

WORKING DRAFT

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**INFORMATION TECHNOLOGY AND THE ENABLING
ENVIRONMENT FOR CIVIL SOCIETY**

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Information Technology and the Enabling Environment for Civil Society

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I. INTRODUCTION

This paper describes how Information Technology – in particular the use of the Internet and email -- can provide NGO leaders, government officials, practitioners, and academics the practical resources necessary to engage in cooperative and comparative processes to create a better legal enabling environment for civil society. Using Information Technology (IT) to make information freely available and to facilitate exchange provides opportunities for significant knowledge transfers and comparative interchange. We examine how the International Center for Not-for-Profit Law's (ICNL) Internet-based programs allow people and organizations of various sizes, coming from different geographic locations, ideologies, and cultural backgrounds to mutually benefit from diverse points of view about these issues. It is our hope that through our work we assist them in transcending differences to acknowledge and protect the universally important freedoms of speech and association that are so vital to civil society.

The first section of this paper provides organizational information about ICNL -- its history, mission, and the methods used to carry out the mission. The second section discusses ICNL's web presence, including the features of the organization's home page, its web-based publications, and the "ICNL Network Sites." The final section concludes that although there is room for improvement in ICNL's use of IT, this technology has proven to be a valuable capacity building tool in initiatives aimed at establishing an enabling environment for not-for-profit organizations. Improving and expanding ICNL's

own efforts to make use of the technology will, in the long run, create a fully transparent and sustainable resource that is an important part of the infrastructure for the survival of civil society.

II. THE INTERNATIONAL CENTER FOR NOT-PROFIT-LAW: ORGANIZATIONAL BACKGROUND

A. History of ICNL

The International Center for Not-for-Profit Law was founded in 1992 by Leon Irish and Karla Simon. Since its inception, the organization's mission has been to facilitate and support the development of civil society on a global basis by assisting the creation and improvement of laws, regulatory, and self-regulatory mechanisms that permit, encourage, and regulate the not-for-profit sector in countries around the world. ICNL's creation reflected a perception among persons in various parts of the world that there was an important role to be played by an institution devoted to creating a better legal and fiscal enabling environment for nongovernmental organizations (NGOs), community-based organizations, and other not-for-profit organizations of civil society. Before that time, there was only slight awareness that the laws governing NGOs in emerging democracies and transition economies of the "East Bloc," as well as in developing countries in Africa, Asia, and Latin America, could and should be changed. Beginning in the early 1990's lawyers became increasingly convinced that changing the legal environment for NGOs would to promote greater freedom of action for them and would enhance their capacity to fulfill much-needed roles in social and economic development.

In the years following its creation, ICNL has grown from a two-person, all-volunteer organization with a few local projects funded by private donors, to a sustainable institution with 35 full- and part-time lawyers, offices on four continents, a major Internet presence, and projects all over the world. As ICNL has evolved, so too has its use of IT.

B. Methods Used by ICNL to Carry Out its Mission

1. In-person Technical Assistance and Training

In furtherance of its mission, ICNL -- in cooperation with other international, national, and local organizations -- provides technical assistance to various governmental and nongovernmental actors. It has done this since 1993. The assistance provided by ICNL includes legislative drafting activities, implementation assistance, NGO capacity building, legal education, work on codes of ethics and other mechanisms of self-regulation, and regional networking. Technical assistance and educational projects coordinated by ICNL use ICNL core legal staff from each of its regional and local offices (at least half of whom are not Americans) as well as lawyers and other experts who work as consultants and others who volunteer their time. ICNL provides materials and training, in-country support, and follow-through. To the extent possible, legal assistance teams that ICNL sponsors are international in make-up in order to reflect perspectives from civil law, common law, and other legal traditions.

