

PROJECT REPORT
EXTENDING THE CARIBBEAN PHILANTHROPY LAW INITIATIVE
TO THE BRITISH VIRGIN ISLANDS AND THE FEDERATION OF ST. KITTS AND NEVIS

Report Prepared For:

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St. Thomas, U.S. Virgin Islands

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INTRODUCTION

With its publication in May of 2010 of *Philanthropy, Civil Society, and Law in the Caribbean: A Preliminary Overview of the Legal Framework Supporting Philanthropy and the Nonprofit Sector in the Insular Caribbean*, the Caribbean Philanthropy Network (CPN) provided the first analysis of philanthropy law in the English-speaking islands of the Caribbean. The study provided a series of preliminary recommendations aimed at strengthening the legal framework that supports philanthropy and civil society in the region, and presented three case studies that examined philanthropy law and civil society in three Caribbean island states.

Following a May 2010 CPN Symposium, the CPN's Legal and Regulatory Committee¹, which had produced the regional overview study on philanthropy law, approached the Community Foundation of the Virgin Islands to pursue a follow-up assessment of philanthropy law in one of the three case study countries featured in *Philanthropy, Civil Society, and Law in the Caribbean*, namely, the Federation of St. Kitts and Nevis. Additionally, the Territory of the British Virgin Islands (BVI) was selected for more targeted review and assessment of that country's nonprofit sector law.

The CFVI concurred, and a grant was made to Island Resources Foundation to provide expenditure responsibility and management oversight for the subsequent, short-term project that commenced in September of 2010.

The extant framework for philanthropy law in each of the two targeted countries—St. Kitts and Nevis and the British Virgin Islands—exhibits distinctive characteristics that are easily applicable to other Caribbean islands; additionally, an analysis of each provides a variety of “lessons learned” and/or promising formats for nonprofit law initiatives elsewhere in the region. For example,

- The recently enacted NGO Act (2008) in St. Kitts and Nevis offers the region a legislative model that is more in conformity with current international standards for the NGO sector than most nonprofit legislation in the region, in particular, the Act's provision for a NGO Commission that is fairly uncommon in the Caribbean; equally unusual for the region is a provision that provides for a NGO Code of Good Conduct.
- Conversely, the legal framework for charity law in the BVI is outdated, lacks consistency and uniformity, and provides little evidence of a structure of accountability, transparency, or good governance for the NGO sector. Yet, external pressures are now compelling this British overseas territory to address the issue of law reform to regulate the charity/NGO sector—and to address this issue sooner rather than later.

¹ The CPN's Legal and Regulatory Committee initially comprised **Judith A. Towle**, Vice President of Island Resources Foundation, and **William S. Moody**, Distinguished Fellow of the Rockefeller Brothers Fund; both are members of the CPN Advisory Board. Towle and Moody were later joined for the follow-up phase of the philanthropy law project by **Dr. Michael E. O'Neal**, a resident of the British Virgin Islands and Senior Research Fellow of Island Resources Foundation; Dr. O'Neal is also a member of the CPN Advisory Board.

In providing a scope of work for the follow-up project, the CPN's Legal and Regulatory Reform Committee proposed to address two of the "next steps" for strengthening philanthropy law as identified in its 2010 philanthropy law study, specifically:

- 1) *To provide support for initiatives to update or replace existing laws in order to address weaknesses in extant legislation and to provide conformity with current international standards.* (pp. 32-33)
- 2) *To support initiatives that offer promise for strengthening oversight of the nonprofit sector, applying good governance standards to the sector, and ensuring accountability by the sector.* (pp. 33-35)

By focusing on these two recommendations from the law study, the project team (Judith Towle, William Moody, and Michael O'Neal) proposed the following tasks:

- Task 1** Assess the current legal environment affecting civil society and philanthropy law in both countries.
- Task 2** Engage with and enlist the support of the legal, NGO, business, government, and donor sectors in both countries for the purpose of strengthening the legislative and regulatory framework for philanthropy.
- Task 3** Explore how to increase understanding about the role of civil society in national development and encourage greater awareness of the importance of the legal framework in influencing modern concepts of philanthropy.
- Task 4** Assist in facilitating a consensus-building process where principles for moving forward are identified.
- Task 5** Identify key players who can be instrumental in building and implementing a next-phase/going-forward process.

