regarding the larger and service-providing associations). Common interests evolve out of the relationship between association CEOs and government officials, and this results in, among other things, a weakening of the boards. The general public and the stakeholders are of secondary importance, while the clients, who generally do not belong to the more affluent populations capable of paying for services, receive the kind of services that they receive, while their ability to assess the quality of these services is usually low, if it exists at all.

Thus, the Israeli reality does not encourage the building of boards that are strong, involved and contributory. At times there appears to be a covert interest in not creating a relevant board that tries to examine things, guide strategic policy and make a difference generally. Boards are often perceived as public entities whose purpose is to approve the CEO's actions, to give him public backing, as required by law.

In general, an initial board composition will be compatible with the organization's nature and vision, as formulated by its founders. This initial composition may be fine to start with, but it is unlikely to address the changing needs of the organization as it develops, grows, expands its activities and reaches the usual organizational lifecycle milestones. Changes in board composition, like other changes taking place within an organization, must be suited to the circumstances and to changes occurring in the surrounding environment and the organization's objectives. It is not our task here to elaborate upon

this issue. However, it should be noted that Israeli organizations do not regard the issue as a crucial one, and, in the absence of explicit external demands, situations of stagnation develop in which no changing of the guards ever takes place on the boards, no new members are ever added to bring varied and fresh perspectives from different fields that are relevant to the organization's activity.

A survey of figures who occupy board positions points to the existence of three different populations: Firstly, public figures and activists who make their living by dealing with fields that are not necessarily related to the organization's activity; secondly, professionals in the field that the organization is active in, who are familiar with the professional issues, the target populations, etc.; thirdly, professionals from various other fields, including the liberal professions, which overlap with the organization's field of activity; some of these professionals may serve as senior paid staff members.

In order to improve the functioning of nonprofit organization boards, standards and tools have been developed around the world, and training requirements have been formulated. Although a different approach is taken to each type of board member population, with regard to training the basic requirements are identical: familiarity with the sector, familiarity with the organization's field of activity, understanding of board member duties and responsibilities, and the acquisition of professional tools<sup>162</sup>.

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<sup>162</sup> Some examples of this:

The American Bar Association has published a guidebook for NPO board members that outlines the issues with which a board member should be familiar. See: George W. Overton & Jeannie Carmedelle Frey, *Guidebook for Directors of Nonprofit Corporations*, Washington, DC: American Bar Association, Committee on Nonprofit Corporations, 2002 (2<sup>nd</sup> edition).

The McKinsey company has developed self-evaluation tools. See: Nonprofit Board Self Assessment Tool, McKinsey & Company, 2004, at:

<http://www.mckinsey.com/practices/nonprofit/ourknowledge/dynamicboards.asp> [last visited July 2004].

A publication has been put out by the UK Department of Trade and Industry, which, though dealing with the general concept of non-executive directors, is nevertheless highly applicable to NPOs. See: Derek Higgs, *Review of the Role and Effectiveness of Non-Executive Directors*, London: Department of Trade and Industry, The Stationary Office, 2003.

In Canada: Peter Broder (Co-ordinating ed.), *Primer for Directors on Not-for-Profit Corporations*, Canada: Industry Canada, 2002.

The Israeli experience suggests that board members tend not to take part in in-service training activities. Some feel that they do not need to, while others seek frameworks tailored to their specific needs. Nevertheless, in recent years, particularly in the wake of legislative changes, the environment in which NPOs are active has begun to change, and board members have evinced greater interest in familiarizing themselves with the issues relevant to their positions. Leading organizations, among them the Voluntary and Nonprofit Sector, Shatil, the Israel Association of Community Centers, JDC-Israel and the Ministry of Labor and Social Affairs, recently decided to create, as a joint enterprise, a National School for Non-Profit Boards of Directors<sup>163</sup>. Inaugurated in 2004, the School focuses its activities on training board chairpersons and members, and its activity up to now reflects the need for it. The School is faced with two main issues: that of adopting a marketing strategy aimed at reaching its potential target population, and that of developing a professional curriculum. While the first issue requires thought and an understanding of the state of affairs in Israel, the second requires mobilization of professional personnel and the development of materials relevant to Israeli reality.

## **Personnel training**

Third sector personnel may be divided into two categories: professional personnel in the organizations' fields of professional activity, and administrative personnel handling managerial, organizational, logistical, etc., issues, who support and facilitate the professional activity.

No research has yet been carried out which assesses the quality of professional personnel in third sector organizations, whether objectively or in comparison to parallel personnel in other types of organizations. The proof of quality lies in the output. Based on standard criteria, it may be stated that the professional personnel employed by third sector organizations is no different from that employed in the public and private sectors, when comparison is made by field. In general, these professionals are graduates of the Israeli

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<sup>163</sup> The National School for for Non-Profit Boards of Directors, Chaim Zippori Community Education

education system – high school, post-secondary, university. New immigrants seeking to work in a professional framework have to provide proof of similar education and training, or undergo a suitable training course. The prevailing perception appears to be that the sector's professional staffing, and the services that the third sector provides, are at an appropriate level, or at least that they do not deviate from the accepted level for the Israeli public sector.

The situation is different with regard to managerial personnel. Here, in many cases, a lack is felt. Those occupying administrative positions in NPOs frequently lack academic background or training in the specific fields they deal with, and they are not necessarily the most outstanding or best-educated candidates. While working for an association is an accepted path toward professional fulfillment, particularly for service-providing organizations, this is not the case with regard to administrative staff. Senior-level administrators coming from a managerial background do not necessarily view third sector employment as the realization of their professional ambitions, while senior administrators whose background lies in the organization's field of professional activity, though perhaps idealistically motivated, may well lack appropriate managerial training. Among those lacking suitable training are those selected for their positions due to personal, familial or other relationships with organization members or administrators.

The world of third sector organizations is a unique one. Although the managerial and professional fields start from the same point of theoretical knowledge as in other sectors, the sectoral issues and areas of expertise are different. The third sector is not identical with public service or with the private sector. The failure to recognize that a difference exists creates, at times, a misleading image, accompanied by a faulty perception of the position held. The lack of appropriate training perpetuates this situation. As a result, these organizations' senior administrative echelons include personnel who lack suitable education, whether in general management and organization, or in specific areas, such as finance, marketing, public relations, community relations, fundraising, personnel

management, logistics, etc. The unavoidable outcome is non-optimal administrative functioning, or, worse, administrative failure.

