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THE ISRAEL GOVERNMENT CONTROL OF NGOS: The Use of Inducements and Sanctions in Regulating the Third Sector

Abstract

Since in the early 1980s, the amorphous concept of “civil society” became a global reality (F. Fukuyama, 1992)¹. The “civil society” paradigm (Lester M. Salamon et al. 1999),² saw an explosion in the number of NGOs and witnessed their growing role in the economic, social and political realms of every democratic nation. The narrow Schumpeterian paradigm of democracy that focused on “interest groups”, electoral procedures and civil rights, was replaced by a new understanding of the nature and processes of social change in which the mass of people are actively involved in the government’s policy and services provided to them. (Huntington, S. 1991)³ The new reality caught most governments unprepared, and unequipped to regulate, control or oversee the process that turned the paradigm of the “welfare state” of the 1960s to an archaic, outdated concept. The emerging “civil society” paradigm created a new jargon, with key terms such as: “human development”, “empowerment”, “entrepreneurship”, “outsourcing” and “privatization”. NGOs have become major service providers, advocates of social and environmental issues, and the backbone of democracy. (Lester M. Salamon, 1999).⁴ The delivery of social services ceased to be the exclusive domain of either the state or the private sector. Since the early 1980s, the three sectors had intensified their partnership and moved aggressively to share national and communities social and economic responsibilities. The research shows a growing functional mutual dependence among the three sectors, due to the heavy dependence of the Third Sector on both state and market resources, while the state and the private sectors have become heavy dependent on the social services provided by the Third Sector, specifically in the realms of education, health and welfare. The paper analyzes (a) the politics of the government -Third Sector partnership, its causes and effects, (b) the effectiveness of the regulatory mechanisms created by the state in its capacity as the protector of the rule of law, namely, ensuring accountability, transparency and proper management of public funds by the Third Sector.⁵ The paper uses the case of Israel to examine these regulatory mechanisms, since Israel had recently introduced a unique and unprecedented regulatory mechanism: the “1998 Benchmark of Proper Management.” The regulation requires all NGOs receiving direct or indirect public support to obtain an annual “Proper Management” certificate,⁶ validating their eligibility to receive public support. In particular, the study examines and assesses the levels of NGOs compliance with the “1998 Benchmark of Proper Management”. The paper examines the legal, political, and bureaucratic constraints that have been limiting the effectiveness of this, and other regulatory mechanism.

Key terms:

* **“Civil society,”** the network of Non Government Organizations (NGOs), that has emerged as one of the major “agents” in both political and economic liberalization. “Civil society organizes political participation and collective action in the same way that markets organize economic behavior.” (USAID, 1995)⁷ Civil society offers a third route to welfare provision, which is neither private nor state. It thus relieves some of the financial burdens on the state, while removing the profit element that characterizes contracted private services. Civil society works toward good governance, increased social capital, empowerment, and entrepreneurship.

* **“Mutual dependence”**, a pattern of relationship denoting the heavy dependence of the Third sector on the support of the state, while the state depends heavily on the social services provided by

the Third Sector.

* **“Human development”**, is the move toward “a standard of living adequate for the health and well-being of every person, and his family, including food, clothing, and medical care and necessary social services. Equal rights for everyone - women, men, and children -without discrimination... and all people can develop their potential capabilities to the fullest extent.”⁸

* **“Empowerment”**, means “an enabling environment and incentive system for private and voluntary action...social services should be expanded and access should be made more equitable”⁹

* **“Proper Management Benchmark approach”**, is a standardized criteria for the allocation of public resources to the Third Sector.

* **“Accountability”**, the process of holding service providers responsible for their actions by setting a universal criteria for assessing performance, and establishing objective measurements for determining transparency and compliance with the law.

* **“Proper management”**, a 1988 regulation requiring every NGO that receives either direct or indirect public support to hold a certificate of “Proper Management”, issued and renewed annually by the Office of the Registrar of NGOs at the Israel Ministry of the Interior. ”¹⁰

* **“Non-territorial Government”**, a political and social environment allowing NGOs to control the decision-making process and carry out public policies, on an autonomous basis.

* **“Functional Sovereignty”**, is a consequence of the political and social environment allowing NGOs to assume control over a particular issue-area or a social service, either on an exclusive or a shared basis with national, regional or local governments.

Introduction

The Civil Society paradigm integrates political, economic and social values, advocating ownership, entrepreneurship, and the stakeholders’ control of a considerable share of the social services otherwise provided by the state. (Turner Mark, and David Hulme, eds. 1997).¹¹ The paradigm, however, requires a sophisticated state regulatory mechanism to ensure the integrity and accountability of the “civil society” *modus operandi*. The relationship between the Israeli government and its Third Sector is a “high-linkage” relationship, namely, the government and the Third Sector are greatly dependent on each other in an interaction of mutual dependence. However, the high-linkage environment does not create a Third Sector -government reciprocity process, namely, the transfer of public resources does not yield an effective government leverage over the Third Sector.¹²

In 1980, vast amounts of public funds have been allocated to a sophisticated network of thousands of non profit organizations .¹³ However, following its disenchantment with the lack of reciprocity between the state and the Third Sector, the Israeli government introduced the first comprehensive NGO law, establishing the Office of the Registrar of NGOs, as a department of the Ministry of the Interior. The 1980 law was revised in the 1990s to provide the Office of the Registrar important regulatory and administrative mechanisms. In addition to registration procedures and disclosure requirements, the revised law requires NGOs to provide detailed accounts of their programs, financial affairs, and administrative procedures. The focus of the new regulations was accountability and transparency. However, legal and political dilemmas have allowed the NGO community to effectively resist these regulatory mechanisms. The study examines the reasons why the new regulation hardly achieves its goals, and analyze the legal, political, and bureaucratic constraints that have been limiting the effectiveness of this and other regulatory procedures.¹⁴

Issues to be examined

1. The study examines the nature and consequences of the “high-linkages” reciprocity exchange between the Third Sector and the state, namely, the procedures, rules and regulations governing State-Third Sector relations. Issues examined include mechanism for the transfer of resources, and the control regulations that ensure accountability.¹⁵
2. The study examines and analyzes the legal and political dilemmas involved in the enforcement of the “Proper Management “ regulatory mechanisms. The research shows a direct correlation between these dilemmas and the NGOs ability to effectively resist the state sophisticated regulatory mechanisms. The paper provides some suggestions that can, perhaps, enhance state-Third Sector cooperation.