In sum, the CPN project team felt that further analysis of the status of philanthropy law in the English-speaking Caribbean offered potential for addressing challenging new issues that will be debated more widely in the Caribbean in the future. For example, one issue that emerged during the follow-up assessments in St. Kitts and Nevis and in the BVI is the potential for tension between those approaching philanthropy law reform from the perspective of regulation and those addressing reform through expansion of NGO transparency and responsibility.

In addition, CPN’s focus on the legal framework has emphasized—and will continue to emphasize—that an impartial and well-functioning legal framework governing philanthropy and civil society is important to inspiring donor confidence in the objectives and programs of the region’s nongovernmental organizations. As a result of its legal framework project, the Caribbean Philanthropy Network has had an opportunity to offer thoughtful and creative suggestions about how the Caribbean can deal more effectively with these emerging issues.

FINDINGS — BRITISH VIRGIN ISLANDS

Overview

1. *The current state of philanthropy law in the British Virgin Islands is outdated and does not meet modern good governance standards as applied to the sector elsewhere.*

The CPN team in the BVI (Judith Towle and Dr. Michael O’Neal) learned that NGOs in the territory may now register as not-for-profit organizations under a recently revised Companies Act. By registering under the Companies Act, NGOs are incorporated as companies doing business in the BVI. However, the Financial Services Commission, which oversees company registration, provides no further oversight of registered NGOs.

NGOs and less formally established (e.g., community-based, “grass roots”) organizations, as well as service clubs, have also registered in the past, for example, under Friendly Societies or Cooperatives legislation; and a registry of many of these organizations is maintained by the Office of the Deputy Governor. However, the CPN team did not identify other significant support for the NGO sector through the Deputy Governor’s Office or other Government departments; nor is oversight of the sector provided by Government, other than the fact that the Deputy Governor issues exemptions to anti-gambling regulations to allow the conduct of raffles and similar “gambling” activities for the purpose of fund-raising by charitable and nonprofit organizations, associations, and service clubs.

The recently established Financial Investigation Agency (a statutory body) has responsibility, among other directives, for investigating charities in the territory. However, as the director of this Agency reported to the CPN team, without a legislative framework that defines the standards and procedures under which charities and NGOs are to operate, there is little for the Agency to “investigate” or monitor.

2. *There are discernible gaps within the current legislative framework governing charities and the nonprofit sector in the BVI, with little cohesive coordination or oversight.*

The Chairman of the BVI Law Reform Commission recognizes the need for a revised and modernized philanthropy law in the BVI and is eager for the Law Reform Commission to undertake responsibility for drafting such a law. However, he must receive authorization from the political arm of government, through the Premier’s office and Cabinet, to undertake any new legislative initiative. The CPN team provided the Commission Chair with a copy of the Cayman Islands Charities Bill and the Discussion Paper on the bill issued by the Cayman Islands’ counterpart to the BVI Law Reform Commission.

3. *There is a prevailing uncertainty within the nonprofit sector concerning issues such as registration, tax incentives, exemptions, reporting and accountability.*

Over the course of the project, Ms. Towle and Dr. O’Neal, accompanied by Mr. Moody for May 2010 meetings, met with representatives from the BVI nonprofit sector. Consultations were primarily with persons from BVI service clubs, which make up a significant component of actively engaged nonprofit organizations in the territory.

Persons interviewed expressed various degrees of uncertainty about the obligations and responsibilities of NGOs and charities under the prevailing BVI legislative code. Most of our interviewees felt that a single legislative framework governing the sector would be helpful, although some questioned the additional expense of new NGO reporting requirements, e.g., who would pay for the costs of the administrative structure put in place by Government under a new law—the NGOs or Government? Nevertheless, there seemed to be general agreement among those with whom the team consulted that clarification is needed of the laws in the BVI governing registration, fund raising, tax exemption and related areas.