Training activities for third sector administrators are exceedingly limited. The Hebrew University offers a master's degree program in NPO management; Ben-Gurion University is about to open, for the 2004-2005 academic year, a course of study within the framework of its master's degree program in management; other universities have course offerings within the framework of their continuing education programs in specific fields of management<sup>164</sup>, and several colleges are seeking to incorporate nonprofit administration studies into their bachelor's degree programs in management. This is, of course, a drop in the bucket; the supply is not equal to the demand. It must be acknowledged that, since positions in third sector organizations do not require academic degrees in specific fields, the demand for formal academic study is low. A trend toward improvement does exist, but is at present so slow growing that it cannot ensure any real change in the foreseeable future.

Other forms of training in third sector administration do not exist in any organized way. Here and there, in-service training courses are offered and study days are held. Position holders make do with on-the-job training and with the few study opportunities available in their specific fields of activity, or with general in-service training courses.

The question may be asked of whether a permanent training framework is needed for those occupying administrative positions in NPOs. The answer is amply demonstrated by the two following phenomena: first, the low existing level of managerial efficacy in the organizations; second, the high participation rates in study days, workshops and in-service training courses on such basic topics as budget management, personnel management, fundraising, marketing, etc., that are offered by various entities<sup>165</sup>.

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<sup>164</sup> Tel Aviv University offers a course in administration of homes for the aged.

<sup>165</sup> The most prominent of these entities are: the umbrella organization – the Voluntary and Nonprofit Sector; Shatil; Elka; IMC – the Israel Management Center, etc.

This reality raises an additional question – why is the managerial level so low? Here as well, two circumstances will serve to illustrate the state of affairs: first, the limited supply of training opportunities is inadequate to the need, and those opportunities which do exist involve a financial investment not necessarily within the reach of those concerned; second, NPOs are not usually required to demonstrate organizational efficiency or quality output. Since quality control and assessment of outcomes and products are not a part of the NPO work environment, it is not surprising that no one investigates the administrative factors leading to the outcomes. This situation is not unique to the third sector; it is not necessarily different from the situation of other sectors. However, this reality is changing. The high demands that are being placed upon the third sector organizations, budgetary constraints and the availability of innovative means and capabilities all serve to put into motion change processes that are expected to intensify in the coming years. These processes are affecting organizations throughout the Western world, and their influence on the Israeli scene will surely be felt.

## **Research**

This is not the venue in which to discuss the importance of research in expanding the boundaries of knowledge, in developing new knowledge or in investigating and understanding what exists. It is, however, relevant to our purposes to make a distinction between basic and applied research. The former is based on the human impulse to investigate the unknown, while the latter seeks to ask a defined question, whether theoretical or practical. Since the second half of the 20<sup>th</sup> century, civil society and the third sector have attracted growing attention from researchers. Various disciplines – philosophy, political science, sociology, law, management, economics and others – have begun to deal with third sector issues, defining concepts and fueling an interdisciplinary discourse. Such subjects as the role of civil society and nonprofit organizations within a modern country's society and economy, legal structures, tax exemption, responsibility, transparency, supervision, etc., have been addressed. This research process has generated new understanding and knowledge which have served policy makers and legislators, on

the one hand, and aided in the development of tools for better governance and improved functioning, on the other.

There is scant research on these topics in Israel. Little has been studied, little has been learned, and little has been developed to assist policy makers and those involved in developing managerial tools. This lack of research leads to a low demand for data, and the lack of data discourages researchers. This vicious circle must be broken. Research, again, may be divided into two types: basic and applied. It is not necessary to expand on the importance of basic research. As we have stated previously, this paper is not the proper forum for dealing with the issue of basic research, or even for recommending that research activities in the third sector field be expanded. However, applied research, particularly that which addresses issues on the public agenda or topics capable of generating change, is vital. Without such research it will be difficult to promote favorable policies toward civil society and the third sector, or improved governance and functioning of the organizations.

Again, there is no single issue that holds the key to achieving the desired changes or bringing about the improvement needed in Israeli NPO functioning. We believe that the products of applied research are highly important and valuable for the change process. This position has found support particularly among serious professionals seeking to initiate change, based on their knowledge and their correct assessment of the Israeli reality, not merely on knowledge and experience imported from abroad.

## **Program evaluation**

Nonprofit organizations, which are created for the purpose of promoting a public objective for communal benefit, seek to fulfill their mission and to make a difference in the desired direction. The vision is usually a lofty one. The reality is often more banal. There are numerous operational difficulties and day-to-day and long-term problems encountered along the road to success. The outcomes are not necessarily optimal. In order to rectify this state of affairs two processes must be set in motion: first, that of problem

identification, and second, that of the capability of correcting it. The problem identification process may be generated from within the organization, or by external demand. The best possible situation would be a combination of the two. That is, the organization's own efforts in this area should be complemented by the external demand factor. The more external demands are made, the greater the incentive will be for the organization to improve its internal capability, and vice versa. Similarly, it may be claimed that the more cooperation there is between internal and external processes, the greater the organization's ability will be to make the needed corrections and improvements, and vice versa.

Control processes and evaluation tools require great investment on the part of the organization. This is due to the need to identify and construct tools, to train personnel and to allocate resources and time for studying and implementing evaluation findings. As with any other kind of organization, NPOs seek to limit their inputs for secondary issues that do not contribute to maximizing their output and its quality. NPOs tend to claim that their outputs are not merely quantitative, but qualitative as well. They maintain that it is difficult to measure their outputs and outcomes, and they thus expect to be exempted from meeting criteria of this nature. In the business world the saying goes, "If something can't be quantified, it isn't important." Even if we do not go so far as to adopt this attitude, many fields and issues that are dealt with by NPOs are nevertheless capable of being tested and evaluated.

