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## NGOs and corruption in post-war reconstruction

The case of Bosnia's refugee  
return

In this Practice Insight, the author discusses post-war corruption challenges based on the reconstruction effort and return of refugees in Bosnia and Herzegovina. It describes the dilemmas implementing NGOs were facing when confronted with corruption on the ground – dilemmas that are similar to other post-conflict contexts. The paper concludes with a number of recommendations on how donors and NGOs can mitigate the risks of corruption in the implementation of post-war reconstruction efforts.

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## Introduction

The discussion about the impact of corruption on development dates back to the mid- to end 1990s, a time which also saw the development and adoption of major international legal instruments to fight corruption. Since then, corruption (explicit or implicit) has risen to prominence as a thematic area for assistance to beneficiary countries.

An increased focus on corruption in the delivery of international aid, in particular in post-war settings, emerged in 2003, in the immediate aftermath of the interventions in Iraq and Afghanistan. In an initially joint effort, Transparency International and Tiri, supported by UNDP, started comparative work on what could be learned from the international community's post-war reconstruction assistance in the former Yugoslavia, Sierra Leone, and Lebanon.<sup>1</sup> The 2004 Southeast Asian Tsunami prompted, almost simultaneously with the beginning of the relief effort, a debate among the various international and national stakeholders, including humanitarian NGOs, about corruption in the context of the relief effort.<sup>2</sup>

Research on how to address corruption in fragile and post-conflict states continues. Various efforts are underway, for example in the context of the OECD/DAC and at UNDP. While it is early days, this research is raising important questions about the nexus between corruption and conflict, how to break it, and what potential impact donor interventions can have in this context.

However, the issue of corruption in aid agencies and among the entities that implement aid projects continues to be underexplored.

By November 2010, 464 humanitarian NGOs had signed up to the 1994 Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief.<sup>3</sup> One of the key principles of the code is the commitment to accountability—both downward (to the communities in which disaster relief is taking place) and upward (to donors). Additionally, since the early 2000s, a number of big NGOs involved in post-war and post-disaster reconstruction have adopted specific anti-corruption policies - some because donors have put more emphasis on the issue, others due to an acknowledgement that corruption had been a problem in the course of some of their humanitarian interventions. Yet the picture is uneven at best, as many NGOs still do not have such policies in place.

In general, the discussion on NGOs and corruption in the delivery of aid suffers from a lack of empirical information on the circumstances, experiences, and coping strategies of those who implement projects on the ground. This dilemma has been confirmed by a recent benchmark research project on “Preventing Corruption in Humanitarian Assistance” (which also discusses non-humanitarian interventions such as post-conflict housing reconstruction), commissioned by Transparency International and published in 2008.<sup>4</sup>

The report points to the scale of the task ahead in sensitising the NGO community about, and in adopting best practices and lessons learned to counter, corruption in post-disaster and post-conflict field operations. The research found, inter alia, that among staff of the participating agencies, understanding of the non-financial forms of corruption was low, and that institutional guidelines on what to do in the face of corruption were either insufficient or not well known at the field level. As in other organisations, senior-level leadership and management are considered to be a

fundamental requirement for policies to be implemented at all levels, including the field level.

But the authors also urged that humanitarian NGOs discuss corruption and how to deal with it as part of their preparedness for interventions in future emergencies. Many NGOs have delivered aid on behalf of donors for several decades and should have accumulated sufficient internal experience to translate this into organisation-wide policies for staff on how to confront corruption on the ground. Pressure to do so is increasing, not least with an increased demand for transparency and accountability by taxpayers about the use of public money in assistance efforts.

However, as the following case study demonstrates, donors, too, need to be aware of the very real dilemmas NGOs are facing on the ground.

## The context for NGO activities in Bosnia reconstruction

The Dayton Peace Agreement of December 1995 ended the conflict in Bosnia<sup>5</sup> and launched a major international intervention to reconstruct the country, and to return those who had been expelled from their homes. The mandate of the international community in Bosnia was far broader than in many other post-war contexts: By 1997, the High Representative of the International Community had sweeping powers to dismiss any politician who resisted the implementation of the Dayton Peace Agreement and obstructed the return of ethnic minorities. Unlike in other post-war contexts, reconstruction in Bosnia was coordinated by all relevant international aid agencies through the so-called Return and Reconstruction Task Force (RRTF), which applied conditionality to the delivery of reconstruction assistance. The nature of this conditionality was that those municipalities which were seen to comply with the terms of the Peace Agreement by facilitating the return of refugees were awarded reconstruction assistance; where

local politicians were obstructive, no such assistance would be given.