Service club representatives mentioned that their parent bodies (e.g., Rotary International) require annual audits by local chapters, thus providing a measure of accountability for the BVI Rotary Clubs. However, this measure of self-compliance is voluntary, and audits or other fiscal reporting are not required by the BVI Government. One interviewee pointed out that for the short-term, self-regulation is important for NGOs, but that in the long-term, accountability and compliance must be part of the formal legal framework.

4. *Likewise, there is uncertainty within Government as to how oversight of the nonprofit sector is being applied and how Government is to ensure good governance standards, accountability and transparency within the sector.*

Likewise, in meetings with representatives from Government (see List of Consultations below), the CPN team identified varying degrees of uncertainty about how the nonprofit sector is being regulated **and** supported in the BVI. In addition to pressure for philanthropy law reform emerging from the Financial Services Commission (see #5 below), others in Government recognized that reform of the nonprofit sector and charities law was important in the BVI, given the outdated practices and legislation currently in place.

5. *The Territory's financial services sector requires that the BVI be responsive to international standards for combating money laundering and the financing of terrorists, including the use of charities for such activities.*

In formulating legislation for regulating charitable nonprofit organizations, the British Virgin Islands is required to take into account international recommendations from the Financial Action Task Force (FATF) relating to the establishment and implementation of a legislative framework to combat money laundering and terrorist financing activities. BVI legislation must provide measures designed to prevent the use of charitable organizations as a conduit through which terrorism and money laundering is facilitated. In order to be in compliance, the BVI must have a new charities law in place by 2012.

The BVI's Financial Services Commission (FSC) is mindful of this approaching deadline, but is not in a position to initiate the process for drafting a new law, nor does it have on staff technical personnel able to fully address this task. In meetings with the FSC's Managing Director and its Director of Policy and Research, the CPN team provided copies of the Cayman Islands Charities Bill and the Discussion Paper issued by the Cayman Islands Law Reform Commission when drafting the Charities Bill. Both documents were appreciated by and helpful to Commission staff.

Also helpful to the FSC was a copy of a Compliance Manual obtained by the CPN team from the Deanery of the British Virgin Islands/Diocese of the Virgin Islands. This manual, prepared by the Deanery, outlines internal control systems for compliance with the BVI's *Anti-money Laundering and Terrorist Financing Code of Practice of 2008*. Although the Code is principally directed at banks, trust companies and other financial professions, the Deanery of the BVI has moved forward to establish procedures that will simplify its compliance under any new BVI charities and nonprofit organizations legislation.

It is clear that the Financial Services Commission views the recent CPN initiative in the BVI as a catalyst of sorts to assist in calling attention to the need for charity law reform and the imperative for immediate action if the territory is to remain in compliance with FATF requirements. Compliance is critical for the financial services sector, one of two economic drivers in the BVI territory, the other being tourism.

6. *The concerns in the BVI are not dissimilar to concerns in other Caribbean island states; there are lessons to be learned from countries that have addressed similar issues, in particular, the recent attempt to enact a new charities law in the Cayman Islands.*

The CPN team often referred to the recent experience in the Cayman Islands (CI) in dealing with the process of reforming its nonprofit sector through the drafting of a new Charities Bill. There is much similarity between the two island areas—both Overseas Territories of the United Kingdom, both with a vibrant offshore financial services sector, and both required to respond to international standards in regulating its charities/nonprofit sector.

In our discussions, we were able to inform senior officials in the BVI Government about the Cayman Islands experience and provide documentation from the CI Law Reform Commission, which was not previously available in the BVI.

Particularly relevant to the evolving law reform process in the BVI was the recent reaction by CI civil society organizations when a newly drafted Charities Bill was brought before the House of Assembly in August of 2010. The Bill was almost immediately withdrawn by Government due to intense opposition by charitable organizations impacted by the legislation. At present, the proposed legislation is being revisited by the CI Government.