In the Western world, the issue of evaluating NPO activity is becoming a central one. Measurement difficulties have ceased to be a deterrent; definitions and distinctions have come to be made between 'outcomes' and 'outputs', and tools have been constructed accordingly<sup>166</sup>. In Israel little has been done, mainly due to the failure of funding entities

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<sup>166</sup> See, for example, the tools developed at the Urban Institute, which include the following publications: Martin D. Abravanel, *Surveying Clients about Outcomes*, Washington DC: The Urban Institute, 2003. Ritu Nayyar-Stone & Harry P. Hatry, *Finding Out What Happens to Former Clients*, Washington DC: The Urban Institute, 2003. Harry P. Hatry, Jake Cowan, Ken Weiner & Linda M. Lampkin, *Developing Community-wide Outcome Indicators for Specific Services*, Washington DC: The Urban Institute, 2003. Linda M. Lampkin & Harry P. Hatry, *Key Steps in Outcome Management*, Washington DC: The Urban Institute, 2003.

to place external demands on the organizations. We have mentioned that, in our opinion, third sector organizations' quality of functioning is strongly connected to the lack of clear requirements made by external bodies, and that funding is come by relatively easily, with minimal conditions. The processes taking place in Israel today in legislation, public opinion and government policy; the foundations' and the federations' changing attitude; the technological innovations and the development of new tools – all of these are helping to create a new atmosphere, a new perspective, and greater openness on the part of the organizations to making the adjustments necessary to address the issue of evaluating their activity.

The accreditation process initiated by the umbrella organization, the VNPS, has given the organizations an important tool for assessing their governance at the organization-wide level. The VNPS's aim is not to provide an evaluation tool for a specific program or to test the outcomes and outputs of a particular organization. Corresponding tools for evaluating and testing programs have yet to be designed, apart from specific cases in which an organization took it upon itself to do so, or where evaluation was carried out by an external party using tools that it developed itself for the purpose (e.g., research validated by an academic system).

Based on discussions and meetings held during the course of this research, there appears to be a need on the part of the relevant organizations, as well as third sector organizations, government entities and foundations, for Israeli NPOs to address this issue, and for tools to be developed accordingly. This need was expressed in particular by public bodies and by funding entities, which are concerned to see the actual contribution made by their social investment.

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Elaine Morley & Linda M. Lampkin, *Using Outcome Information*, Washington DC:, The Urban Institute, 2004.

Harry P. Hatry, Jake Cowan & Michael Hendricks, *Analyzing Outcome Information: Getting the Most from Data*, Washington DC: The Urban Institute, 2004.

An additional example is the Internet site Innonet (<http://www.innonet.org>), which was built as an advisory and assistive tool for evaluating social programs.

Change in this area depends on three processes: firstly, increasing external demands on the part of funding entities for the demonstration and evaluation of outcomes and outputs; secondly, the development of tools, including methodologies, and the training of personnel to use them; thirdly, organizational preparedness to enter into these processes. These three things are necessary, although the first two are the keys to success. Without external demands and without the appropriate tools, organizational preparedness on its own is not sufficient to bring about the desired outcome. The existence of the first two will oblige the organizations to deploy themselves accordingly, thereby ensuring the success of the process.

## **The accreditation process**

NPO accreditation processes began to develop mainly during the last quarter of the 20<sup>th</sup> century. Accreditation is not meant to replace laws that regulate the creation and existence of nonprofit corporations. The dual aims of accreditation are, rather: to impart a desirable status to those organizations that comply with the rules, giving them public recognition; and to help organizations develop the ability to *self-regulate*, prior to any potential law-enforcing intervention on the part of the government.

According to the rules set forth by the International Center for Not-for-Profit Law (ICNL)<sup>167</sup>, it is important for civil society to be capable of voluntary self-control and sound, efficient self-regulation. Usually, third sector organizations prefer to rely on internal organizational regulatory mechanisms, but this is not enough, even though, in many cases, these mechanisms function well. Self-regulation via an umbrella organization or organizations which specialize in this field, has become in recent years a key concept for civil society organizations<sup>168</sup>. Appended to the aforementioned ICNL document is an enumeration of the issues that a nation's laws must address, including

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<sup>167</sup> "Integrity, Good Governance and Transparency – Rules for Self-Regulation," *The International Center for Not-for-Profit Law*, at: [www.incl.org/gendocs/selfreq.htm](http://www.incl.org/gendocs/selfreq.htm).

<sup>168</sup> For more discussion of this issue see: Virginia A. Hodgkinson, Richard W. Lyman & Ass. (eds.), *The Future of the Nonprofit Sector, The Independent Sector*, San Francisco, CA & London: Jossey-Bass Publishers, 1989.

rules for voluntary regulation. The existence of umbrella organizations should be encouraged by legislation. By stipulating standards, norms and ethical codes<sup>169</sup>, the legislation will enable these standards, norms and codes to be put into practice and, where necessary, ensure their enforcement. Umbrella organizations may be granted authority by their members to perform control and to require rectifications as needed. The umbrella organizations should publish their findings in order to strengthen public trust in third sector organizations<sup>170</sup>.

The accreditation process began with the setting of standards and codes of ethics<sup>171</sup>. The assumption was that organizations would adopt these standards and codes and act in accordance with them<sup>172</sup>. The reality turned out to be different, and external evaluation – accreditation by a body external to the organization, usually via peer review, became required.

An example of the accreditation process's development is the activity of the Council of Accreditation (COA)<sup>173</sup>, which was founded to serve organizations that aspired to improve their public standing and which decided to undertake an accreditation process in

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<sup>169</sup> See: Karla W. Simon, "Principles of Regulation for the Not-for-Profit Sector," 1998. at: [www.incl.org/gendocs/oldprin.html](http://www.incl.org/gendocs/oldprin.html).

Karla W. Simon, "The Role of Law in Encouraging Civil Society," *International Center for Not-for-Profit Law*, at: [www.incl.org/gendocs/arabconf.htm](http://www.incl.org/gendocs/arabconf.htm).

*Handbook on Good Practices for Laws Relating to Non-Governmental Organizations*, Washington, DC: The World Bank, May 1997.

On codes of governance for NPOs see (introduction to book of the same title):

Kunugi T. & Schweitz M., "Introduction: 'Codes of Conduct for Partnership in Governance: Texts and Commentaries', *The International Journal of Not-for-Profit Law*, Vol. 2 (3), March 2000.

<sup>170</sup> See New York Times article on this issue:

D.C. Johnson, "Doing Good or Doing Well: It's Starting to Get Blurry," *The New York Times*, Giving, A Special Report, November 17, 1999.

<sup>171</sup> See: Nissan Limor, *Nonprofit Boards*, Jerusalem: The Voluntary and Nonprofit Sector, 2002.

Doug Eadie, *Extraordinary Board Leadership*, Gaithersburg, MD: Aspen Publishers, 2001.