Historical Background

Historically, the Jewish NGOs in the Diaspora provided all the social services for the community. This tradition continued in Palestine, where between 1882 and until 1948, a highly sophisticated network of NGOs created an extremely effective, modern system of civil society acting as a bone fide government, executing all the political, economic and social functions¹⁶. In 1948, the Zionist NGO operations were taken over by the newly created state,¹⁷

that maintained the spirit of the diaspora, and awarded the orthodox NGO network special privileges and benefits not otherwise available to the secular sector. In particular, the ultra-orthodox educational network (both Sfaradim and Ashkenazim)) was approved as a “public education system” , eligible for all the financial benefits awarded to the public education system.¹⁸ Since 1948, all the efforts to separate “church and state” in education have failed.¹⁹ While the Jewish orthodox community rejected any state intervention in their curriculum and educational programs, they none-the-less insisted on, and succeeded to receive full state support for their parochial educational establishment. The need to regulate and oversee the state supported orthodox NGOs has been a thorny issue between the government and the orthodox Third Sector, and it has yet to be resolved.²⁰

The Zionist secular NGOs have developed a different type of interdependency relationships with the newly created state. During the successive Israeli Labor governments (1948 and 1977), the Zionist-socialist-Labor NGOs became an important interest group, deriving their influence from a decisive political constituency (“Tnuat Ha’avodah”), and using it to effectively control Israel’s public policy agenda. The Labor government initiated a quasi socialist- planned-economic system, exercising a high level of control over Israel social and economic spheres. Moreover, a revolving door developed between the Labor NGOs, and the newly created government. The veterans of the Labor NGOs became the leaders of the state of Israel, assuming a majority in the legislature and occupying most of the high ranking government positions. This fact facilitated the generous transfer of public funds to the elaborated network of the Labor movement NGOs. “For many years there were no clear demarcation lines between sectors, the result being a social system that Kramer terms “holistic” (1976, p.12)...In this period one of the first questions the government had to ask itself regarding human services was, which services should be provided directly by government agencies, and which could be provided by existing sectoral nonprofits?...The division of labor was not the outcome of a planned process, but rather of political negotiations.”²¹

During the 1960 and 1970s there was much concern over the increasing power of the state apparatus. This situation has changed in early 1980s, following the 1977 Likud victory. The Labor defeat was due to (a) a widespread mistrust in the Labor government, (b) a feeling of

a "crisis of the state", (c) a strong desire for liberalization and decentralization of the public sector, and (d), a resentment of Israel's archaic, quasi socialist, state controlled economy, which was viewed as a failure from all perspective. The Likud party fulfilled its campaign promise to reduce the government bureaucratic structure, to end the institutionalized-socialist welfare policy, and to shift to a market-oriented economy. This instigated a transfer of power from the government to a myriad of highly motivated and often highly politicized non-Labor NGOs.²² Indeed, "Between 1980 and 1993 the population of Israel grew by 35% (from 3,921,000 to 5,327,000). During these years the number of government employees decreased by 22% (from 66,631 to 51,995)."²³ The Likud government promised to perform only the functions that the private and the Third sectors could not carry out, such as matters of national security, foreign policy, immigration, law enforcement, etc. The non-governmental-voluntary associations, and the private sector would execute all other social services while being reimbursed and supported by the government. In essence, "since the mid 1970s, Israel has witnessed a gradual process by which its central government is no longer able, perhaps no longer willing, to maintain the same central, omnipotent role its played in the pervious era. These changes...touched the relationship between the government and the nonprofit sector."²⁴

The Likud economic policy followed the "New Public Management "(NPM) approach, that assumes politics to behave as a market with its own entrepreneurs, rules and norms. The basic assumption was that adopting private sector strategies and tactics in the public sector, and shifting substantial funds to the Third Sector will result in (a) less corrupt and more effective system of social services, (b) better and more just distribution of funds to the communities, (c) more responsiveness to the needs of the people, and (d) enhanced capability to solve all, or most of, the malaises of the government bureaucracy.²⁵ The NPM approach helped the Third Sector to gain unprecedented prominence,²⁶ and introduced in Israel quality control procedures, strategic planning, and contracting out of social services.²⁷ The Israel labor unions criticized the government growing use of NPM, arguing that adopting free market strategies in the public sector created economic and job insecurity and exploited the workers. "If we look at the picture that emerged, it seems that government took upon itself the provision of services in areas of national importance (education, absorption) as well as in areas where no appropriate infrastructure

existed...In other areas, it left NGOs and private sectors to provide services they had provided before.”²⁸ The privatization process included public housing, infrastructure, telecommunication, among others.

Thus, since the late 1970s, the government and the NGO community have become perennial partners in the execution of public policy. Underlying this partnership was the principle of “subsidiarity”, namely, the creation of a structure of institutional arrangements for social policy decision making and implementation. Using “subsidiarity”, social services are “translated into a system whereby private provision of services takes precedent over public efforts.”²⁹ The approach establishes a formal system of cooperation among the state, quasi-government agencies, and private or public nonprofit institutions. The partners enter into explicit, legal arrangements that spell out the division of labor, responsibilities, hierarchies, chain of command, accountability, and financial obligations among themselves.³⁰ While this process has strengthened the mutual dependence between the state and the NGOs, it raised some important structural dilemmas: (a) while the transfer of public funds imposes some restrictions on NGOs, it enhanced the NGOs freedom of action, while restricting the government regulatory capabilities, (b) the higher the level of grass root support for the NGO, the higher the level of public funding allocated to them. This in turn induces greater community support which leads to increased funding, etc.³¹ It seems impossible to reconcile the state resistance of NGOs autonomy, and the NGOs resistance of the government oversight. The research shows that the 1980 law, revised in 1996, still lacks a coherent set of remedies and clear sanctions imposing upon the Third Sector adherence to the “Proper Management” principle.

Policy, procedures and processes of transfer of public funds to the Third Sector

Table # 1: Transfer of government funds to NGOs by Ministries

Ministries	No. Of NGOs		Total funding (In millions of NIS)	
	1997	1998	1997	1998
Education	1,262	1,354	1,833	1,692
Religion	2,294	2,310	1,137	1,168
Labor	756	584	95	106
Prime Minister	15	25	100	124
Health	166	201	56	482
Trade and Industry	12	7	61	69
All others	633	637	72	62
Total	5,138	5,118	3,213	3,844

Source: Annual Report of the Israel Comptroller's Office, 1998, p. 732

For administrative purposes the Israeli NGOs have been divided to 13 categories following their purpose, objectives and types of operation:

1. Business & professional;
2. Civic & advocacy;
3. Community empowerment;
4. Culture;
5. Education;
6. Environment;
7. Health;
8. International operation;
9. Philanthropy;
10. Relief and Social Services;
11. Religious & congregations;
12. Unions;
13. Others (in Israel memorial organizations) ³²

Table 2:

Typology of NGO by categories of operation:		Percentage of the total funding
Religious organizations	24 %	41.3 % of public funds
Education and research	19	17.2
Culture & Leisure	14	11.4
Recreation & welfare	12	9.4
Philanthropy	8	3.2
Civic, legal & political	6	1.3
Housing & development	5	0.6
Health	3	6.2
Labor unions & chambers of commerce	3	4.2
Memoriam	2	1.0
Environment	1	1.5
International activities	1	0.4
Non-Jewish religious NGOs	1	0.4
Others	1	2.4
Total	100	100.5 %

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Source:Gidron, B.; et al. The Third Sector in Israel, 2000, 24 and, Gidron, B.; Katz, H.; Bar, M. The Third Sector in Israel, Ben Gurion University Press, 2000, p. 20