The CPN team emphasized in its meetings with Government officials in the BVI the importance of bringing the nonprofit sector into the discussion about proposed revisions to philanthropy law in the territory. Certainly, the sector needs to be a part of legislative reform **early** in the process; additionally, because external, international obligations will undoubtedly drive the law reform process, it is important that the issues and concerns of the nongovernmental sector also influence the process.

7. *Items 1-6 above point to a nonprofit sector in the BVI that could be substantially strengthened through the enactment of updated and modernized nonprofit legislation that conforms to current international standards.*

Reform—as indicated above—is not just a necessity for the BVI’s financial services sector. Additionally, as stated in CPN’s own law study, we know that as governments create a legal and regulatory foundation that establishes certainty and stability **for** the nonprofit sector, it thereby increases confidence and trust **in** the sector by those wishing to support and contribute to specific charities and other NGOs.

The Way Forward

It is clear that a consensus is emerging in the British Virgin Islands—within the public, private and NGO sectors—to support a process for updating and modernizing the legal and regulatory framework for philanthropy law in the territory. The momentum for law reform is being driven by the imperative to meet, by 2012, international requirements regulating the financial services sector. However, there is also evidence, both within government and within the civil society sector, of some forward movement in promoting a legal framework that provides greater cohesion and conformity in regulating NGOs and greater professionalism in how NGOs, charities, and other nonprofit organizations legally operate in the BVI.

Stakeholders—whether government, NGOs, or the financial sector—seem to acknowledge that while the overall goal may be legal reform, the agenda for reform has differing constituencies. The Financial Services Commission’s approach to law reform may be more regulatory-focused and restrictive than that of BVI NGOs, charities, and service organizations, which would more readily support philanthropy law reform that is supportive of the nonprofit sector and expansive (rather than restrictive) in its approach to change.

If the BVI is to avoid the obstacles and mistrust encountered in the Cayman Islands when Government proposed a new Charities Bill in that territory, then **education** and **openness of process** are important next steps for the BVI:

Education — to increase understanding about the role of civil society and appreciation for the contributions of nonprofit organizations.

Openness of process — to prevent misunderstanding or a lack of trust among the various stakeholder groups promoting philanthropy law reform since they will often have differing agendas and priorities.

During the CPN team’s final discussions in the BVI in February 2011, the need for a **BVI philanthropy law symposium** was highlighted. Such a meeting would provide an opportunity for stakeholders within government, civil society, and the financial services sector to begin a more formal dialogue on reforming the legal framework within which the territory’s NGOs, service clubs, charitable groups, and other civil society organizations currently operate.

Based on our discussions in the BVI, we now surmise that there are three “pressure points” for law reform in the BVI: the Governor, the Deputy Governor, and the Premier. We believe that as a result of our meetings and discussions—with the Governor, the Premier’s office, the Attorney General’s Chambers, the Law Reform Commission, and others—the CPN team has initiated a broader discussion of philanthropy law reform in the BVI. The CPN team has been able to build a “bridge” of sorts between stakeholders who did not seem to be actively communicating with one another about these issues, and because we were meeting with public officials at the highest levels of the BVI Government, our discussions have been important in promoting greater dialogue.

In addition to supporting a stakeholders' symposium on charities law reform, the CPN's BVI team has been asked to coordinate a panel on philanthropy for the 2012 *Islands World XII Conference* to be hosted by the British Virgin Islands. This global gathering is held under the auspices of the International Small Islands Studies Association (ISISA) and is scheduled from May 20 to June 1, 2012. Tom Olsen, a member of CPN's Advisory Board, has been invited as a keynote speaker, and Judith Towle, co-chair of CPN's philanthropy law project, will coordinate the panel on global island philanthropy.