The Bosnia case shows that despite a strong international presence with far-reaching powers to provide the operating framework for reconstruction efforts, NGOs on the ground were still faced with challenges that often left few alternatives other than to engage in corrupt behaviour.

Donors need to be aware of the corruption risks that NGOs face in immediate post-war settings. They should consider in which way they can give political support to NGO contractors during the implementation of reconstruction efforts on their behalf. Rules for NGO staff on how to behave when confronted with corruption should be part of the contracts between NGOs and donors. Laid out as part of a contractual agreement, such rules can provide a crucial reference for NGO field staff to not engage in situations that could lead to corruption.

NGOs should make training of staff on corruption issues an ongoing concern. But they should also consider policies that set out under which circumstances they will walk away from an operation if the pressures to become involved in corrupt behaviour are too strong.

## The environment for corruption

Post-war Bosnia provided fertile ground for corruption. The US General Accounting Office has estimated that between 1996 and 1999, the international community committed more than US \$4 billion to finance civil aspects of the Peace Agreement.<sup>6</sup> However, the Peace Agreement had not removed those who had been in power during the conflict and in many cases had been involved in serious criminal activity. They became the international community's interlocutors in 1996 and 1997.<sup>7</sup>

The combination of a massive inflow of international funding and a political class created by, and in some cases implicated in, the lawlessness of the conflict years created an

environment in which corruption could flourish. Donors and implementing agencies were faced with dilemmas familiar to any post-conflict scenario:

- How to provide relief and reconstruction assistance rapidly, while maintaining appropriate control over disbursement.
- How to procure goods and services in a local market whose normal structures (such as open competition) have been replaced by informal networks, while simultaneously attempting to build new, formal structures.
- How to work with local officials to build ownership without strengthening those who were responsible for the conflict or for continuing problems.
- How to promote the rapid development of market structures and economic activity, while ensuring they developed with a sufficient legal and regulatory basis.

Estimates of the direct losses of international funding through corruption vary. The problem was widely discussed following an August 1999 *New York Times* article that estimated the figure to be as high as US \$1 billion since the beginning of the reconstruction effort in late 1995. The newspaper later conceded that this figure was probably exaggerated.<sup>8</sup> But all individuals working on the ground<sup>9</sup> recognised that there were regular problems with the diversion of international funding. There were also less visible losses to the post-conflict state through, for example, routine tax avoidance or state plunder. This combination of diverted funding and lost state resources seriously hindered reconstruction and the development of formal state structures and undermined attempts to embed the rule of law more widely. International agencies were well aware of these challenges and of the risks of well-intentioned acts proving ineffective or counterproductive. Even with this awareness,

however, the dilemmas were real and often intractable.

## The Return and Reconstruction Task Force (RRTF)

In 1997, the multi-agency Return and Reconstruction Task Force (RRTF) was set up. The RRTF co-ordinated the reconstruction process through a joint effort of all the main agencies of the international community. It complemented the ongoing stabilisation effort by giving targeted recommendations to donors on where to focus their funding. Funds were to be channeled to those municipalities that were seen to comply with the provisions of the Dayton Peace Agreement by facilitating the return of refugees. Vice versa, municipalities that were not seen to comply sufficiently with the DPA did not qualify for international reconstruction assistance.

Officially, the authorities were not against refugee return – an official refusal to accept pre-war citizens back would have led to their sacking by the High Representative. However, returnees-to-be were often scared away by security incidents that were officially described as “spontaneous” expressions of citizen dissatisfaction, beyond the control of local authorities. (For example, already-damaged houses of prospective returnees might be completely destroyed.) Such actions by citizens were rarely punished, sending a further negative signal. Some areas were less hard-line than others, however, and the prospect of substantial amounts of reconstruction assistance, sanctioned through the RRTF, led to more cooperation in some municipalities. These municipalities were then officially declared return areas, and NGOs were invited to bid to implement reconstruction projects in these areas. In 1996, \$230 million was disbursed to about 30 NGOs for reconstruction of houses.<sup>10</sup> In 1998, the overall envelope for reconstruction efforts was estimated at \$520 million, of which housing projects accounted for \$125 million, and local infrastructure projects -

deemed necessary to facilitate returns—for \$180 million.<sup>11</sup>

## Examples of NGO corruption opportunities

In 1998, the RRTF issued a revised “Code of Practice for Reconstruction and Repair” for donors and implementing agencies.<sup>12</sup> This code stipulated the formal requirements that NGOs had to fulfil to participate in the tender process.