An examination of table # 2 reveals a positive correlation between the NGO's field of operations, their grass root support, their political leverage, and the level of public support that they receive. It seems that the Jewish- religious NGOs are the preferred category. While they constitute only a quarter of the Third Sector they receive 41.3 percent of all the funds allocated for the Sector. The philanthropy category, on the other hand, constitutes 8 percent of the Third Sector, but receives only 3.2 percent of the total funds. Clearly, the process and principles of funding the Third Sector have been greatly affected by the political process, rewarding the NGOs according to their political clout.³³ Consequently, the weakest group in Israel, the non-Jewish

religious community receives only half-a-percent of all public funds, compared with 41.3% allocated to the Jewish orthodox groups.³⁴

In the past, registered NGOs could apply for public funding by submitting applications either to the treasury, or directly to the relevant government Ministry. Requests could be submitted to more than one Ministry. Since 1992,³⁵ however, funding is appropriated from the regular budget. In order to avoid duplication in funding the Israel Ministry of Finance (MOF) has been issuing an annual report, available in print and on the internet, providing detailed information and enumerating every NGOs that receives public support, namely the report enumerates all government payments to NGOs for the acquisition of services. Funding is can be executed indirectly, in the form of the government renting NGOs services by subcontracting, and outsourcing, or as a direct transfer of funds for services and activities such as research, capacity building, community development, small businesses, etc.³⁶

A review of the 1999 report reveals that the total expenditures of the Third Sector was 40 billion NIS (about \$9 billion).³⁷ Total expenditures of the public health institutions (Kupot Holim) was 20 billion NIS. In addition, the government support of education (elementary, high school and university) was 13 Billion NIS ((\$ 2.5 billion). The Israeli government was directly responsible for the transfer of 33 Billion NIS (about \$ 7 billion), of the total 40 billion NIS ! Thus, over 75 percent of the total annual expenditures of Israel NGO were covered by the government. These payments were mostly block and formula grants of two types: mandatory transfer of grants in accordance with a specific legal formula, namely, grants for education (per student), or, grants for health care (per visit). Other non mandatory grants are also allocated as block grants, i.e., support for the arts (per theater goers). The division of the formula grants is as follows:

* 85 percent of the funds, or 21,4 billion NIS (over \$ 5 billion) have been designated and appropriated block grants disbursed directly to NGOs from various government departments, including block grants from absentee owner's estates, managed and controlled by state foundations . The majority of the funds cover Social Security (10 billion NIS) and Health (10 NIS). Some minor grants (160 million NIS) are allocated to NGOs from estates managed and controlled by state foundations.³⁸ The following grants are also included in the regular state budget:³⁹

After deducting the funds transferred for health care and education:

* Payments to NGOs for sub-contracting of services for specific issue-areas amount to 4 billion NIS (about \$ 900 million) for discretionary activities.

* The rest was divided as follows:

NGOs whose applications for funding were approved by the various government ministries, received about 1,2 billion NIS or \$ 300,000 million, transferred to the on an ad-hoc basis.

The rest of the funding (2,6 billion NIS, or \$ 650,000 million) were transferred to NGOs by law for specific services in designated issue-areas.⁴⁰

A special committee appointed in 2000 by the Ministry of the Prime Minister revealed two significant facts: about 80 percent of the grants were allocated by two government ministries: Education and Religion and the total transferred, about 10 billion NIS, was equal to Israel's annual budget deficit. The bulk of public resources are transferred to NGOs by law, as block grants, and to specific issue-areas.⁴¹ While the system allows NGOs to receive grants from more than one government agency, it neglected to create a coordination mechanism to prevent duplication and ensure that an NGO will not receive twice the funding for the same activity. Israel state Comptroller's Office conducted two consecutive special investigations of NGOs annual reports,⁴² and concluded that the government processes and procedures of transfer of funds to NGOs was flawed due to: (a) bureaucratic shortcomings⁴³, and (b) legal difficulties.

The Israeli law provides NGOs with the full freedom and autonomy to make all the policy, administrative, and budgetary decisions concerning their operations. Consequently, while being funded by the state, NGO executives and Boards determine their own salaries and personal expense accounts, fringe benefits, the size and structure of the office overhead, fixed costs, travel, etc.⁴⁴ As noted by Smillie and Helmlich, the nature of the relationships between government and NGOs are "as varied as the governments, the NGOs, and the societies they serve."⁴⁵ Thus, while the Israel NGOs survival is dependent on public funding, they can manipulate the oversight mechanisms and neutralize the NGO rules and regulations, including the "Proper Management" regulation.

The Office of the Registrar faces major difficulties that hinder the regulatory process. First, the law is vague and allows for inconsistent interpretations⁴⁶. Second, the Third Sector had acquired impressive political leverage. Thus, NGOs can often circumvent the law bringing the legislator (Knesset) to issue "special releases" for particular sectors,⁴⁷ (b) lack of cooperation among the Ministries providing funding for NGOs, (c) lax government control of the

Ministries subsidizing the NGOs, and finally, (d) the fact that NGOs often provide a unique service not otherwise available to the community. Terminating an NGO's operation could do more harm than good. These facts drastically reduce the level of government oversight capabilities

The Israel Supreme Court criticized the practice of inequality, as well as the existing duplication, lack of clear criteria, and the arbitrary manner in which a myriad of agencies, departments, Ministries, and local governments have been allocating public funds to unwarranted NGOs requests. The State Comptroller Annual Reports, reiterated the same complaints.⁴⁸

Following the continued criticism of both the Israel Supreme Court and the State Comptroller, the Attorney General of Israel government (“Ha’yoetz Ha’mishpati”) issued a set of binding instructions that imposed transparency and disclosure requirements on all the government Ministries allocating funds to NGOs. However, these regulations only required the donors to detail the amount of money (and all other benefits) transferred to NGOs, while they failed to require an explanation and reasoning for the established priorities, namely, **why** they chose to fund particular NGOs and deny, or reduce support to other NGOs. This loophole permitted the continued practice of unequal and biased allocation of resources.

In 1998, and in view of these shortcomings, the State Attorney General (“Ha’yoetz Ha’mishpati”), issued a regulation imposing objective criteria, namely, priority tests, to determine eligibility for public funding. The tests require all NGOs to prove that their activities are in the public interest, and that the public funds were necessary to execute important, community services.⁴⁹ Critics of this regulation have argued that the criteria and the required tests had three major flaws:

- * First, the tests require NGOs to provide information that is hardly relevant to their activities. Moreover, the established criteria and parameters have often been “tailored” to favor particular NGOs, whose eligibility to receive public funding would otherwise be questionable.⁵⁰
- * Second, the government created artificial categories to allow NGOs to claim eligibility for funding, while objectively they are either redundant or are irrelevant to the public interest.
- * Third, the government and the legislature did not put a cap or a ceiling, on the amount of funding allocated to each category, as required in the budget law, 3a (III). In fact, the funds are being allocated to individual NGOs with no overall strategy to support a particular category. It seems that the politicization of the process resulted in both the arbitrary and unequal allocation of

funds, and the entanglement of the coordination and review processes.⁵¹

Mandatory regulatory and administrative mechanisms to ensure NGOs accountably, transparency and adherence to their objectives.

