



Conflict | Law | Peace
Innovations for Rule of Law Promotion and Transitional Justice

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**Local Implementing Organizations:
Selection Criteria, Framework Conditions and Political Implications**

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Contents

- I. Introduction
- II. Conceptual approach
- III. Opportunities and challenges
- IV. Selection criteria
- V. Framework conditions
- VI. Political and ethical implications
- VII. Conclusions
- VIII. Contributors

I. Introduction

This impulse paper seeks to illustrate different modes of collaborating with local implementing organisations and evaluate the opportunities and challenges of directly or indirectly financing their work. To date, most of the funding for rule of law projects is granted to organizations based in Global Northern countries. Yet, enhancing direct funding of, and cooperation with local implementers seems to offer a wide range of advantages arising from their extensive knowledge of the region, their contacts and outstanding motivation, as well as the opportunity for the donors to facilitate local ownership and strengthen local self-governance in a sustainable manner.

However, the public funding legislation of many donor countries (including Germany) as well as that of Global Southern countries can create a variety of obstacles for fruitful cooperation.

Furthermore, a certain set of criteria for the selection of local partners needs to be developed and applied in order to prevent the misuse of funding and other damaging effects. This paper also tries to examine how these criteria affect the notion of partnership.

II. Conceptual approach

The variety of local partner organizations ranges from non-governmental organisations (NGOs) that are independent to others that collaborate closely with, or are controlled by the state. It includes universities, religious organizations, professional associations, trade unions, and others.

This paper does not take in consideration each and any of these categories but focuses on NGOs, which constitute the largest group among local implementing organisations. It should also be noted that the boundary between implementation partners and project beneficiaries is not always clearly drawn; at times, a double role is wanted. Such set-ups can be an elegant way of 'learning by doing' and creating more of a peer relationship than the classical implementer-beneficiary dynamics.

The mode of cooperation with them manifests itself in a variety of institutional settings, resulting in different degrees of local ownership and authority over implementation. First, local organisations can be subcontractors that implement activities that have essentially been designed by organisations based in the Global North. In these cases, they will obtain parts of the budget but will have little autonomy in regard of how the pre-defined activities are implemented. Second, local organisations can be partners of organisations based in the Global North, and significantly contribute in every phase of the project cycle, from planning through evaluation. While they may consider themselves equals, it is usually the organisation based in the Northern country (e. g. Germany) that directly interacts with the donor and receives the funding, which make it more powerful in case of conflict. Moreover, it is legally and financially accountable to the donor and not to its local partner organisation. Rarely, the lead role is taken by the local organisation and relations are reversed. OWEN, a Berlin based organisation, is involved in a project where an Armenian NGO forwards funding to its German implementation partner. Democracy Reporting International is collaborating in similar ways with NGOs in Moldova and the

Democratic Republic of Congo. Third, some Northern organisations receive public funding that they forward to local organisations which develop and implement projects on their own. They usually apply combinations of their own rules, donor conditions and general legislation. Examples include some of the party-political foundations.

The German *IfA zivik* program is a special case as the *Institut für Auslandsbeziehungen (IfA)* awards grants to local organisations on behalf of the Foreign Office. This practice equals the direct granting of funding to local organisations by German ministries and their subsections, including embassies, which constitutes the fourth category in our list. The Iraqi Jiyān Foundation for Human Rights, which also has a branch office in Berlin, is one of the few examples. Beyond the question of financing, the importance of civil society for the promotion of the rule of law should not be overlooked. There are many forms of exchange and collaboration that helps strengthening local actors, such as political dialogue, mutual learning, and providing networking opportunities.

III. Opportunities and challenges

The main advantage of directly funding, or closely collaborating with local organizations is that they know best the context that they are operating in. This can help to align projects more closely with the interests of the local population or specific sub-groups, as recommended Strategy of the Federal Government for promoting the rule of law (2019):

The user-centred approach – which uses participative methods to actively include representative groups in context analysis and project planning, implementation and evaluation – is well-suited to understanding the needs of the population in the areas of law and conflict resolution.

Local implementers hold important knowledge about the law, culture, and languages of their country. They can keep close contact with relevant state authorities and civil society actors, and reach population groups even in remote, insecure or otherwise inaccessible parts of the country. They are able to quickly respond to changes of circumstances. They need considerably smaller budgets than international staff permanently stationed on site, and they can ensure project results to be firmly anchored even after the end of the project. With regards to the user-centred approach in rule of law assistance, these qualities are indispensable. Besides, the more local actors are given a responsibility over implementation, the faster they develop their own capacities, which is an important side effect of working with them.

However, challenges remain numerous, relating to the political implications of cooperation, non-charitable interests, perceived or actual partisanship of local actors, ethical standards of cooperation, security problems as well as administrative and financial issues. Profiting from context-specific knowledge and contacts comes with putting local agents at high risk of being attacked for their work on the ground, especially in fragile contexts. Attacks may come from the outside – but also from inside the organisations. It is therefore advisable that they use the topics and methods that they consider important and appropriate in their own context – and the risks of which they are willing to accept without outside pressure.