John Craver, *Boards That Make A Difference*, San Francisco, CA: Jossey-Bass, 1997 (2<sup>nd</sup> edition).

Maureen K. Robinson, *Nonprofit Boards That Work*, New York, Chichester, Weinheim, Brisbane, Singapore, Toronto: John Wiley & Sons, 2001.

Thomas Wolf, *Managing A Nonprofit Organization in the Twenty-First Century*, New York: A Fireside Book, Published by Simon & Schuster, 1999.

<sup>172</sup> See: Robert O. Bothwell "Trends in Self-Regulation and Transparency of Nonprofit Organizations in the U.S.," *The International Journal of Not-for-Profit Law*, Vol. 4 (1), Sept. 2001.

<sup>173</sup> The COA was founded in 1977 by two entities active in related fields – the Child Welfare League of America and Family Service America. The organization's full name is the Council of Accreditation for Children and Family Services, COA for short.

fields of professional service to children and families. The United Way actually drew up a set of standards with which organizations interested in receiving its services and support must comply<sup>174</sup>. Additional foundations have begun to adopt standards and rules, some self-developed and some developed by other foundations and organizations.

The American organization the Independent Sector published an ethical code<sup>175</sup> in 1991 which represented an important effort to formulate a nationwide American code<sup>176</sup>. The code was intended to address issues not covered by legislation, and aimed at formulating normative standards. Despite the organization members' extensive involvement, this code did not become generally adopted in the US; its applicability is partial only. Another important code is the *Donor Bill of Rights*, developed by the National Society of Fund Raising Executives, in cooperation with four additional national organizations. This code was intended to set rules for information disclosure to the public, in order to ensure that donors or organization volunteers would be able to obtain correct and reliable information on organizations and their activities. Another effort was the code developed by Case Western Reserve University's Mandel Institute<sup>177</sup> in 1995. The code – *The Accountable Not-for-Profit Organization* – was formulated with the assistance of foundation heads, and was intended to aid organizations seeking public support.

State-level umbrella organizations, which began to become active at the end of the last century<sup>178</sup>, also have begun to formulate standards and to define accreditation processes. An example of this may be found in the Maryland standards process (*Maryland Nonprofit Standards – Standards for Excellence*) which was developed, starting in 1998, by the

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<sup>174</sup> The United Way standards are not uniform, and each branch is entitled to formulate its own standards and to decide which organizations have to comply with them.

<sup>175</sup> *Ethics and Nation's Voluntary and Philanthropic Community: Obedience to the Unenforceable*, at: <http://www.americansforthearts.org/services/napd/content.asp?id=4320>.

<sup>176</sup> This code - *The Independent Sector Statement of Values and Code of Ethics for Nonprofit and Philanthropic Organizations* - was updated in January 2004. See: [http://www.independentsector.org/members/code\\_main.html](http://www.independentsector.org/members/code_main.html).

<sup>177</sup> Mandel Center for Nonprofit Organizations at Case Western Reserve University.

<sup>178</sup> The development of these bodies in the US gained momentum from the mid-1980s onward. This trend exists in other countries as well. The Israeli umbrella organization – the Voluntary and Nonprofit Sector (R.A.), was also founded in 1986.

Maryland Association of Nonprofit Organizations – MANO)<sup>179</sup>. At the end of an examination and evaluating process, organization that meets the requirements receives a ‘seal of excellence’. Maryland is considered to be a pioneering state in this area, and has earned nationwide and worldwide esteem. In the introduction to Maryland’s *Standards for Excellence* process document, board chair of Greater Baltimore Committee, Walter Sondheim writes<sup>180</sup>:

*In Today's world, nonprofits cannot simply be "do-gooders". Nonprofits must act ethically and be held accountable for achieving results. The Standards for Excellence give nonprofit board and staff leaders the tools they need to strengthen the quality and integrity of management in their organizations."*

In a study conducted by MANO<sup>181</sup>, it was found that the accreditation process (the awarding of the ‘seal of excellence’), using the defined standards, leads to improvement in organizational structure, internal governance, administration and internal organizational processes, and also increases responsibility, accountability, and ethical awareness. A comparison with 1996 findings demonstrated improvement in all of the areas analyzed. The study’s main conclusions: there was a significant increase in the number of organizations with defined mission statements; the boards were playing an active role; and transparency had increased, along with public esteem for the organizations.

Starting in the early 1990s, a number of state-level umbrella organizations began to develop ethical codes and standards<sup>182</sup>. Recently, state umbrella organizations have begun to adopt Maryland’s standards and accreditation procedures, and a consensus has actually been reached on making these standards and procedures uniform across all of the states.

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<sup>179</sup> The Maryland Association of Nonprofit Organizations was founded in 1992, as part of a reorganization of Maryland’s array of NPOs.

<sup>180</sup> See: <http://www.standardsforexcellence.org>.

<sup>181</sup> See: “Is the Standards for Excellence Making a Difference? An Impact Analysis,” *Maryland Association of Nonprofit Organizations*, 2002.  
[http://www.standardsforexcellence.org/impact\\_analysis.pdf](http://www.standardsforexcellence.org/impact_analysis.pdf).

<sup>182</sup> See: Nissan Limor, *Accreditation of Not-for-Profit Organizations in Israel*, Tel Aviv: the Voluntary and Nonprofit Sector, 2003.

As we have seen, two trends exist: one urges the definition of standards while permitting organizations to adopt them as they see fit, while the other wants standards to be set and a ‘seal of excellence’ to be awarded to organizations that meet them, based on external evaluation. That is, according to the first approach an organization may decide whether and to what degree it will adopt a code of governance, while according to the second approach the organization’s adherence to standards is assessed by an external entity and rewarded with public recognition in the form of a seal of excellence. A study that was conducted on this issue<sup>183</sup> found that standards without an enforcing mechanism are not enough. Not only were standards found to be applied in a highly selective manner, if at all, but in many cases organization heads did not even know of their existence. Without an additional mechanism – external evaluation – standards on their own do not get the job done. This truth is further borne out by the experience of the COA and the United Way.

According to the International Center for Nonprofit Law (ICNL), four strata of rules and standards exist with which third sector organizations are required to comply<sup>184</sup>: those mandated by law; those set by NPO umbrella organizations; those mandated by foundations and donors; those set by the individual organization, in accordance with its needs and the nature of its activity.