The Third Sector in Israel has an impressive record. In 1999, NGOs employed 10.7 percent of the Israeli work force (non agricultural work force), and produced 12.8 percent of the Israeli GDP.⁵² Between 1991 and 1995 the total NGOS expenditures grew by 13.5 percent and the number of their employees grew by 19,000. These activities were handsomely supported by the public sector: in FY 2000, over \$5 billion (20 billion New Israeli Shekels) were directly transferred to the Third Sector, while the total budget for FY 2000 was 215 billion NIS, or \$ 53 billion.⁵³ . These developments necessitated the creation of an effective model of cooperation with, and regulation of, NGOs activities.⁵⁴ In 1996, the Non-Profit Organization (NPO) Law of 1980 was amended to address the growing concern over the immeasurable growth of the Third Sector.⁵⁵ However, only two years later, on 23 September, 1998, the government adopted the recommendations made by the Committee of Ministers on State auditing, demanding the Ministry of the Interior to establish the “Proper Management” benchmark.

The first objective of the “Proper Management” benchmark requires that all registered NGOs have an Israeli address (including East Jerusalem) and that they will not distribute any profits, assuming that they will generate profits from services rendered to their clients. Indeed, the “Benchmark of Proper Management” accorded the Registrar office unparalleled authority and vast regulatory powers. Among them:

a) to execute a thorough investigation of the group applying for an NGO registration license. The investigation could include: review of the founding members, their civil and criminal records, bank records, etc. Also, an examination of the groups objectives, past activities, past problems, financial difficulties, etc.

b) An NGO can apply for a “supported organization Status” namely, for direct and indirect financial benefits, only after two years of operation, and upon showing that the NGO has been following the “proper management” requirements.” The application form must be accompanied with a formal “Proper Management” certificate, issued annually by the Office of the Registrar.

Only after obtaining a “Proper Management” certificate can an NGO apply for public funding.

c) The 1998 regulation requires that prior to issuing a first-time “Proper Management” certificate, or an annually renewed one, the Registrar’s office will conduct a thorough investigation of all the financial and the operations of the organization. In complex situation, involving large organization, the Registrar will appoint “a Special Investigator” usually a CPA (Certified Public Accountant), to perform a thorough investigation of the NGOs activities. Once a wrong doing is detected in the activities of an already registered NGO, the Registrar will place the NGO “on notice” and notify the organization that it could lose its right to receive direct or indirect support.

d) In cases of extreme misconduct, the Registrar has the duty to bring the issue to the attention of the police for a criminal investigation. In less extreme cases, the Office of the Registrar can exercise his legal authority under the “proper management” regulation to declare “improper conduct”, i.e., the NGO does not follow its bylaws, does not fulfil its legal obligations (annual membership meetings, democratic election of the Board of Directors, proper documentation and detailed minutes of Board and annual membership meetings). The Registrar’s office has the authority to cancel, or annul the NGO, and erase its name from the Registrar’s records.

e) If the Registrar’s review finds practices of procedural mismanagement, the Registrar has the authority (I) to appoint a board of directors for an NGO if he concludes that the Board has been illegally appointed, or is abusing its powers, (II) to call for an annual membership meeting, if one has not been assembled for more than two years, (III) to request a revision of the bylaws and to rename the NGO if the chosen name is found by the Registrar to be improper.⁵⁶

f) On June 17th, 1998, the government adopted resolution No. 98/14, increasing the authorities of the Registrar’s office and the Ministry of Finance to carry out thorough investigations of NGOs executives and the organization’s operations. This was in an effort to tighten control of NGOs, eliminate loopholes allowing fraud and abuse of public resources, and following critical reviews by the State Comptroller Office. The regulation became operational in 2000, when the two offices began to enforce regulation # 98/14.⁵⁷

g) Additional regulatory measures were adopted on September 9, 1999,(resolution # 291, classified as a **“restricted”document**), imposing significant conditions on the allocation of funds to NGO. The conditions included: The authority to investigate NGOs including review of bank accounts, financial credibility, and solvency. Also, a bank collateral is required for a percentage of the requested grant (exact percentage not determined in the resolution, N.N.), at least two years of

significant activity, a disclosure of the NGOs bank accounts, and an annual audit report signed by a CPA of the NGOs annual income and outlays.

h) On the 23 of September 1999, the government issued an addendum to resolution #291, (also classified as **“restricted”**) that took effect on 15, October, 1999. (Addendum # 4418 (BK/128). The addendum assigned the execution of the resolutions to the Office of the Registrar. However, the shortage of qualified manpower and physical resources made the proper application of these regulations almost impossible .⁵⁸

While the total number of NGOs reviewed by the Ministry of Finance and the Office of the Registrar between 1999 and 2000 has been negligible, they concluded that only 35 percent of all registered NGO have been actually active and providing services. ⁵⁹

Following the unprecedented transfer of public resources to the Third Sector, the Ministry of the Prime Minister appointed in 2000, a special committee to investigate the processes of the transfer of funds to NGOs. On 9 August, 2000, the Israeli daily Ha'aretz published a front page article summarizing this special committee report, under the title: “Volume of grants to NGOs increased 75%” . The committee’s report revealed that between 1992 and 1998 the formula grants allocated to NGOs , excluding Health and Education, increased from 2.14 billion NIS in 1992 to 4.04 billion NIS in 1998. In addition, over 5,000 NGOs have received additional funding of approximately 2 billion NIS from local governments , adding up to over 6 billion NIS. Additional 5 billion NIS in mandatory formula grants are transferred by the Ministry of education to NGOs providing higher education. About 80 percent of the grants are allocated by two government ministries: Education and Religion. In comparison, Israel’s annual budget deficit has been 10 billion NIS!

One of the most disturbing issues raised by the report was that the law allows NGOs to receive support from more than one government agency. Moreover, the law provides NGOs with the full freedom and autonomy to make all the policy, administrative, and budgetary decisions concerning their operations. Consequently, while being funded by the government, the NGO executives and Boards determine their own salaries and expense accounts, fringe benefits, the size and structure of the office overhead, fixed costs, personal expenses, travel, etc. As noted by Smillie and Helmlich , the nature of the relationships between government and NGOs are “as varied as the governments, the NGOs, and the societies they serve.” ⁶⁰ Thus, while the Israel NGOs survival is dependent on public funding, they can manipulate the oversight mechanisms

and neutralize the 'proper management' requirement. The Israel state Comptroller's Office, ⁶¹ criticized the practice of grant duplication resulting from the faulty Government regulatory mechanism. The report concluded that the government processes and procedures of transfer of funds to NGOs was flawed due to: (a) bureaucratic shortcomings, and (b) legal difficulties. ⁶²

Indeed, until 1998 duplication of grants was widespread. However, only in 1998 the Ministry of Finance was given the responsibility of creating a coordination mechanism to prevent duplication and ensure that no NGO will receive twice the funding for the same activity. The MOF efforts were supported by the the Office of the Registrar, that faced similar difficulties that hindered the regulatory process. First, the law is vague and allows for inconsistent interpretations. ⁶³ Second, the Third Sector had used the impressive political leverage that it had acquired to circumvent the law by using the legislator as a tool to issue "special releases" for particular sectors, ⁶⁴ (b) lack of coordination among the various Ministries that support the Third Sector or purchased services from them, lax government control of the Ministries subsidizing the NGOs, and finally, (c) NGO's use their leverage due to the fact that they often provide a unique service not otherwise available to the community. Terminating support for an NGOs operation could do more harm than good. These facts drastically reduce the level of government power to regulate the Third Sector.