2. Information Sharing through IT

In addition to providing direct technical assistance, ICNL makes a very large amount of information related to the legal framework affecting the not-for-profit sector

available to the public through its web sites. Beginning in 1992 ICNL began to develop an IT capacity, which became concentrated in the 1997 launch of the ICNL website. At the present time, that site and the services it hosts (ICNL's "On-Line Library" and Database, its on-line publications, and Discussion Forums) include laws, reports, substantive papers, and news articles for public use. Further similar information is available on the Network Sites. The materials provided have come from governments, partner organizations and individuals, as well as from the ICNL staff. Rather than presenting a rigid perspective or philosophy regarding not-for-profit law, it has been our goal, especially through our on-line discussion groups and the *International Journal of Not-for-Profit Law (IJNL)*, to encourage and present a wide spectrum of opinions, reflecting the diversity of perspectives on this important legal specialty.

C. 'Human-ware'¹: People make ICNL work.

Human capital is clearly ICNL's greatest asset. We could not provide the information available on our web sites without the contributions of our numerous local partners -- the Regional Coordinating Editors of *IJNL*, managers of regional network sites such as MLTS.org, in-country consultants, and individuals contributing to our online discussions. The information flow through the ICNL web sites is not a one-way street -- generally speaking, local experts pass information along to us via email, "snail-mail," or electronic bulletin board postings, which we then repackage and broadcast to the public at large. Modern computing technologies, such as email and the Internet, are uniquely suited for the collection and dissemination of information on the international level.

¹ See Ty dePass, *Developing a Presence on the 'Net: An Interview with Michael Stein*, Nonprofit Quarterly (August 2000), p. 33.

III. ICNL'S WEB PRESENCE

A. The Web Site

The gateway to ICNL's Internet services and publications is its award winning web site – www.icnl.org. Created in 1997 with 12 published pages, it has now grown to over 700 pages. In its four years of existence, visitor hits have increased from roughly 2000 a month in 1997 to over 66,000 a month in 2000. Through the site, people have become aware not only of ICNL as an organization, but also, more importantly, of what ICNL has to offer. The site provides ready access to a portion of ICNL's library of materials and considerable information about what is not available online. In addition, it is a gateway to a wealth of other services, including Virtual Symposiums, Discussion Groups, Publications and ICNL network sites.

1. The "On-line Library" and Database

In 1996, ICNL was in possession of an extensive collection of laws affecting not-for-profit civil society organizations and relevant tax and other related legislation from countries all over the world. This collection, which is now comprised of documents from over 160 countries, more than 2500 documents in all, is unique – no comparable resource exists anywhere in the world.

The documents have been collected in connection with the global standards projects that ICNL has undertaken with various partners (the World Bank and CIVICUS), and through regional and local projects funded by USAID, the Aga Khan Foundation, GTZ, the Soros Foundations/Open Society Institute, UNDP, the Asian Development

Bank, and the Inter-American Development Bank, among others. Unfortunately, the information ICNL had collected in 1996 was not sufficiently accessible to potential users. It was not catalogued properly and was not readily searchable. Review of the material in the collection required a visit to the ICNL offices.

In order to address these problems, ICNL requested funding from the Rockefeller Brothers Fund and the Charles Stewart Mott Foundation to create a database and online library, which would be accessible to anyone anywhere via the World Wide Web. ICNL also planned to produce publications that would provide up-to-date information about emerging issues of NGO law on a quarterly basis. From the outset this was seen as an important “civil society” project – its aim being to improve the enabling environment for the freedom of association and civil society around the world. But unlike other ICNL projects, which focus on technical assistance, education, and training, this has in many ways been a pioneer project and very innovative in its use of modern information technology. As such, it was and is a project whose various dimensions (financial, staffing, time lines, etc.) have been exceedingly difficult to predict.

Managing the on-line database was the most difficult part of the implementation of the new project. ICNL developed the following protocol:

- As new legal documents (laws, regulations, etc.) were received by ICNL, they were catalogued and filed in a database. The database is organized by country, then by

document type, language and finally dates of publication.

- The documents were then digitized using scanners and sophisticated conversion software to prepare them for the web site. The same has been true of other relevant documents, such as NGO codes of conduct, analytical papers, country reports, etc.
- In addition, translators were hired to translate documents and laws that ICNL has received in order to make them more accessible across the globe.