The British government, as part of its policy to foster third sector organizations (based on its perception of these organizations as initiators of social change), has defined as a need the definition of activity standards and an accreditation process to assess compliance with these standards<sup>185</sup>.

The standards promulgated in countries around the world touch on two areas: therapeutic-professional service and general management. The professional service standards are intended to ensure professional service quality from the perspective of the client and of

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<sup>183</sup> Robert O. Bothwell, “Trends in Self-Regulation and Transparency of Nonprofit Organizations in the U.S.,” *The International Journal of Not-for-Profit Law*, Vol. 4 (1), Sept. 2001.

<sup>184</sup> See on Internet site: “Integrity, Good Governance, and Transparency – Rules for Self-Regulation,” at: [www/incl.org/gendocs/selfreg.htm](http://www/incl.org/gendocs/selfreg.htm).

<sup>185</sup> *Social Enterprise: A Strategy for Success*, Department of Trade and Industry, HM government, London, 2002, p.76

the funding source (if the service is provided to clients by a paying entity). The general management standards are meant to address legislation, donors, volunteers and other stakeholders (including clients).

The self regulation approach, management that bears responsibility and meets standards and norms for good management, has long since become a part of the Western corporate world, in both the for-profit and the nonprofit arenas. Standards institutes around the world have been developing various kinds of standards<sup>186</sup> for business corporations. Consumers demand that producers meet a given standard, and producers make the same demand of their suppliers. Whoever does not willingly comply with a standard finds himself outside of the market. In the third sector a similar trend has developed of standards organizations whose activity is aimed at NPOs. This parallel development in the third sector is adapted to the sector's special nature and to its operating methods<sup>187</sup>.

The British government recognized the importance of self-regulation in the third sector as early as the late 1980s. In a report submitted to the government by the Woodfield Committee (1987)<sup>188</sup>, and in the subsequent White Paper submitted by the Home Secretary, it is stated that<sup>189</sup>:

*1.18 ...The Government's overall objective in approaching legislation for charities is to achieve a balance between on the one hand proper control by the Charity Commission and proper accountability by charities, and on the other freedom and corresponding responsibilities of individual organisations to develop and do business ...*

*1.19 ... The new legislation proposed will make essential contribution to the proper supervision of charities. But it will not be sufficient by itself. It will need to be matched by parallel improvements in the capacity of the charitable sector to regulate its own affairs. A start has already been made, and there are*

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<sup>186</sup> Standards such as those of the ISO (the *International Standards Organization*).

<sup>187</sup> Experience teaches that NPOs which provide services similar to those provided by private companies tend to undergo a process of adopting ISO standards, in order successfully to compete with for-profit corporations.

<sup>188</sup> "Efficiency Scrutiny of the Supervision of Charities," Report, Sir Philip Woodfield, July 1987.

<sup>189</sup> *Charities: A Framework for the Future*, Presented to Parliament by the Secretary of State for Home Department, (Cm 694), London: H.M. Stationary Office, May 1989, p. 2.

*encouraging signs that the self-regulation is gathering pace and becoming more effective. ....*

British Prime Minister Tony Blair understands the need for third sector organizations to be autonomous, and the importance of enabling them to manage themselves and to self-regulate<sup>190</sup>:

*" Wise governments respect the crucial independence off the sector. ..."*

And, later in the same document<sup>191</sup>, he states:

*"The sector should... regulate itself, to explain its ethos, and to educate society about its role."*

The self-regulatory approach and the trend toward sector-generated standards and self-examination are not new to the UK. The Charity Commission has published guidelines for organizations demonstrating compliance with internal standards and self-regulatory capabilities<sup>192</sup>; similar actions have been taken by the National Council for Voluntary Organizations (NCVO)<sup>193</sup>, and by various foundations<sup>194</sup>.

A British study conducted by the Centre for Voluntary Action Research, Aston Business School examined four quality control methods prevalent in the UK<sup>195</sup>, and found, as stated in the executive summary<sup>196</sup>:

*"Our Study shows that the introduction of a quality system has the potential to make an impact on internal organisational structures and to improve efficiency. It can offer opportunities for organisational growth, staff development and improved effectiveness, as well as enhancing external legitimacy. While it can be difficult to trace direct links between use of a*

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<sup>190</sup> *Private Action, Public Benefit*, A review of Charities and the Wider Not-for-Profit Sector, London: Strategy Unit, Cabinet Office, 2002, p. 5 - Foreword by the Prime Minister.

<sup>191</sup> *Ibid*, p. 31.

<sup>192</sup> See: <http://www.charity-commission.gov.uk/> .

<sup>193</sup> See: <http://www.ncvo-vol.org.uk/> .

<sup>194</sup> See, for example: Ashby, Julian, *Towards Voluntary Sector Code of Practice*, Joseph Rowntree Foundation, York, UK, 1997.

<sup>195</sup> 'PQASSO' (Practical Quality Assurance System for Small Organisations), 'Investors in People', 'The Excellence Model', and 'Quality Mark'.

<sup>196</sup> See: *The Adoption and Use of Quality Systems in the Voluntary Sector*, Executive Summary, London: Centre for Voluntary Action Research, Aston Business School, published by National Council for Voluntary Organisations, 2004, p. 6.

*quality system and improved services to users (at least in the early stages), quality systems can - by providing opportunities for reflection on practice - offer a valuable framework for addressing service improvements.*

Organizations that participated in the study indicated that they had undertaken the process because they expected thus to improve organizational governance, to increase efficiency and effectiveness, to improve service, to raise staff quality and to strengthen the organization's image as perceived by its stakeholders. The benefit of using these tools was found to lie in organizational development, in the creation of a blueprint for cooperative activity within the organization, in more efficient planning and in continuous enrichment of the staff. The organization's improved public image and the increased legitimacy attributed to its activity also served to strengthen staff and activity quality<sup>197</sup>.

We have presented examples from two countries – the US and the UK. Examples from other countries may of course be added to these<sup>198</sup>. The quality control and accreditation process has become a recognized tool in the self-regulation of third sector organizations.