In addition to the unhealthy practice of duplication, the Israel Supreme Court harshly criticized another faulty feature: the practice of inequality, and the arbitrary manner in which a myriad of agencies, departments, Ministries, and local governments have been allocating public funds to unwarranted NGOs requests. The major problem was identified as : the lack of clear criteria for the formula grants. ⁶⁵ The State Comptroller Annual Reports, reiterated the same complaints.

Following the continued criticism of both the Israel Supreme Court and the State Comptroller, the Attorney General of Israel government ("Ha'yoetz Ha'mishpati") issued a set of binding instructions that imposed transparency and disclosure requirements on all the government Ministries allocating funds to NGOs. However, these regulations only required the donors to detail the amount of money (and all other benefits) transferred to NGOs. However, the regulation failed to require an explanations and reasons for the donors priorities, namely, **why** they preferred to fund particular NGOs and to deny, or reduce funds to others. This loophole allowed donors to continue the practice of unequal and biased allocation of funds.

Finally, in 1998, the State Attorney General (“Ha’yoetz Ha’mishpati”) issued a regulation imposing objective criteria, namely priority tests, to determine eligibility for public funding. The tests required the NGOs to prove that their activities are in the public interest, and that the funds were necessary to execute important, community services.⁶⁶ Critics of this regulation have argued that the criteria and the established tests had three major flaws:

* First, the tests require NGOs to provide information that is hardly relevant to their activities. Moreover, the established criteria and parameters have often been “tailored” to favor particular NGOs, whose eligibility to receive public funding would otherwise be questionable.⁶⁷

* Second, the government created artificial categories to allow NGOs to claim eligibility for funding, while objectively they are either redundant or are irrelevant to the public interest.

* Third, the government and the legislature did not put a cap or a ceiling, on the amount of funding allocated to each category, as required in the budget law, 3a (III). In fact, the funds are being allocated to individual NGOs with no overall strategy to support a particular category. It seems that the politization of the process resulted in both the arbitrary and unequal allocation of funds, and the entanglement of the coordination and review processes.⁶⁸

3. Criticism of the “Proper Management” regulation. Possibilities and constraints for both the government and the Third Sector

While the 1980 law and the 1996-1998 revisions provide the Office of the Registrar with impressive regulatory powers, the 1998 “proper management” regulation acknowledged the difficulty of regulating the Third Sector, specifically ensuring transparency of, and accountability for, the vast amounts of funds transferred directly and indirectly to NGOs by the various government departments and agencies.⁶⁹ The regulation hardly achieved its two major objectives:

(a) to create clear and structural criteria for NGOs eligibility to receive public support and
(b) to strengthen the Registrar’s authority to review the finances and operations of publicly supported NGOs. In terms of possibilities, the 1998 law gave the Office of the Registrar vast oversight authority. However, the constraints have been hardly surmountable and resulted from the unique structure and function of the Third Sector.

The requirement to establish objective, consistent, and structural criteria for NGOs

eligibility to receive public funding operated within some bureaucratic constraints. The law requires the Registrar's Office to ensure that the distribution of public benefits will be executed without any bias or prejudice, namely that the "equality principle", will be strictly exercised by all agencies that distribute public funds. This provision is expected to neutralize NGOs efforts to extract unequal financial benefits by using leverage, popular support, and political influence. While the Supreme Court refused to intervene in the policy considerations of establishing priorities in the allocation of public funds, it did insist on a strict adherence to the "equality" principle, to ensure the exclusion of prejudices or biases from the allocation of public funds. For example, in 1988, while still refusing to express any opinion concerning the politics of the allocation of public funds, the supreme court did express harsh criticism of the government performance. The regulatory regime was lacking (a) a clear transparency regime, and (b) a clear and binding set of criteria specifying priorities and considerations of eligibility in the allocation of public funds. The court stated that indeed, the basic rule of equality under the law is being violated when funds are arbitrarily and unequally allocated, with no rational and not enough evidence that the transfer of funds was justified and that it served the public interest.⁷⁰

An examination of the implementation process reveals other weaknesses, partially resulting from the ambiguity and vagueness of the law, that partly because of lack of clear, objective eligibility criteria for the allocation of public funds. The 1980 law regulating the Third Sector in Israel has been a product of an eclectic set of laws derived first from the Ottoman Law, and later from the British law. When the 1980 law came into effect, over 25,000 NGOs have been registered with the Ministry of the Interior and have been the recipients of various types of public support. However, while the 1980 comprehensive NGO law, gave the Office of the Registrar specific powers to regulate the Third Sector, the law neglected the issues of nepotism and illegal distribution of profits under the pretext of high salaries.⁷¹ The revised (1998) law and the establishment of the "Proper Management" benchmark, include provisions that are aimed to remedy the situation.

First, NGOs that receive public support have to use the government salary scale as a criterion. NGOs executives can not be paid more than their colleagues in the government who are performing similar tasks. Second, the law requires a full disclosure of the names and functions of the five highest paid executives, including all their fringe benefits, such as life insurance, travel expenses, car rentals, interest free loans, etc. In order to ensure adherence to the law, all NGOS

that receive direct or indirect public support⁷² have to submit a complete and full annual financial statement including a detailed breakdown of the salaries and overhead expenses of the five top executives. The Office of the Registrar has the authority to investigate and review the statements using independent professional CPAs and comptrollers specializing in these subjects.

However, the 1998 revised law ignored the lack of coordination and cooperation among the various donor agencies. This unintended oversight created a major regulatory loophole: an NGO can apply for public funding to an unlimited number of government ministries, agencies, local governments and other public institutions, and they can receive simultaneous grants for the same activities! The law did not create a mandatory coordination mechanism to prevent grant duplication and false statements by NGOs on their sources of income. This loophole did create duplication opportunities and provided NGOs with almost unlimited access to resources.⁷³

NGOs could exploit the opportunities created by these loopholes and try to operate as “non-territorial governments,” exploiting their unique legal status, informal structure, lax regulatory mechanisms, and rudimentary government oversight system, to carry out policies on an independent, autonomous basis. The term “non-territorial governments” (NTGs), denotes a political and social environment where NGOs assume control and carry out policies in an autonomous manner. NTG enjoy and exercise a creative status of “Functional Sovereignty”, namely, they assume control over a particular issue-area or a social service, either on an exclusive or a shared basis with national, regional or local governments.⁷⁴ While the international system is ruled by the principle of political sovereignty within national- territorial boundaries, NGOs operations are often controlled by the principle of “functional sovereignty”, which ignore territorial or national boundaries. This condition severely limits the capability of the state to regulate NGOs operations. The Israeli orthodox education system is a case in point.