The design of a user-friendly “On-Line Library” on the web site was the second point of emphasis for our implementation. In the “On-Line Library,” visitors can browse the catalogue, search the database, and download documents available in digital form. A “Help” section and a “Glossary” for often-used acronyms have been added to aid the search process for the users. We have outsourced the digitizing of the documents, which has freed more time for our staff to work on managing the database and designing a more user-friendly on-line resource.

We have also redesigned the database search engine to allow easier searches by both country and language. Not only does this new database design make our management easier, it also makes searches faster and more reliable. The present “On-line Library” represents the most comprehensive collection of pertinent NGO laws and reports available in digital form. And it is growing all the time! Everyone -- from foundations and their grantees, to lawmakers and scholars, to civil society professionals

at development banks -- is now able to use this database to find needed information about NGO laws and related matters from all over the globe.

Because the catalogue is available online but many documents are not, we have received numerous document requests since the catalogue has been operational. These are requests that we must often respond to by photocopying and mailing (for a fee and a mailing charge) documents that have not yet been digitized. Our aim is to make almost the entire database and documentation center accessible online, but that remains to be accomplished over time.

2. Research Compendia

In addition to laws and reports, ICNL has collected many papers and articles written by scholars from all over the globe. In order to organize these papers, ICNL has divided them into different topics in a new service we call Research Compendia. The Research Compendia provide visitors to a particular paper in a particular subject matter area with links to other papers on the same or similar topic on ICNL's site as well as to other sites on the web.

For example, visitors looking for the European Court of Human Rights decision in Sidiropolous and Others vs. Greece (regarding the freedom of association) will see a list of links to other cases cited and decided since Sidiropolous, as well as to scholarly papers analyzing the decision. Though the Research Compendia section of the site is still

being organized, it will provide a well-organized service for those who are interested in capacity building and knowledge dissemination in the field of NGO law reform.

3. News Wire Service

The dissemination of information is a problem that has always plagued small not-for-profit organizations – and ICNL is no different. Even with the advent of our publications (explained below), we are still struggling with the issue of how to best inform our various constituencies about newsworthy developments in NGO law throughout the world.

One example is our work in Kosovo. ICNL was instrumental in passing NGO legislation in Kosovo, and news of the legislation spread quickly. We didn't want simply to add the legislation to the database and let users go searching for it (US grantmakers, for example, wanted to know the extent to which the legislation would help them to meet Internal Revenue Service requirements prior to making grants to Kosovar NGO's). We announced on the front page of our web site that Kosovo had passed new legislation and provided a link to the new legislation in both Albanian and English. The response was overwhelmingly positive, and this type of posting led to a new section on our site called Recent Developments.

The Recent Developments section allows ICNL to announce many different types of information – ranging from news items about NGO law in a specific country to press releases about ICNL staff changes. Highlighting particular developments on the front

page serves our users in numerous ways. First, it's timely. Our *Journal* comes out quarterly, but the recent development posts are immediate. Second, it helps those who are most interested in the developments find the information they need more quickly. Lastly, it allows ICNL to spread the word about what is happening in NGO law around the world in a more inexpensive manner (as opposed to mass-mailing, for example). We need to make this service more effective, both as the gathering of news and information and as to its dissemination. Presently too few people are aware of the service, and that needs to be rectified.

4. Publications

a. International Journal of Not-for-Profit Law (IJNL)

The *International Journal of Not-for-Profit Law* developed as a natural complement to ICNL's database. The first issue of *IJNL* was published on-line in September 1998 as a "service and resource for the international community of not-for-profit, nongovernmental organization (NGO) leaders, civil society funders, lawyers working in the field of NGO law, legislators and other drafters working on new legislation affecting NGOs, academics and other researchers working on NGO issues, and other [interested] persons." (See General Editor's note, *IJNL* Vol. 1, Issue 1).