In Israel, activity aimed at defining standards and accreditation processes began in late 1997, as part of the VNPS umbrella organization's ongoing endeavor to strengthen Israel's third sector organizations. In 2000 the first edition of the self-examination stage (Stage 1)<sup>199</sup> was published, and in 2004 the external evaluation pilot stage (Stage 2) will be carried out. The accreditation process is one of the most important ones to be undertaken by Israel's third sector in recent years. For the first time, the sector is taking responsibility for itself, holding its members to standards and enabling them to perform self-examination, to be followed by external evaluation, so that they may be granted public recognition of their good governance.

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<sup>197</sup> Ibid, p. 3.

<sup>198</sup> See, for example: Rene Bekkers, "Trust, Accreditation, and Philanthropy in the Netherlands," *Nonprofit and Voluntary Sector Quarterly*, 32(4), 2003, pp. 596-615.

<sup>199</sup> The self-examination survey was updated in 2002, based on the accumulated experience of about 150 associations that had undergone the process.

The wisdom of the process is twofold. On the one hand, it represents an understanding that no government or bureaucratic system is capable of fully and effectively supervising the entire sector, with its tens of thousands of organizations<sup>200</sup>. It should be remembered that since the mid-1990s third sector organizations have found themselves faced with a new, more demanding reality in which increased supervision, control, disclosure and accountability are expected<sup>201</sup>. On the other hand, there is a willingness to alter patterns of behavior that have prevailed in Israel since the British Mandate period, according to which the government is all-powerful while civil society is inhibited. This process is even more important during the current age of privatization and globalization, when social services are limiting their scope, the government is seeking to lower its level of economic intervention, and the private firm is becoming the dominant factor in society and in the economy<sup>202</sup>.

A survey of the associations that have undergone Stage 1<sup>203</sup> indicates that the process has been highly successful. The self-examination process was, for many associations, a

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<sup>200</sup> “Government regulators ... tend to allocate their scarce resources to other more politically potent portions of their domains. In most states, Charity Bureau of the Attorney General is inactive, ineffective, overloaded, or some combinations of these.” Peter Swords, “Nonprofit Accountability: The Sector's Response to Government Regulation,” *Exempt Organization Tax Review*, 25, 1999, P.413. “IRS staffing for overseeing tax-exempt organizations fell between 1996 and 2001 while at the same time the number of new applications for tax exemption and the number of Forms 990 filed increased. ...[the IRS] decreased its examinations of existing charities.... IRS has recognized that its oversight of charities and other tax-exempt organizations is limited....” United States General Accounting Office – GAO, “Tax-Exempt Organizations: Improvements Possible in Public, IRS, and State Oversight of Charities,” April 2002, Report No. GAO-02-526, p.20.

<sup>201</sup> Among the new circumstances of this changing reality, mention should be made of: Amendment 3 to the Associations Law (1996), which invested the Registrar of Associations with broad supervisory powers; the application of uniform reporting rules to NPO financial statement (1997) – Opinion 69 of the Institute of Certified Public Accountants, adopted afterward as Standard 5 of the Israeli Accounting Standards Board (1999); the government decision requiring a ‘sound management authorization’ for organizations receiving public support (1998); the harsh criticism expressed in State Comptroller reports of government policy toward associations (particularly since 1997); the limiting of income tax exemptions; the Finance Ministry Accountant General’s instructions to limit administrative expenses; media exposés of corrupt association practices, etc.

<sup>202</sup> Lawrence Mitchell writes with regard to business firms: “It is fair to say, I think, that no institution other than the state so dominates our public discourse and our private lives.” Lawrence E. Mitchell (Ed.), *Progressive Corporate Law*, Boulder, CO: Westview Press, 1995, p. xiii.

<sup>203</sup> The survey was conducted for the 140 associations that had undergone the self-examination process, using the old questionnaire (2000 version), prior to its 2002 update. The survey examined the questionnaire findings, the issues that were found to be problematic for the associations, and the measures that were taken to rectify them. The findings were not published, but some of them were

strategic one, or at least represented a serious analysis of activities and governance. In meetings held with organizations while preparing the present study, the organizations emphasized the many benefits that the process had conferred upon them, and the contribution it had made up to that point. In not a few cases the self-examination process served to clarify issues and to inform the organization office holders of various legal obligations of which they previously had been ignorant. Carrying the process out in full requires a great investment of effort, time and money. There is willingness on the part of the organizations to pay the price, so long as compensation will come in the form of increased professionalism and public recognition. Since there is currently great satisfaction with the professional side of things, the future emphasis will likely be on public recognition.

There are those who oppose the accreditation process. Two voices emerge from this camp. One believes that civil society and the third sector are based on the freedoms of association and expression, and that no external entity, whether it be a formal government authority or a voluntary organization, should have the right to formulate assessment criteria for them. As long as civil society and third sector organizations abide by the law, there is no justification for any further intervention. There are also those who do not view the law as an insuperable hurdle, and in certain circumstances would be willing to overstep its bounds. These critics of the process do not oppose providing tools for self-examination, in order to effect the required improvements. The second group of critics, however, feels that voluntary organizations should be provided with self-examination tools but that the process should not be forced upon them. Moreover, in order to prevent public condemnation of those who choose not to undergo the process, they oppose any form of public disclosure or any expression of public recognition of those organizations that do undergo the process, and even more strongly oppose evaluation by any party external to the organization.

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presented by the researcher, Nissan Limor, at the Sixth Annual Conference of the Israeli Center of Third Sector Research, held in March 2003.

Both of these opposing voices reflect an attitude that stresses the importance of the spirit of voluntary action over the third sector's organizational-associational<sup>204</sup> nature. Thus, the academic argument over the nature of the third sector and the proper means of assessing it (in legal-economic or social terms), converges with the issue of accreditation.

We feel that the accreditation process, the only one which addresses appropriate norms and standards, boards, sound organizational governance, transparency and accountability, program testing and evaluation, personnel training and, indeed, all other issues relevant to a nonprofit organization's day-to-day functioning, is crucial to the goal of standards compliance and attainment of the 'seal of excellence'. An organization should not only act to improve its current level of functioning, but should also prepare for the future. Developing and instituting the use of these tools by the organizations, as part of the accreditation process, is essential in order to promote qualitative change in third sector organizational functioning.

Moreover, the accreditation process is actually the third sector's only comprehensive self-regulatory mechanism capable of addressing standards compliance demands on the part of the public, the government, foundations, donors and volunteers. Although it requires external support, accreditation constitutes a means by which third sector organizations and other relevant entities can work to improve their governance. The process is not dependent on the government, although government assistance with it is willingly given, and it enables third sector organizations to present themselves to the public as responsible bodies seeking to promote their objectives for the public benefit.