Moreover, the majority of the active NGOs that receive public finding are religious-orthodox associations that have been functioning as “family businesses”, namely, they provide goods, benefits, and services to themselves and/or their family members! Thus, the providers and the recipients of the goods produced by NGOs are often one and the same!⁷⁵ Thus, due to the vagueness of the law, the extremely limited control that it allows the government, and the high respect for the value of “freedom of association”, NGOs could enjoy almost full autonomy in their operations. Indeed, both by the media and the State Comptroller office have harshly criticized the generous, unchecked support of the government of “family NGOs”.

Acknowledging the need to eliminate loopholes, specifically to terminate the practice of unjustified, biased and politically motivated transfer of funds, the Knesset and the government passed numerous resolutions, rules and regulations (specifically the 1996 the 1998 revisions), requiring the donor agencies to exercise accountability and transparency.⁷⁶ The donor agencies have been required to produce annual reports, informing the public, and the Third Sector, of all the resources that were allocated to NGOs in the past year. These new regulations were aimed at ending the duplication practices exploited by NGOs, and to enhance the legislature control over the politics of the transfer of public funds. Also, the 1998 law required the creation of a coordination mechanism among the government Ministries, to prevent multiple funding and fraud. However, the 1980 law and the amendments of 1996 -1998 tried not abridge the peoples' 'freedom of association" right, while maintaining the government authority to enforce "proper management" regulation.

Conclusion

While Israeli NGOs activities can be viewed as innovative, they are by no means unique. Since the mid 1980s the processes of delivering social services have changed radically. The transformation of the Third Sector into the main provider of public services is a global phenomenon. Similarly, the "New public management " (NPM) approach has become a universal practice, viewed as an effective tool to produce (a) a less corrupt and more effective system of social services, (b) a better and more just distribution of funds to the communities, and, last but not least, (c) a system that would be more responsive to the needs of the people.⁷⁷ These processes instigated tacit and open cooperation/competition relationships between the First Sector (the state) and the Third Sector in the execution of public services. The state often views NGOs as unwanted critics of its policies, and competitors for local and national political power. The Third Sector, on the other hand, could feel that the government infringes on their autonomy and uses them as "another branch of the government." Moreover, NGOs may even compete with the state for foreign donations and investments,⁷⁸ and for community contributions. The "Proper Management" benchmark has two, rather conflicting goals: to serve as an advisory and a consulting mechanism for the Third Sector helping them to practice "proper management", but on the other hand, to serve as their adversary, the "big brother", looking over their shoulders, prying on their mistakes and punishing them for any mismanagement. Thus, the main objective of the

“Proper Management” benchmark was to enhance the government-Third Sector cooperation by establishing a structural, systematic, and coherent regulatory mechanism, that would ensure the elimination of prejudice or political considerations, prevent the abuse of public resources, and would better fight corruption. The main component of the “Proper Management” principle was to approve eligibility for public support following the NGOs compliance with the Registrar’s legal rules and regulations

Our research shows that the “proper Management” regulatory mechanism deserves mixed reviews. While the concept was timely and necessary and was hailed by both the government and the Third Sector, it suffers from some important limitation:

- (a) Legal weaknesses resulting from unclear and incoherent eligibility criteria. ⁷⁹
- (b) NGOs lack of professional knowledge of the necessary accounting and auditing procedures.
- (c) Exemption of parochial groups from many of the legal restrictions due to political pressure. ⁸⁰
- (d) Incorrect documentation of donations and expenditure by NGOs.
- (e) The manipulation of political leverage by NGOs to gain functional autonomy and be free of government control.
- (f) The continued practice of simultaneous donations and duplication of financial benefits.

In conclusion, it seems that both the NGOs and the government should share the responsibility of creating circumstances that make the regulation of NGOs effective and efficient. It is necessary (a) to create a coordinating agency to eliminate duplication in grants, (b) to execute and follow up on the restrictions imposed on NGOs overhead expenses and the distribution of excess benefits to NGOs executives. Finally, the most important regulatory mechanism, annual activity reports, detailed descriptions and financial reports of ‘programs executed’ must be carried out meticulously. While NGOs autonomy and independence should be strictly observed, the Third Sector should maintain transparency and accountability, for the benefit of their clients and the civil society at large. excessive benefits to NGOs executives. Finally, the most important regulatory mechanism, annual activity reports, detailed descriptions and financial reports of ‘programs executed’ must be carried out meticulously. While NGOs autonomy and independence should be strictly observed, the Third Sector should maintain transparency and accountability, for the benefit of their clients and the civil society at large.

End Notes

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1. Francis Fukuyama, *The End of History and the Last Man*, (London: Penguin Books, 1992)
 2. Known variously as “non profit,” “voluntary”, “Third Sector” and “civil society, the terms denote a network of non profit entities operating in all spheres of life. All these different organizations share some common features: Non profit distributing; self-governing; voluntary membership. See Lester M. Slamon et al. *Global Civil Society: Dimensions of the Non Profit Sector*, (Baltimore MD: The John Hopkins University Center for Civil Society Studies, 1999), 3-4
 3. Huntington, Samuel, *The Third Wave: Democratization in the Late Twentieth Century*, (London: University of Oklahoma, 1991).
 4. The comparative study conducted by the John Hopkins Center for Civil Society Studies, L. Salamon shows that “even excluding religious congregations, the non profit sector in 22 countries we examined is a \$1.1 trillion industry that employs close to 19 million full-time equivalent paid workers.” See Lester M. Slamon et al. *Global Civil Society: Dimensions of the Non Profit Sector*, 8
 5. In 2000, total transfers of funds to the Third Sector reached about 4.5 percent of the Israel budget.
 6. The regulation was adopted on September 23, 1988. The “proper Management” regulation is an addendum to the Israel 1980 NGO law.
 7. USAID, *Core Report of the New Partnership Initiative*, 21 July, 1995, mimeo, draft, 8
 8. *Human Development Report*, 1998, (New York: Oxford University Press, 1998), 8
 9. *Ibid.*, p. 9
 10. On 23 September, 1998, the government adopted a recommendation by the Committee of Ministers on State Auditing, to establish the “Proper Management” benchmark.
 11. Turner Mark, and David Hulme, *Governance, Administration & Development*, (West Hartford CT: Kumarian Press, 1997), 200-219
 12. Esman and Uphoff (1984) suggested five possible levels of government-NGO linkage: (a) autonomy, with effectively no interaction and no government control over NGOs operations and resources, (b) low linkage, with minimal interaction, (c) moderate linkage, with some, but not regular interaction, (d) High linkage, with much interaction but not a full reciprocity in terms of transfer of resources and services, (e) direction, where a high level of interaction exists, and the government’s control is substantial and effective.