IV. Selection criteria

Working with local implementing organisations is hampered by the lack of generally agreed selection criteria that would give guidance to donors aiming to support local organisations as well as implementers looking for local partners. While some criteria are certainly applied in all cases, a list might be helpful. Such a list would have to include, among others, criteria to assess, the local organisation's

- Expertise and professional skills needed for the envisaged project;
- Budgetary and administrative competence;
- Political attitudes and positions, depending on the context and project aims: in some cases, a high degree of independence and impartiality (bearing in mind how difficult it is to maintain both particularly in conflict situations), while in others advocacy is actually desired (e.g. for women or LGBTQ rights, against perpetrators of human rights violations);
- Perception and acceptance at community level;
- Barriers against relevant forms of corruption and nepotism;
- Adequate safety and security concept;
- Measures to protect staff members, especially women, from harassment and exploitation;

- Arrangements for the settlement of conflict arising from the envisaged project.

These or similar criteria could be taken in consideration when donors or Northern-based organisations create local branch offices or local NGOs; past examples, such as NGOs created by *medica mondiale* and the Max Planck Foundation for International Peace and the Rule of Law in Afghanistan, provide important lessons for future similar endeavours. It should be noted, though, that in some situations the speed and flexibility of support is essential. In these cases, donors and organisations should do their best to assess partners, without losing the momentum.

V. Framework conditions

The laws and regulations of the donor country and those of the host country determine the formal framework for project implementation. This includes, among others, public funding law, NGO law, tax law, labour law, banking law, and other sets of rules. In addition, most donors impose their own sets of conditions on implementers. Understanding all of these rules can be difficult; abiding by them is sometimes impossible.

To begin with, the German public funding legislation was created for financial support granted to domestic recipients. Problems can arise when projects are implemented in countries with that so not use the Gregorian calendar, which can lead to multiple financial reporting obligations towards the donor and domestic authorities. The *annuality principle* complicates the transfer of leftover funds from one year to the other. Another rule requires spending to be reported every six weeks as a condition of further funding being transferred for the continuation of the project implementation. As transactions from Germany to local partner organizations may take much longer, especially in cases where active conflict, dysfunctional banking systems slow down the process, this rule at times leads to local implementers running short of funds. Delays and even the freezing of bank transfers can also occur due to local regulations aimed to prevent the financing of terrorism or money laundering. Alternative ways to transfer money in order to proceed with project implementation, such as cash couriers, money orders, *hawala*, lead to other difficulties. Cases of project staff filling gaps with their private money are reported. Moreover, German public funding legislation presupposes the recipient's ability to contribute financially to the project budget (subsidiarity principle), which is regularly impossible for organisations from the Global South. If organisations receive funds from different sources – e.g. donors funding separate projects – and use these funds to fill gaps caused by delays of bank transfers, this may lead to the assumption that they actually have financial sources of their own and the reduction of the project budget. Another hurdle that arises if local partner organizations have different donors is that they have to learn and apply the relevant financial system. There are international efforts to simplify and standardize the budgetary requirements in order to reduce unnecessary burdens on local organisations.

Other problems occur when organisations receive the funds and forward them to local subcontractors or partner organisations. Due to German taxation law, they can be obliged to pay VAT, as redistributing funds is considered as an external service.

Other challenges relate to the collision of different legal provisions. In some countries, labour law demands employers to cover the medical expenses of their employees – an inadmissible financial asset to include in a project proposal's financial planning. Severance payments or bonuses for specific

holidays that are common in some countries may not be included either. Another example relates to project documentation – original documents are required to remain in the countries of both cooperation partners although there is just one set. Pragmatic solutions can be found; in the latter case, for example, some donors are content with signed and stamped copies of documents being kept with the organisation based in their country.

In many countries, political control and interference leads to the problem referred to as ‘shrinking space’. NGO laws can create barriers for NGOs to be formed and to operate, and build bureaucratic hurdles. Even if they are not intended to hamper civil society activities but only to harmonize development plans of the state, local non-state and international actors, mainstream financial resources, protect national security or serve other public interest, they impede international cooperation.

Altogether, local organisations that are willing to implement rule of law projects which would not only help their own countries and populations but also enable Germany and other donor countries to achieve their objectives, such as reducing levels of conflict, stabilising states, combating the sources of flight and migration, etc., are faced with enormous organisational and bureaucratic obstacles. They have to expend much more energy on preparing proposals in the required form and language, accounting and reporting, and complying with multitudes of regulations – although their ideas and proposals may be even more promising and economical than those of foreign or international NGOs.

VI. Political and ethical implications

Collaborating with local implementing organisations and directly or indirectly financing their work goes along with a number of political and ethical implications that need to be considered from the beginning, and throughout the collaboration. Many of these have already been mentioned in the list of selection criteria above. Local implementers and donors should be aware that rule of law promotion is always political, but they have possibilities to clarify their role and they can avoid backing specific groups or movements if this could intensify conflict. In divided societies, they should be able to operate in all parts of the country; rule of law assistance in Iraq, for example, should not be limited to the rather peaceful Kurdish provinces in order to avoid feelings of being disregarded among Arab population groups.