As a precondition for the submission of a valid bid for a reconstruction contract, international NGOs were obliged to ascertain that the municipal authorities would “permit” and facilitate the return of the pre-war owner (who was mostly from an ethnic group now in the minority in the area, as a result of the war events and ethnic cleansing) to his/her house. NGOs which were interested in bidding for the contracts were to conclude “tri-partite agreements between the reconstruction agency and [...] the competent municipal authority” and “the pre-war legal right holder, confirming his/her intention to return on completion of the work.”<sup>13</sup>

The documents that were to be obtained, and the checks that were to be carried out by NGOs to ensure the legality of the reconstruction work, took place against the background of substantial resistance of the local authorities to allow returns to their respective municipalities. For example, in autumn 1997, the Peace Implementation Council concluded that although minority returns had started in some areas of Bosnia, comprehensive plans to facilitate returns had not been implemented.<sup>14</sup> Municipal authorities were *de facto* in a position to vet who would be allowed to return and thus, benefit from reconstruction assistance.

This means that international NGOs bidding for reconstruction contracts were caught up in highly politicised processes. It not only tested the principle of political impartiality upheld by most international NGOs, but it also provided opportunities for corruption to occur.

Nationalist, and in many cases criminal,<sup>15</sup> politicians, who had become the key interlocutors for the international community and their principal entry point into local communities, often controlled the local market for goods and services needed to complete construction projects. NGO representatives, under pressure to win contracts, had to forge deals with them in order to stand a chance of winning. This situation presented a number of challenges for NGOs and others desiring steer clear of corruption.

- International NGOs could be made to promise material or immaterial kickbacks to local authorities (e.g., employment of one of their relatives) if they were awarded the contract. NGOs could do little if they wanted to undertake the project.
- Local elites could force international NGOs to sub-contract with cronies at inflated prices by threatening or blackmailing other potential bidders not to participate in the tendering process for sub-contracts.
- As NGOs needed support and even legal permission for reconstruction and return activities from local leaders, these leaders could use this leverage to extract commitments from the NGO to undertake a “balancing” project of their choice, in return for their support. Thus, as well as repairing returnee houses, NGOs could be coerced into, for example, improving local roads or even assisting local businesses. This caused longer-term harm: NGOs were legitimising local leaders, many of whom had a criminal past, by closely working with them. Further, by forging dodgy deals with local leaders, NGOs undermined the credibility of the peace agreement which guaranteed the unconditional right to return of pre-war inhabitants. At the same time, they undermined local populations’ trust in civil society, as the NGOs were seen to snug up to those local leaders.

- In some cases the “balancing” projects were not even of any specific value for the wider community. For example, the road to be repaired might be the one leading to a local leader’s weekend house in the countryside.
- Local leaders and NGO staff often met to discuss projects in very informal settings, such as restaurants, and NGO representatives were often expected to cover the expenses associated with this.
- As bidding NGOs knew that winning a tender was preconditioned on a positive recommendation by the Return and Reconstruction Task Force, NGO representatives tried in various ways to influence RRTF staff on the ground, for example by inviting them to dinners and offering gifts. RRTF officers were not sensitised to these issues (there was, for example, no code of conduct for staff) and therefore could appear to be influenced, even if in reality, the structure of the RRTF was such that funding decisions were not made by field staff.
- The case of Bosnia demonstrates that NGOs in the reconstruction effort faced situations in which they had to test their principal of political neutrality on a day-to-day basis. *De facto*, the highly political issue of minority returns was, at the very local level, as well as at the very individual level of every returnee-to-be, left to be brokered by technical managers of non-political NGOs. This was not something they were equipped to do, nor should it have been their task. Real political power was with the RRTF, and its task should have been to genuinely pave the political ground for returns to happen. But despite having a relatively strong field presence, it is difficult to say what else could have been done other than increase the RRTF senior-level presence in the return areas to provide the political framework for NGOs to do reconstruction work. Clearly, the RRTF did not sufficiently acknowledge, nor discuss, the dilemmas facing NGOs on the ground.<sup>16</sup>
- The question is also why NGOs were willing to participate in this setting, and we might need to consider more closely the implications of the perverse incentives to which NGOs are subject in contexts such as Bosnia. Despite setting out to offer relief and reconstruction to populations in need, the amount of funding in Bosnia were such that NGO staff often seemed willing to engage in corruption in order to get contracts, thereby also doing harm to the local community by working with discredited leaders and strengthening their power, and by undermining the moral pledge of the reconstruction effort.<sup>17</sup>
- Corruption involving NGO representatives appears to have occurred for the benefit of the NGO being awarded the reconstruction contract, not the individual member of staff. Even now, the majority of NGOs do not have rules of conduct to guide staff on how to deal with instances of corruption (nor did most of the international or donor agencies).