Uphoff, N; Esman M.J. *Local Organizations: Intermediaries in rural development*. Cornell University Press, N.Y: 1984, 153

13. In 2000 over 28,000 NGOs, were officially registered with the Ministry of the Interior. Total direct transfers of public funds reached over \$6 billion (25 billion New Israeli Shekels), about 1 percent of the national budget. The funding includes entitlements, payments for services, and grants. The total budget for FY 2000 was 215 billion NIS, or \$ 53 billion. Source: *Israel Budget Law*, FY 2000 (in Hebrew), Israel Ministry of Finance Records.
14. On 23 September, 1998, the Israeli government adopted the “Proper Management” regulation. It is an addendum to the 1980 NGO Law.
15. See endnote # 12
16. The Zionist NGOs were created in the diaspora to support the waves of massive Jewish Immigration to Palestine, beginning in 1882. The NGOs activities followed “the long tradition of support (financial and other) by Diaspora Jews of the Jewish community living in the Holy Land.” Benjamin Gidron, “A resurgent Third Sector and its relationship to government in Israel,” in: Benjamin Gidron, Ralph M. Kramer and Lester M. Salamon (eds.) , *Government and the Third Sector* (San Francisco: Jossey-Bass Publishers, 1992), 184
17. The international-Zionist NGOS, e.g. The UJA and the Jewish Agency, had operated as government bureaus prior to 1948. While most still exist they are not included in this discussion because they are not government supported.
18. These provisions were anchored in the first government coalition agreement signed by Ben Gurion, Israel’s first Prime Minister. Over 41 percent of Israel NGOs to day are orthodox education systems, fully supported by the state, while their percentage of the total population is less than 20 percent.
19. Between 1991 -1997, the religious-orthodox education system received 37.2% of the funds transferred to all NGOs. In comparison, Israel’s higher education institutions received 3.6 percent of all total funds Gidron B. et al. *Basic data of Israel Third Sector*, Beer Sheva University, 1999, 24
20. The issue has not been resolved either by the NGO Law of 1980, or the various government regulations that followed in the 1990s.
21. Benjamin Gidron, B. “A resurgent Third Sector and its relationship to government in Israel,” in: Gidron B. Kramer R. M. and Salamon L. M. (eds.) , *Government and the Third Sector*, 1992, 184.

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22. The move toward privatization of public services inspired a new breed of interest groups and lobby strategists who used their public relations advisers to harshly and mercilessly attack traditional civil service processes.
 23. Amnon De Hartuch, "Government support of public institutions: The flourishing of the 'special funding'" (in Hebrew) *Mishpatim*, No. 29, 1998, 79.
 24. Gidron, B. "A Resurgent Third Sector and its Relationship to Government in Israel", in: *Government and the Third Sector*, 188
 25. The case of the Palestinian NGOs is an interesting comparison. "The importance of NGOs to the economy of the West Bank is clearly recognized...The World Bank estimated that over 1,200 Palestinian NGOs and 200 international NGOs are active...In early 1996, it was estimated that NGOs provided about 60% by value of all primary health care services and up to one-half of secondary and tertiary health-care. All disability and preschool programs are run by NGOs, as well as most agricultural services, low cost housing and micro-enterprise credit schemes." *World Bank publication*, Washington D.C., 1997
 26. NPM, is a variation on the public choice principle, based on privatization and outsourcing in the execution of public policy. See Foster C. D., and Plowden, F. J., *The State Under Stress.*: Open University Press, Bristol PA: 1996, 1
 27. For example, TQM and ISO 9000 became mandatory procedures in the health industry, higher education institutions, among others.
 28. Gidron, B. "A resurgent Third Sector and its relationship to government in Israel," in: *Government and the Third Sector* , 186.
 29. Helmut K. Anheier, " An elaborate network: profiling the Third Sector in Germany," in: *Government and the Third Sector:* 35
 30. Some prominent examples are institutions for higher education, burial services ("Hevra Kadisha"), the National Bar Association (that certifies lawyers), The Scientific Council (certifies physicians), religious institutions, local government, etc.
 31. The issue of the orthodox NGOs is a case in point. These NGOs mobilize and use their vast grass root support to advance their parochial-political- interests, namely to gain excessive benefits for their constituencies.
 32. A model developed by Salamon, L.M.; Anheier, H.K.; List, R; Toepler, S. ; Sokolowski, W.. *Global Civil Society*, (John Hopkins Center for Civil Societies, 1999) p. 7
See Supreme Court ruling 780/83, quoted in Hartuch, A. de, 82. Also, Report of the State Comptroller, 1998; 728-739

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33. All Israeli governments had to succumb to the excessive demands of the minority religious parties in order to build a governing coalition. The impressive positions occupied by the religious parties in the government and the parliament, enabled them to divert resources to the orthodox NGOs well above their weight in society.
 34. Perhaps the greatest achievement of the ultra-orthodox NGO network has been the 1992 Knesset resolution, legitimizing inequality in the allocation of resources to the Third Sector. The regulation says that “the equality principle and the requirement to prove that the activities of the NGO serve the public interest will not apply to the ultra-orthodox education system.” See Hartuch, A. de, 88
 35. The 1992 revision of the Budget Law, included an article # 3(a) establishing bench mark guidelines for the distribution of funds to the Third Sector. These guidelines include: equal criteria to all NGOs receiving support; the criteria will be made public; the organization receiving support will have to follow “proper management” criteria. The law included two exemptions: the two ultra orthodox education systems, that were exempt from these severe restrictions. (source: *Israel Budget Law*, 1992, article 3 a)
 36. In FY 2000, the government transferred 40 billion NIS (about \$ 9 billion) to the Third Sector. However, about half, \$20 billion were actually payments for medical services. (Kupot Holim)
 37. MOF reports; also, Benjamin Gidron, Hagai Katz, Michal Bar, *The Israel Third Sector: Economic Data*, Ben Gurion University Press, February 1999, p.12
 38. Benjamin Gidron, Hagai Katz, Michal Bar, *The Israel Third Sector: Economic Data*, Ben Gurion University Press, March 2000.(However, as a result of the complex system of funding, and the simultaneous granting of funds from various government agencies, different reviews result in variations in the numbers.)
 39. The National Budget Law, article 3 (a).
 40. The National Budget Law, clause 3 (a). Quoted in the Annual Report of the State Comptroller’s Office, 1998. Issue-areas include: handicaps, veteran organizations, etc.
 41. See Gidron, B. Katz, H. & Bar M. *The Third Sector in Israel*, 2000, 34-42.
 42. For details see the 1998 *Annual Report of the Israel State Comptroller*, (“Me’vaker Hamedinah), Report No. 50b ; 727-739.
 43. *Ibid.*, the report enumerated severe shortages of qualified personnel at the Registrar’s office, lack of cooperation among the various Ministries providing funding for NGOs , and lax control of the subsidizing Ministries of the NGOs receiving their support.