List of Consultations

- ADAMS, Mrs. Rosalie**
Permanent Secretary, Premier's Office
- ARCHIBALD, the Honorable Inez**
Deputy Governor
- ARCHIBALD, Dr. Joseph**
Legal Counsel to H. Lavity Stoutt
Community College
- AZIZ, the Honorable Baba**
Attorney General (Acting)
- DAWSON, Dr. Karl**
President of H. Lavity Stoutt
Community College
- GEORGE, Mr. Errol**
Director
Financial Investigation Agency
- GEORGES, Mrs. Esther**
Deaconess
Deanery of the British Virgin Islands
- GEORGES, Ms. Noni**
Virgin Islands Environmental Council
- HARRIS, Mr. Ray**
Chairman, Law Reform Commission
- JALLOW, Mr. Chernob**
Director of Policy, Research and
Statistics
Financial Services Commission
- LETTSOME, Mr. Clyde**
Permanent Secretary, Ministry of Natural
Resources and Labor
(retired from this position since the CPN
interview in May 2010)
- LEWIS, Mr. Vance M.**
Member of the International
Directorate of Rotary International
- MALONE, Mr. Carvin**
Chairman
BVI Humanitarian Relief Consortium
- MATHAVIOUS, Mr. Robert A.**
Managing Director and CEO
Financial Services Commission
- McCLEARY, His Excellency, W. Boyd,**
Governor of the British Virgin Islands
- O'NEAL, the Honorable Ralph T.**
Premier and Minister of Finance
- PEARY, His Excellency, David**
Former Governor of British Virgin Islands
(demitted office in August 2010)
- QUARTEY, the Honorable Kathleen**
Former Attorney General
- SMITH, Mrs. Lorna G.**
President
Rotary Club of Tortola
- ZALUSKI, Ms. Susan**
Executive Director
Jost Van Dyke Preservation Society

FINDINGS — FEDERATION OF ST. KITTS AND NEVIS

Overview

1. *The Non-Governmental Organisation Act of 2008 represents one of the Caribbean’s most forward-looking philanthropy laws, incorporating many of the principles of good governance as recognized in modern international philanthropy law.*

The NGO Act of St. Kitts and Nevis was highlighted in CPN’s 2010 philanthropy law study as a model for other Caribbean countries. It includes two important provisions not seen in other legislation reviewed in the CPN study: the provision for a **NGO Commission** and the provision for a **NGO Code of Good Conduct**.

The Act calls for establishment of a **NGO Commission** to monitor registration, mediate disputes, review the Registrar’s decisions and provide recommendations to further good governance for civil society. The Regulations to the Act will determine the composition and representation requirements of the Commission’s membership. Additionally, the Regulations will need to clarify the role of the Commission *vis à vis* the two Ministries included in the Act. The Secretariat servicing the Commission is to be in the Ministry of Finance, but the designated minister under the Act is the Minister of Community Affairs. Clearly defined lines of authority and responsibility for each ministry will need to be designated in the Regulations, including how each is to interact with the NGO Commission.

Many international law organizations, such as the highly respected Center for Not-for-Profit Law in Washington, DC, maintain that oversight entities, such as the Federation’s NGO Commission, should be independent and mixed with representatives from the public, government and NGOs. Since the stature, competence, independence, and non-partisanship of members of the Federation’s Commission will be important in increasing respect for and confidence in the administration of the Act, the appointment process for Commission members as designated in the Regulations is especially important.

The CPN team is not aware of any nonprofit legislation in the insular Caribbean—other than the Act in St. Kitts and Nevis—that provides for a **Code of Good Conduct** for registered NGOs. Internationally, with the growing prominence of the nongovernmental sector, NGO accountability is emerging as an issue of increasing concern, with codes of conduct being one appropriate response to such concerns.

Through its Code of Conduct, the Federation has a unique opportunity to not only strengthen good governance in the NGO sector in St. Kitts and Nevis but also to provide an innovative “model code” for the region. The effectiveness of the Code, however, will depend on how the Code is written, what the Code includes, and if the NGO sector is supportive of the process and the product.