These examples reflect widespread experience during the height of the reconstruction effort (1997 to 2000). But they have not been systematically recorded—the global corruption debate was not at the stage that it is now, and adequate policies to sensitise field staff to corruption risks were not in place.

## Dilemmas

This section does not consider the relative merits of the RRTF: it is now widely held that it was a success, and that without the RRTF, a breakthrough in minority returns in Bosnia would not have happened. Rather, the following discusses the dilemmas with regards to corruption faced by implementing NGOs despite a framework for conditionality set by the RRTF on the disbursement of aid money.

Certainly, the NGOs that had such rules would have been at a comparative disadvantage to competing NGOs. It is difficult to say whether headquarters of NGOs knew about staff on the ground being forced to make concessions to local leaders, and what advice was given as a result.

- The above examples of opportunities for corruption underline the importance of ensuring that staff has good local knowledge. An international NGO representative arriving in a locality is entirely dependent on the willingness of the local authorities to cooperate, and often, alternative sources of information are not necessarily available, or more trustworthy. NGO representatives in Bosnia might sometimes have been guilty of naivety rather than ill intent.

## Advice

The case of Bosnia is in many ways unique. However, a number of recommendations can be made to donors and NGOs that are applicable to other post-conflict contexts:

- Rules and guidelines on corruption for NGOs implementing reconstruction assistance should be well publicised, in particular at the local level where NGOs are delivering assistance. Such rules will help NGOs to protect themselves against attempts at involving them in corrupt behaviour. They will also send a strong signal to the local population on the standards the organisations must follow. Rules and guidelines should also provide a reference framework for NGOs to consider if they want to withdraw from implementing a contract.
- In the case of Bosnia, the behaviour of international NGOs had knock-on effects on the development of the local NGO sector, with the NGOs being seen as close to the local elites and as serving their own interests rather than those of the local population. So, NGOs should be aware that their behaviour has

relevance for bigger, medium-and long-term development issues. The “do no harm” principle has to be the guiding operational principle for NGOs.

- Donors should be aware of the realities facing NGOs on the ground, in particular the fact that NGOs often find themselves embroiled in issues that go beyond their mandate of implementing reconstruction projects. NGO representatives should not be made to lead political negotiations with local leaders; donors should recognise this need and be prepared to assist should implementation be hindered because of political issues.
- In the case of Bosnia, local and regional RRTF meetings were regularly held. These meetings did not address corruption, nor give advice to NGOs working on reconstruction regarding how to react in the face of authorities directly or indirectly soliciting a bribe or other advantage. This is likely to be a sensitive issue, and even more so as concerns about corruption have only increased since the period of the Bosnia reconstruction effort. Thus it is even more difficult for participants to admit that they face situations in which they might be or become part of a corrupt deal. However, if rules for the discussion are set in a way that they respect confidentiality, such a forum might also forge a common response by international players vis-à-vis corrupt politicians at the local level.