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44. For example, one of the most prestigious Israeli NGOs “Friends of the Israeli Defense Forces” have been paying its top five executive an average of \$ 13,000 per month! Additional 14 top executives have been earning about \$10,000 per month. The average monthly salary in Israel is \$2,000 per month!
 45. Smillie, I, & Helmlich, H. (Eds.), *Non-governmental organizations and governments: Stakeholders for Development*. OECD Development Center, Paris, 1993
 46. The law incorporates clauses from both the Ottoman and the British rule.
 47. *Annual Report of the Israel State Comptroller*, (“Me’vaker Hamedinah), Report No. 50b ; 727-739, enumerated severe shortages of qualified personnel at the Registrar’s office, lack of cooperation among the various Ministries providing funding for NGOs , and lax control of the subsidizing Ministries of the NGOs receiving their support.
 48. See Supreme Court ruling 780/83, quoted in Hartuch, A. de, 82. Also, *Report of the State Comptroller*, 1998; 728-739
 49. See government resolution # 291 (classified as a **“restricted”document**) of September 9, 1999, imposing significant conditions on the allocation of funds to NGO. The conditions included: a bank collateral for a percentage of the requested grant (exact percentage not determined in the resolution, N.N.); at minimum of two years of significant activity; a disclosure of the NGOs bank accounts, and an annual auditing of the NGOs annual financial reports. On September 23, the government issued an addendum to resolution #291, (Addendum # 4418 (BK/128), (also **classified as “restricted”**) effective since 15, October, 1999. The addendum assigned the execution of the resolutions to the Office of the Registrar.
 50. Hartuch, A. de, 89-97. The beneficiaries of these tactics have been mainly the ultra orthodox NGOs. The educational network of the Shass party, “El Ha’maayan” is a case in point. Since the early 1980s, Shass has been extremely successful in reaching the poor and the disadvantaged groups, providing them free education from K to 12 grade. Shass close links with local communities and grass root organizations was used by them as a tool to manipulate the state to transfer to them massive public funds. These resources were later used by Shass as political leverage to gain social and political power in Israel’s legislature.
 51. *Ibid.*, 89-97
 52. The transfer of government funds to NGOs was legally adopted in the Budget Law of 1985. According to the Registrar’s records the majority of the active NGOs have been applying for and receiving public funding. In 1999, about 8,500 Amutot applied for government funding. Gidron, B.; Katz, H. and Bar M. *The Third Sector in Israel*, Ben Gurion University Press, Beer Sheva, 2000, 10 (in Hebrew).

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53. Source: *Israel Budget Law*, FY 2000 (in Hebrew), Israel Ministry of Finance Records
 54. The fact that funds were abused was revealed in several critical supreme court rulings. See a Supreme Court ruling of 1988, 19/88 saying: "...As for the format, a clear set of criteria has to be established, that will serve as guidelines in the making of decisions concerning allocation of funds, including the establishing of control and review mechanisms that will ensure that the funds will serve their objectives." (English translation: N.N.) Quoted in Amnon de Hartuch, 84
 55. Addendum to Budget Law 35 (a), 1996. The addendum focused on NGOs with an annual operating budget of over 750,000 NIS. The new requirements included a mandatory disclosure of all sources of income, i.e., contributions, donation, etc., and accountability for all expenditures.
 56. The law does not specify what types of names could be declared "improper".
 57. See reports in Ha'aretz, 8/ 9, 2000, & 9/15, 2000.
 58. See the *Annual Report of the Israel State Comptroller*, 1998; 727-739
 59. See Benjamin Gidron, Hagai Katz, Michal Bar, *The Third Sector in Israel*, Ben Gurion University Press, March 2000.
 60. Smillie, I, & Helmlich, H. (Eds.), 1993)
 61. For details see the 1998 *Annual Report of the Israel State Comptroller*, ("Me'vaker Hamedinah), Report No. 50b ; 727-739.
 62. *Ibid.*, the report enumerated severe shortages of qualified personnel at the Registrar's office, lack of cooperation among the various Ministries providing funding for NGOs , and lax control of the subsidizing Ministries of the NGOs receiving their support.
 63. The law incorporates clauses from both the Ottoman and the British rule.
 64. *Annual Report of the Israel State Comptroller*, ("Me'vaker Hamedinah), Report No. 50b ; 727-739, enumerated severe shortages of qualified personnel at the Registrar's office, lack of cooperation among the various Ministries providing funding for NGOs , and lax control of the subsidizing Ministries of the NGOs receiving their support.
 65. See Supreme Court ruling 780/83, quoted in Hartuch, A. de, 82. Also, Report of the State Comptroller, 1998; 728-739
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67. Hartuch, A. de, 89-97. The beneficiaries of these tactics have been mainly the ultra orthodox NGOs. The educational network of the Shass party, “El Ha’maayan” is a case in point. Since the early 1980s, Shass has been extremely successful in reaching out to the poor and the disadvantaged groups, providing them free education from grades K to 12. Shass used their close links with the grass root organizations as a tool to receive unwarranted funds. The manipulation of resources were later used by Shass as political leverage to gain social and political power in Israel’s legislature.
68. *Ibid.*, 89-97
69. See a report by an Ad-Hoc Committee appointed by the Office of the Prime Minister (2000, in Hebrew). The report was extremely critical of the excessive salaries paid to NGOs executives, excessive overhead, and excessive travel abroad that were hardly required. See also the *Annual Report of the State Comptroller*, 1998; 727-739 (in Hebrew)
70. See Supreme Court ruling of 1988, 19/88 saying:”...As for the format, a clear set of criteria has to be established, that will serve as guidelines in the making of decisions concerning allocation of funds, including establishment of control and review mechanisms that will ensure that the funds will serve their objectives”. (translation from Hebrew N.N.) Quoted in Hartuch A. de, 1988, 84
71. See Benjamin Gidron, Hagai Katz, Michal Bar, *The Third Sector in Israel*, Ben Gurion University Press, March 2000
72. Indirect support applies to tax exemptions such as corporate taxes, employers taxes, property taxes, VAT, etc.
73. Until 1980, the applicable registration law for Israeli NGOs was the Ottoman law of 1909. (Source: *Israel NGO Law, 1981*, Chapter 8, # 60 (a).
74. When NGOs practice “functional sovereignty” they actually assume autonomous control over a particular issue-area, i.e., a public service. This situation greatly differs from territorial sovereignty, where a political entity enjoys control over a territory, and carries out public policies on a sovereign, legitimate basis.
75. *Ha’aretz* (in Hebrew) “How NGOs become a family business?” 4 September, 2000
76. *Addendum to Budget Law 35* (a), 1996, focuses on NGOs with an annual operating budget of over 750,000 NIS. The new requirements included a mandatory disclosure of all

sources of income, i.e., contributions, donation, etc., and accountability for all expenditures.

77. See footnote # 25
78. The Peres Peace Center is a case in point. It is supported by foreign foundations and governments (various “People-to-People” programs of the European Union and the Norwegian governments are only two examples) completely outside the reach of the Israeli government control.
79. The main legal tools available to the Registrar’s office, e.g., the 1980 law, revised in 1996, and in 1999, and regulation No. 98/14, issued on June 17th, 1998, require the Registrar to investigate all NGOs requesting direct or indirect public assistance . However, But the number of NGOs reviewed by the Ministry of Finance is negligible.
80. See Supreme Court ruling : 780/83