Published quarterly, *IJNL* includes up-to-date reports by local partners and ICNL local and regional staff about laws, regulations, and court decisions affecting NGOs, fiscal developments, international, corporate, and community philanthropy, self-regulation, and other aspects of the enabling environment for NGOs around the world.

Currently in its third volume, *IJNL* is available free on-line and hard copy issues are available for *IJNL* Volume 1, Issues 1 and 2.

The *International Journal for Not-for-Profit Law* is truly a virtual publication. It benefits in no small part from its international network of Regional Coordinating Editors (RCEs) and Editorial Board members. These individuals are academics and practitioners, knowledgeable in the subject of not-for-profit law in their region, who serve on a voluntary basis. The RCEs are of special importance to the *Journal*. Their job is to, simply put, serve as the ICNL staff's "eyes and ears" on developments in not-for-profit law in the region for which they serve. A responsive and informed group of RCEs is essential to the success of *IJNL*. With this fact firmly in mind, we are currently in the process of reforming the structure of the RCE network -- enlarging the number of RCEs from 10 to 20. In addition, recognizing that we have asked a group of busy professionals to assist us without remuneration, we are creating a special website for the use of the RCEs. This site will be password-protected and contain research tools and links to web sites of interest. In addition, the site will contain contact information so that the RCEs may more effectively fulfill their duties; information about upcoming issues of *IJNL*, so RCEs may easily track its progress; and an electronic discussion board, which the RCEs may use to discuss issues of relevance to *IJNL*. We expect that the RCE web page will be an effective team-building tool.

Readership of *IJNL* is increasingly international. Forty-one different countries have been represented in the "Most Active Countries" section of our web statistics

tracking software since we began using it.² English speaking countries such as the US, Canada, the UK and Australia are almost always represented among the five top countries of origin of visitors to our site for a given period. Perhaps this is to be expected, given that the majority of our website, including most of *IJNL* is in the English language. However, the number of downloads for certain non-English language texts has been increasing in recent months. More non-English language texts will be included in future issues of *IJNL*. These texts and the increased development of the regional Network Sites should attract more international visitors to our web site and to *IJNL*.

We have not aggressively marketed *IJNL*. Currently, the table of contents and letter from the editors is sent via email to approximately 700 recipients upon publication of an issue of *IJNL*. The recipients of this email may pass the information to whomever they wish, so the exact number of individuals who ultimately receive the message is unknown. The text of the email contains information referring the recipient to the ICNL web page, where the reader has access to the issue in its entirety. In addition, several web sites link to *IJNL* as a resource for their visitors. In the future we will make better use of list serves and other such vehicles to announce the publication of *IJNL* as well as to issue calls for papers and other related information.

Publication of *IJNL* is a relatively inexpensive way for ICNL to share information with a wide group of people on a regular basis. Meeting the challenge of coordinating and

² The actual number of countries with visitors may be greater, as the software is not able to identify the origin of a number of visitors to the web site.

channeling the human capital, the “human-ware” that makes *IJNL* possible, is at least as difficult as securing sufficient funding for the *Journal*.

b. International Reporter of Not-for-Profit Law (IRNL)

ICNL publishes Country Reports on various countries as a free on-line service. These reports, which are written by local partners, provide an in-depth analysis of the laws affecting NGOs in particular countries, with internal links to the laws that are available digitally in ICNL’s On-line Library. ICNL established a Country Report template so that readers have access to a uniform system of information about the various countries. ICNL has re-examined and reinvigorated its effort to commission Country Reports for the IRNL Project. This Project dovetails perfectly with the USIG Project (see below), providing general background information about the legal framework affecting not-for-profit organizations in a given country from which to extract information of specific concern to US grantmakers for inclusion in a USIG Country Note.