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<sup>1</sup> See, for example, Transparency International Global Corruption Report 2005, with a special focus on Corruption in Construction and Post-conflict Reconstruction, downloadable from [http://www.transparency.org/publications/gcr/gcr\\_2005](http://www.transparency.org/publications/gcr/gcr_2005). Tiri has carried out a multi-year, multi-country research project on Integrity after War, the results of which can be found at the organisation's website at [http://www.tiri.org/index.php?option=com\\_content&task=view&id=155&Itemid](http://www.tiri.org/index.php?option=com_content&task=view&id=155&Itemid)

<sup>2</sup> See, for example, Curbing Corruption in Tsunami Relief Operations (2005) at <http://www.u4.no/pdf/?file=/document/literature/adb-ti-2005-curbng-corruption-tsunami-relief-operations.pdf>

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<sup>3</sup> The Code can be found at <http://www.ifrc.org/publicat/conduct/index.asp>, and the full list of signatories at [http://www.ifrc.org/Docs/pubs/disasters/codeconduct\\_signatories.pdf](http://www.ifrc.org/Docs/pubs/disasters/codeconduct_signatories.pdf).

<sup>4</sup> Maxwell, D et al. (2008), Preventing Corruption in Humanitarian Assistance – Final Research Report, at <http://www.humanitarianoutcomes.org/pdf/Preventingcorruptioninhumanitarianassistance.pdf>.

<sup>5</sup> 'Bosnia' is used as shorthand for Bosnia and Herzegovina throughout the text.

<sup>6</sup> See the 'Crime and Corruption Threaten the Successful Implementation of the Dayton Peace Agreement', Statement of Harold J. Johnson, Associate Director, International Relations and Trade Issues, National Security and International Affairs Division, General Accounting Office; testimony before the House of Representatives Committee on International Relations, 19 July 2000. <http://www.gao.gov/archive/2000/ns00219t.pdf>

<sup>7</sup> Only at the end of 1997 did the High Representative receive an extended mandate that allowed him to remove from power those politicians and public officials who were obstructing the implementation of the Dayton Peace Accords.

<sup>8</sup> Chris Hedges, 'Leaders in Bosnia Are Said to Steal Up to \$1 Billion', *The New York Times*, 17 August 1999, at <http://www.nytimes.com/1999/08/17/world/leaders-in-bosnia-are-said-to-steal-up-to-1-billion.html?pagewanted=1>.

<sup>9</sup> Such as the author.

<sup>10</sup> See OHR RRTF Report April 1997 at [http://www.ohr.int/ohr-dept/rrtf/key-docs/reports/default.asp?content\\_id=5578](http://www.ohr.int/ohr-dept/rrtf/key-docs/reports/default.asp?content_id=5578).

<sup>11</sup> See RRTF Report March 1998 at [http://www.ohr.int/ohr-dept/rrtf/key-docs/reports/default.asp?content\\_id=5613](http://www.ohr.int/ohr-dept/rrtf/key-docs/reports/default.asp?content_id=5613).

<sup>12</sup> See OHR Bulletin 75, 25 September 1998, at [http://www.ohr.int/ohr-dept/preso/chronology/bulletins/default.asp?content\\_id=5002](http://www.ohr.int/ohr-dept/preso/chronology/bulletins/default.asp?content_id=5002).

<sup>13</sup> See Code of Practice for Reconstruction and Repair, September 1998, at [http://www.ohr.int/print/?content\\_id=5567](http://www.ohr.int/print/?content_id=5567).

<sup>14</sup> See PIC—Summary of Bonn Conclusions, at [http://www.ohr.int/pic/default.asp?content\\_id=5183](http://www.ohr.int/pic/default.asp?content_id=5183).

<sup>15</sup> See a number of examples of local politicians indicted and sentenced by the International War Crimes Tribunal in V. Devine: Corruption and Post-war Reconstruction – The Case of Bosnia-Herzegovina, at <http://www.tiri.org/images/stories/NIR%20Documents/PWR%20Bosnia&Herz%20Devine.pdf>.

<sup>16</sup> Although the RRTF had offices throughout the country, the field offices were often staffed with junior staff who were comparatively inexperienced and therefore, not often a counterweight to the political leadership of the respective community.

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<sup>17</sup> This dilemma has been discussed, including on the example of post-war Bosnia, in Mary B. Anderson: Do No Harm. Supporting Local Capacities for Peace through Aid, Collaborative for Development Action, Local Capacities for Peace Project, Cambridge MA, 1996. Anderson discusses 'implicit ethical messages' delivered by the international aid community, including 'bestowing legitimacy on warriors' and 'undermining peace-time values' (pp. 17).



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