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<sup>204</sup> The expression 'third sector' is actually borrowed from the legal-corporate world. That is, while the first sector is composed of state organizations and agencies, whether created by law or government-controlled, and while the second sector is composed of bodies incorporated as for-profit corporations, the third sector is composed of organizations that are formally-incorporated, that have been established within the country's legal framework, but for the purpose of engaging in activities with no intention of distributing profits to their members.

## **Association transparency, accountability and reporting**

NPO claims to special status, whether in legal-corporate terms or, particularly, for tax exemption purposes, are based on the fact that these organizations work on behalf of the public and operate under certain self-imposed limitations, especially those of non-distribution of profits to members, and the dedication of all resources to the attainment of organization objectives<sup>205</sup>. In the past, NPO eligibility for special status was determined by the tax authorities, as far as possible. Today, however, there are greater demands for public transparency, and government authorities are not the only ones charged with the task of control. The public wants to see efficiency, efficacy and proper use of the resources, powers and benefits conferred by the government upon nonprofit organizations<sup>206</sup>.

Our discussion of transparency, accountability and reporting cannot proceed without first clarifying these concepts. Without going into excessive detail, it should be noted that there is a distinction between legal requirements and requirements implied by public norms. There is always a normative plane, beyond that of the law. The public, both individuals and organizations, is obligated by them. Law and its accompanying judicial practice create new norms, strengthen existing norms or seek to counteract negative norms that have gained currency in society. Judicial involvement is necessary when public norms are neglected or wrongly interpreted.

There are four aspects to legal requirements: corporate office holder responsibility (loyalty, responsibility, obedience and avoidance of conflicts of interest), reporting to the government authorities (ongoing and special events), internal organizational reporting (according to law, the articles of association and decisions of the authorized institutions), and reporting within the contractual frameworks subsisting between the organization and

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<sup>205</sup> See: Michelle J. White (ed.), *Nonprofit Firms in a Three Sector Economy*, Washington DC: The Committee on Urban Public Economics, 1981.

Henry Hansmann, "The Role of Nonprofit Enterprise," *Yale Law Journal*, 89, 1980, pp. 835-901.

<sup>206</sup> See: Regina E. Herzlinger, "Can Public Trust in Nonprofits and Governments Restored," *Harvard Business Review*, March-April 1996, pp. 97-107.

third parties. Full and timely compliance with these criteria is enough to meet the formal requirements. However, while the law may technically be satisfied, its spirit can still be violated. At times, failure to abide by all of the rules stems from ignorance on the part of the NPO office holder of his own obligations<sup>207</sup>. Thus, there are those who feel that norms are of great importance, whether due to the sense of mission and responsibility that they impart to the office holder, or due to his fear of the law<sup>208</sup>. Normative behavior is important to the individual ethically, and in terms of what he expects from society. Therefore, an office holder's sense of responsibility is not based merely on legal requirements, but is equally rooted in existing norms. Normative requirements, thus, have three facets: personal and ethical; public (openness and disclosure); and social.

Since the mid-1990s there has been a qualitative change in NPO reporting methods. Firstly, Amendment 3 to the Associations Law (1996) required the submission of reports, with the Associations Registrar acting to implement this requirement. Secondly, Israel's Institute of Certified Public Accountants published, in 1997, its Opinion No. 69, which afterward became Standard 5 of the Israeli Accounting Standards Board; this standard addresses NPO financial reporting. These requirements were intended particularly for financial statements and specific events occurring in the life of the association, but they do not give an overall picture of the organization's activity. Companies whose shares are publicly traded are legally required<sup>209</sup> to submit to the Stock Exchange reports which include not only financial statements but executive reports.

Financial statements present, in accordance with accounting rules, the state of the organization on the date of report submission, as well as transactions made during the course of the year reported on. These reports do not contain information on organization

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<sup>207</sup> This phenomenon has come to light during the Israeli accreditation process, and has been documented. See: Evelyn Brody, "Agents Without Principals: The Economic Convergence of the Nonprofit and For-Profit Organizational Form," *NY Law School Law Review*, 40, 1996, p.465.

<sup>208</sup> See: Richard H. McAdams, "The Origin, Development, and Regulation of Norms," *Michigan Law Review*, 96, 1997, p. 338.

David Charny, "Illusions of a Spontaneous Order: 'Norms' in Contractual Relationships," *University of Pennsylvania Law Review*, 144, 1996. p. 1841.

Cass R. Sunstein, "Social Norms and Social Roles," *Columbia Law Review*, 96, 1996, p. 903.

Malvin A. Eisenberg, "Corporate Law and Social Norms," *Columbia Law Review*, 99, 1999, p. 1253

<sup>209</sup> In accordance with the Securities Law, 5728-1968 and the Companies Law, 5759-1999.

activities, budgetary implementation, personnel data or other kinds of data essential for understanding the organization and its activity. Information of this nature is supposed to be presented in the executive report. A combination of these two reports – the executive report and the financial statement – is capable of giving a broad and useful picture of the organization.

The need for NPOs to produce executive reports arose on more than one occasion, but demand for them on the part of the public or funding sources was low or nonexistent. In many cases the organization's financial statements, or even reports on the specific projects funded, were considered sufficient. The State Comptroller also noted the need for executive reports<sup>210</sup>, stating: "*A textual executive report may improve association transparency, increase administrative responsibility, and enable better control*"<sup>211</sup>. The organizations, for their part, simply view themselves as obligated by the legal requirement to submit financial statements to the Registrar and to the tax authorities – which requirement makes no mention of executive reports at all. The preparation of a report – any report – involves effort and financial expenditure, and is liable to lay facts before the public which the organization may define as confidential or as internal issues, and which it would prefer not to disclose.

Our opinion is that partial disclosure in the form of financial statements only, some of which are submitted with delays<sup>212</sup>, is not appropriate; the minimal legal requirement should not be accepted as a norm. It is both possible and desirable to produce financial statements accompanied by executive reports, within a shorter timeframe. Developments in computerization enable activities that were once impossible; the inability to produce a report within the appropriate timeframe may indicate, among other things, an outdated financial system.

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<sup>210</sup> Annual Report of the State Comptroller, 52B, for 2001, p. 796-819. In this report the State Comptroller reiterates the need for executive reports, as previously discussed in Report 47 for 1996, p. 595-596.