ICNL has entered into agreements with local partners in India, Israel, China, and Poland, and we are currently in negotiations with authors in Russia, Ireland, and South Africa. We will add the new and updated Country Reports to the seven Country Reports currently on-line as they are available. Our goal is to publish approximately 30 reports by June 2002. Because of the exhaustive nature of each report, publication of *IRNL* Country Reports is a bit more expensive and labor intensive than producing other publications. In addition, ICNL staff must monitor for changes in the laws of the countries reported upon,

so the Country Reports may be kept up to date. These reports are of value to anyone interested in the legal framework affecting not-for-profit laws.

5. Online Discussion Forums

Perhaps ICNL's strongest use of the Internet as a capacity building tool in NGO law reform has been through its Discussion Forums. ICNL originally had a real-time chat room, but it was seldom used. We began to realize that with the global reach of ICNL, time differences hampered the use of real-time chat rooms. In our search for a replacement, we discovered that a bulletin board type service allows participants in all time zones to follow and participate in discussions ranging from actual law reform projects to topics of broader interest in the NGO community.

Our first attempt at a Discussion Forum was an overwhelming success. ICNL was contacted by an NGO in Belize that was concerned about proposals the Belizean Parliament was making for a new NGO Bill. They had little money and little time. We steered them to materials available on our web site, but realized this wasn't enough. We decided to try an on-line discussion forum, inviting not only Belizean NGO leaders and Parliamentarians, but also interested attorneys, academics, and NGO leaders from Commonwealth countries around the world to participate.

The forum was held for nearly three months and resulted in both a meeting between Parliamentarians and NGO leaders and a delay in passing the original bill so that the Parliamentary committee could consider the changes proposed in the discussion

group. Over 15 people participated in the discussion, which consisted of over 30 different posts. Participants were from Belize, the United Kingdom, Africa, Australia, Canada, the United States and various Caribbean countries.

Our second attempt at a Discussion Forum was not as successful, but was much more innovative. We hosted a Discussion Forum for proposed changes to the NGO law in the Dominican Republic. The Forum was conducted in 3 different languages – Spanish, Portuguese and English -- depending on the user's chosen language. Though the posts were all written in the user's chosen language, links to free Internet translation services kept all users involved in the discussion regardless of language differences. It was the first multi-language Discussion Forum of its kind that we are aware of.

Discussion Forums are now being conducted on ICNL's main site as well as on our Network Sites, which are described in the next section. The Discussion Forums are automated via third party software and are moderated by members of ICNL's global network. We need to expand their effectiveness as a technical assistance tool.

B. The Network Sites

New potential for use of the Internet as a capacity building tool in NGO law reform lies in the creation of ICNL Network Sites. From sites that enable grantmakers to more easily make international grants to sites that bring NGO law instructors together, the expansion of the IT capacity of ICNL has led to better access to information,

including information in other languages.

1. United States International Grantmaking (USIG.org)

United States International Grantmaking (www.usig.org) is a site developed by the U.S. Council on Foundations, in cooperation with ICNL. It is designed to facilitate international grantmaking by providing access to recommended forms for compliance with US law, as well as with instructions for use of those forms. Specialized country reports, written by ICNL, provide information that can assist grantmakers to ascertain the legal rules applicable to proposed and existing grants. The reports provide links to the laws and other legal materials in ICNL's "Online Library." The site includes other informational materials and in-country resources, which have been supplied by the Council.

The USIG website serves both grantmakers and grantseekers, highlighting pertinent US laws and regulations, outlining the options available for different types of foundations, and providing useful forms along with instructions. In addition, the site offers information about the legal framework for grantmaking in specific countries. Country notes are currently available for Mexico, Brazil, South Africa and Hungary. The India, Israel, China, Argentina and Russia will be added soon, with 22 more reports to be included by June 2002.

The USIG website is a 'work in progress', with information continually being updated and expanded. Since May 2001, when the site was demonstrated at the

Council's annual conference in Los Angeles, feedback has been encouraging. The Firelight Foundation, for example, emailed, "Thank you so much for this website. As a family foundation committed to helping children affected by HIV/AIDS in sub-Saharan Africa, we have found it most helpful."