Difficult ethical questions arise when the implementation of measures is associated with particular burdens and risks. Should local actors be deployed to areas that international staff avoids due to increased security risks? How can an appropriate distribution not only of the advantages, but also of the disadvantages and risks of project work be achieved? Another delicate issue is that of salaries and working conditions. Defining an appropriate payment requires careful balancing between the interests of qualified local staff on the one hand, who can select between many attractive offers in competitive job markets, and the public interest of winning over the best-educated national workforce for lower paid jobs in the state institutions and civil society organisations. International standards offer orientation in these and other matters for donors and implementers, such as the Paris Declaration on Aid Effectiveness (2005), the Accra Agenda for Action (2008), the Busan Partnership for Effective Development Cooperation (2011) and the Agenda 2030 (2015). International and national codes of conduct for NGOs can also be helpful when working with local actors. Examples are the INGO

Accountability Charter and the codes of conduct by ACBAR (Afghanistan), Policy Forum (Tanzania), Bocongo (Botswana) and the Lebanese Transparency Association (Lebanon).

VII. Conclusions

Donors, Northern-based as well as local organisations and populations can significantly profit from direct or indirect funding and working with local partner organisations. To this end, however, three main steps must be taken.

First, selection criteria that can be adapted to different contexts are indispensable. Developing them seems not all too difficult; for instance, criteria aimed to prevent corruption and the misuse of power could include checks and balances such as the four eyes principle, shared responsibilities between staff members to prevent concentration of power, secure whistle blowing mechanisms and the provision of initial points of contact and support for survivors of sexual harassment and violence. Importantly, the same criteria should also apply to partner organisations in Global Northern countries in order to avoid creating double standards and to raise awareness of the challenges involved in this process. The reputation of local organisations and their staff can be assessed through talks with reference persons and focus groups. Reviews of reports and accounting systems of past projects help understanding capacities and operational approaches. To find out if an organization promotes the desired values and supports crisis prevention or stabilisation rather than being actively involved in hostilities, these questions can be included in a conflict analysis. In all this, though, Northern partners need to achieve a balance. They need to accept that local partners may follow different traditions and approaches and should avoid trying to create local copies of international NGOs, which could become delinked from local communities. At the same time the red lines of unacceptable behaviour and practices need to be clearly signalled.

Second, in the process of collaboration and self-critical dialogue, continuous monitoring is required. Finding a balance between confidence into local partners on the one hand, and their critical observation can be difficult. Continuous dialogue not only with heads of organisations but also with staff members and/or representatives is a good approach to remaining sensitive for changes within an organisation. Understanding the context is crucial: In patriarchal societies such as Afghanistan the risk of sexual harassment is particularly high; where clan structures prevail, like in Chechnya, corruption and nepotism are more likely to occur. Mechanisms aimed to reduce such risks should be introduced with training on why they are important and how they function in order to build the trust of staff members and others, e.g. training participants, in them. If donors wish to see sustainable outcomes, they should be willing to fund such workshops, trainings and discussions, too, which are actually rule of law promotion measures. The misuse of power and criminal acts cannot be fully excluded but their risks can be reduced. It is also important to remind that staff of Global Northern or international organisations may get involved in all kinds of misbehaviour in when working abroad, too.

Third, bureaucratic hurdles need to be removed. This seems to be the most difficult part. In Germany, for example, provisions of the public funding law can only be changed by parliament and past attempts to achieve this failed. A first step towards an improvement would be listing the recurring problems and searching for solutions with the responsible donor representatives. There is some consensus in Germany that the country needs to shoulder more international responsibility. To do so

effectively it needs to be ready to adapt its rule for the needs of international cooperation. Local implementing organisations would also profit from capacity building measures in areas such as fundraising, context analysis, proposals writing and evaluation methods. Networks between them could provide forums for the exchange of experience. Umbrella associations could promote certain standards and work as a tool for control and even certification of local organizations; donors should support local budget recipients to become members by taking care of membership fees. The involvement of German embassy staff on-site could be enhanced: they could play a crucial role not only in assessing the local context, evaluating potential partner organizations and monitoring project implementation but also in enabling continuous close relationships with local civil society and human rights defenders. Finally, all actors should constantly reflect their own position. Establishing true partnership is far from easy but should always be the aim.

VIII. Contributors

This paper is based on a talk among experts who convened at the German Federal Foreign Office on 23 January 2020 for an open exchange of ideas. On behalf of RSF Hub, Tilmann J. Röder (moderation) and Marie-Thérèse Schreiber participated. RSF Hub is grateful to all scholars and practitioners who participated, but also to all other scholars and practitioners who later contributed to the paper:

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About RSF Hub

RSF Hub is a project-based think tank funded by the German Federal Foreign Office fostering knowledge transfer between politics, academia and field practice in the area of rule of law promotion and related topics such as transitional justice. RSF Hub organises, in collaboration with various partners, expert talks and round tables. Team members teach at universities and train ministry staff, speak at events, contribute to blogs and publish academically. For more information on the Hub's activities see <http://www.fu-berlin.de/rsf-hub>.

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