<sup>211</sup> Ibid, Report 52b, p. 802.

<sup>212</sup> According to the Associations Law, an association has to submit its financial statement to the Registrar no later than 13 months from the end of the fiscal year. By comparison, the parallel American law requires the financial statement to be submitted within five months, with the possibility of a three-month extension. In extreme cases representing a small percentage of the organizations, an additional three-month extension may be granted.

Another issue that needs to be addressed is that of the code of ethics. A code of ethics reflects the norms to which an organization adheres. In formulating a code of ethics for itself, or in adopting a suitable existing code, an organization announces to its members and to the general public the values that are to inform its activity. The failure to adopt an ethical code indicates a negligent attitude or faulty functioning on the part of the organization's board, or worse – a shirking of moral-ethical obligations.

Thus, three elements influence the transparency, accountability and reporting of an organization which aspires to function properly: legislation – activity that complies with legal requirements; norms – the adoption of norms and ethical codes at the personal and organizational levels; and the public – openness to the public, information disclosure and willingness to respond to public requests for information on the organization and its activities.

Other issues which we have addressed, such as information, research and accreditation, also serve to increase transparency and to improve organizations' reporting.

# Appendices

1. Individuals and organizations with whom meetings were held
2. Bibliographic sources



## **Individuals and organizations with whom meetings were held**

### **Israelis\***

Ms. Yehudit Intract – Acting Chairperson, *Yad Sarah*.

Ms. Linda Epstein – *Jewish Federation of Metropolitan Chicago* representative in Israel.

Ms. Dvora Bloom – Deputy Director General for Planning and Development, *UJC Israel Office*.

Ms. Nava Brenner – Director, Social Services Accounts Division, Macro-Economics Department, *Central Bureau of Statistics*.

Dr. Dov Goldberger – Director General, *Ministry of Labor and Social Affairs*.

Ms. Helena Glazer – President, World WIZO and Chairperson, the *Voluntary and Nonprofit Sector (R.A.)*.

Mr. Reuven Darbassi – Director General, *Tkumat Arieih (R.A.)* and *Bayit Lekhol Yeled (R.A.)*.

Mr. Naftali Deri – Executive Director, *Israel Council of Youth Movements*, board member and Treasurer, the *Voluntary and Nonprofit Sector (R.A.)*.

Mr. Jacques Harris – Representative of the *Helen Bader Foundation* in Israel and Chairperson, *Israel Foundation Forum*.

MS. Michal Herzog – Board member of several third sector organizations.

Ms. Miri Ziv – Director General, *Israel Cancer Association*.

Ms. Sara Silberstein-Hipsh – Executive Director, the *Voluntary and Nonprofit Sector (R.A.)*.

Mr. Tsvi Chalamish, CPA – Deputy Accountant General, *Ministry of Finance*.

Ms. Ahuva Yanai – Executive Director, *Matan –Your Way to Give (R.A.)*.

Mr. Eliezer Yesselzon – Executive Director, *Re'ut – Women's Social Services (R.A.)* and board member, the *Voluntary and Nonprofit Sector (R.A.)*.

Ms. Rachel Liel – Executive Director, *Shatil*.

Mr. Oz Mor – Treasurer, *Beit Issie Shapiro – Amutat Avi (R.A.)*.

Ms. Rachel Newman - Senior Field Director, Public and Nonprofit Institutions, *Income Tax Commission*.

Dr. Mike Naftali – Board Chairperson, *National Council for Voluntarism* (R.A.).  
Ms. Naomi Stuchiner – Executive Director, *Beit Issie Shapiro – Amutat Avi* (R.A.).  
Mr. Shimon Siani – Executive Director, *Yedidim for Youth and Society* (R.A.).  
Ms. Shlomit Amichai – Director General, *Elka, JDC-Israel*.  
Mr. David Koren – Executive Director, *Eran* (R.A.).  
Mr. Rachel Shilo – Director, Allocations Unit, *Jewish Agency*.  
Mr. Amir Shacham – Director, *UJC Metro-West* Israel Office.  
Ms. Naomi Schacter – Director of Development, *Shatil*.  
Ms. Yael Shalgi – Allocations, *Matan – Your Way to Give* (R.A.).  
Ms. Ruth Shalgi – Registrar of Associations, *Ministry of Justice*.

\*Two or more meetings were held with some of the individuals listed above.

### **Non-Israelis**

Dr. Audery Alvarado, Executive Director, National Council of Nonprofit Associations (NCNA), Washington, DC.  
Ms. Jacqueline M. Ebanks, Vice President, Community Investment, United Way, New York.  
Mr. Peter Berns, Executive Director, Maryland Association of Nonprofit Organizations (MANO), Baltimore, MD.  
Dr. Elizabeth Boris – Director, Center on Nonprofits and Philanthropy, The Urban Institute. (UI), Washington, DC.  
Ms. Terry Brown-Clemons, Acting Deputy Attorney General, Division of Public Advocacy, New York.  
Mr. Robert Buchanan, Director, International Programs, Council on Foundations (COF), Washington, DC.  
Ms. Amy Coats-Masden, Program Director, Standards for Excellence, Maryland Association of Nonprofit Organizations (MANO), Baltimore, MD.  
Mr. Rick Cohen, Executive Director, National Committee for Responsive Philanthropy (NCRP), Washington, DC.  
Mr. Sean Delany, Executive Director, Lawyers Alliance NYC, New York.  
Prof. Margaret Harris, Professor of Voluntary Sector Organisation, Aston Business School, Birmingham, UK.  
Mr. William Josephson, Assistant Attorney General-in-Charge of Attorney, Charities Bureau. New York.  
Rev. Stephan Klingehofer, President, International Center for Not-for-Profit Law (ICNL), Washington, DC.  
Ms. Karin Kunstler Goldman, Assistant Attorney General, Registration Section, Chief Charities Bureau, New York.  
Mr. Robert G. Ottenhoff, President, Guidestar USA, Williamsburg, VA.

Mr. James G. Segal, Assistant Attorney General, Section Chief for Law Enforcement  
Technology, Charities Bureau, New York.

Mr. Peter Shiras, Senior Vice President, Independent Sector (IS), Washington, DC.

Mr. Vincent Stehle, Program Officer, Surdna Foundation, New York.



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