2. Marco Legal Del Tercer Sector (MLTS.org)

MLTS is the first of many specialized sites established for particular regions of the world. MLTS is dedicated to legal reform in Latin America and is accessible in three languages – Spanish, Portuguese and English. It has been used to discuss proposed legislation for the Dominican Republic and will soon be available for discussion of other legal issues relevant to NGOs in the region. The MLTS network was developed by Latin American jurists and attorneys experienced in the legal issues concerning the Third Sector, with the support of ICNL. The moderators of the site are legal experts native to the region.

The purpose of the MLTS network site is to promote the exchange of information and opinions for the elaboration of alternatives and the presentation of solutions for the development of Third Sector legislation in Latin America and the Caribbean. It is conceived as an electronic portal to bring together information provided by a network of professionals and organizations interested in the development of civil society and the improvement of the legal framework for the Third Sector in the region.

The MLTS.org website has as its principal objectives:

- Offering an easily accessible database of legal resource materials and articles about the Third Sector in Latin America and the Caribbean.
- Providing virtual forums on themes related to Third Sector legislation.
- Providing links to other sites that contain material about the legal framework for the Third Sector in Latin America and the Caribbean.
- Promoting and organizing seminars, congresses and workshops regarding themes that are relevant to the Third Sector in the region.

The success of MLTS has encouraged ICNL to explore the possibility of more regional sites. In Africa, for example, a regional site is being developed to accomplish similar goals – Civil Society/State Relations for Africa (CSSRA.org). It will be unveiled in mid-February 2001.

3. Central and Eastern Europe Educational Initiative (NGOLAW.org)

ICNL has launched an “Educational Initiative for Central and Eastern Europe” (EI-CEE), which is designed to bring together teachers of NGO law at universities and other institutions of higher learning in Central and Eastern Europe. The EI-CEE is aimed at encouraging a network of teachers who are teaching or would like to teach courses on the laws affecting NGOs at universities and other institutions of higher learning in the region (including teachers of traditional law courses and clinical law courses).

Introducing courses in NGO law at universities in the region is of crucial importance for the support of this new legal specialty. The need for a new specialty in NGO law has developed with the growth of NGOs in the region and the struggle to create

a favorable legal environment for the NGO sector. By supporting the introduction of NGO law courses throughout the region and by encouraging the network of teachers who are presently involved in teaching such courses as well as those to hope to do so, the EI-CEE can help to assist the training of more lawyers who can address legal issues affecting NGOs in the region.

The Web site brings this network together online. It contains:

- A chart of NGO Law courses that lists law and related courses taught at universities and other institutions of higher learning in the region.
- Course information and syllabi including course outlines and syllabi for the various courses, organized by subject matter.
- Courses taught outside the university setting for example, continuing education courses, courses at judicial training institutes, etc.
- Articles of interest by professors about law teaching or about other matters affecting NGO law and NGO law courses.
- Country laws and reports via access to the database of laws and other legal documents found on ICNL's site.
- Message / Bulletin Boards on matters of concern for teachers of NGO law.

Thus the site is an important aspect of the EI-CEE, and can be linked to other sites that encourage similar educational efforts. As the interest in comparative NGO law teaching develops around the world, ICNL intends to create similar educational network

sites for other regions. In addition, plans are underway to create a distance-learning program where a comparative NGO law course can be taught via the Internet.

IV. CONCLUSION

ICNL embraces Information Technology as a valuable tool to provide NGO leaders, government officials, practitioners, and academics the resources necessary to engage in cooperative and comparative processes to create a better legal enabling environment for civil society. Whether through the “On-line Library”, our publications, Discussion Forums, or the Network Sites, ICNL reaches a global audience in an efficient and cost effective manner. ICNL’s experiences indicate that IT, most notably the use of the Internet, can be used as a powerful capacity building tool in law reform aimed at establishing an enabling environment for not-for-profit organizations. There is surely room for improvement and expansion of what we can do with IT, and we hope to learn from our experiences to enhance the use of technology to improve the legal framework for civil society around the world.