2. *The evolution of the St. Kitts and Nevis Act was driven by several factors: early support from the country's business community, a CARICOM-led initiative, and the international requirements of the country's offshore financial services sector.*

Concerns about the inefficiencies of the country's legal structure supporting philanthropy were first expressed in the late 1990s by the business sector, specifically the Chamber of Industry and Commerce in St. Kitts. Of concern to the corporate community was improvement of the country's charity laws and development of rational, standardized regulations governing how the private sector made philanthropic contributions and received tax benefits in return. Although little was accomplished at that time that effected real change, this initiative by the Chamber provides one of the region's clearest examples of direct engagement by the business sector in improving the legal framework for philanthropy.

The actual enactment of the NGO law did not emerge until several years later as part of a CARICOM initiative to strengthen the relationship between civil society and governments in the region. In St. Kitts and Nevis, this regional discussion and CARICOM recommendations, including a model legislative framework for NGOs, resulted in the drafting of the country's new NGO Act. However, it should also be noted that while the CARICOM initiative did influence the development of the NGO Act, the continued interest and support of individuals both within and external to Government, dating back to the 1990s, was critical in moving the legislation through the legal process.

Lastly, as was the case in the British Virgin Islands, an additional incentive for the new legislation was provided by the Federation's obligations to the Financial Action Task Force (FATF) and its Caribbean counterpart, the Caribbean Financial Action Task Force. During its visit to the country in February 2011, the CPN team (Judith Towle and William Moody) was informed by several interviewees that financial sector obligations were indeed the *primary* driving force in effecting the new legislation

Thus, as we saw in our follow-up work in the BVI, in St. Kitts and Nevis multiple agendas, multiple priorities, and multiple constituencies have come into play in the process of creating new NGO legislation in the Federation—as will be the case in developing and implementing the Regulations to the St. Kitts and Nevis Act.

3. *Full implementation of the new Act has not yet been effected as Regulations to the Act have not been fully drafted. The challenge now before the country is to develop and implement regulations that not only make the Act operational but also increase understanding and appreciation of the Act by both donors and recipients in St. Kitts and Nevis and abroad.*

The CPN team visiting St. Kitts and Nevis in February of 2011 (Moody and Towle) was provided copies of *Non-Governmental Organisation Act Regulations, 2011*, which include provisions for NGO registration and for the NGO Commission, as well as Schedules for the Registration Application and the Certificate of Registration.

In its discussions with Government and non-government representatives in both St. Kitts and Nevis (see List of Consultations below), the CPN team emphasized certain priorities for the Regulations, based on its combined 80 years of experience working with NGOs in the Caribbean and around the world, as well as its research into Caribbean nonprofit law. These priority recommendations include:

- Consideration should be given to how members of the NGO Commission are selected in order to increase respect for and confidence in the administration of the Act (see also #1 above). Criteria for selection should be broadly based and include members of both the governmental and non-governmental sectors.
- The role and responsibilities of the two Ministries identified in the Act need to be clearly defined in the Regulations. The Ministry of Community Affairs has designated coordination responsibilities under the Act, while the Ministry of Finance is responsible for NGO registration, implementation of tax benefits and exemptions, and preventing the use of NGOs as conduits for money laundering and terrorism. Thus, it is important that the ministers and senior staff of both ministries consult openly in the process of preparing the Regulations.
- The Regulations should provide for a less demanding registration and reporting process under the Act for smaller, community-based, more “grass roots” civic groups.
- The Regulations need to include the Code of Good Conduct, mentioned in the Act but not defined in the Act.
- Regulations need to be drafted to give effect to provisions in the Act providing for (i) certain exemptions to registered NGOs and (ii) tax-deductible contributions to registered NGOs by corporations.

4. *Thus far, the NGO sector has not been actively engaged in the process of developing the new legislation that will directly impact organizations within the sector. With the drafting of full Regulations to the Act pending, the Government now has an opportunity to more fully include NGOs² in St. Kitts and Nevis in that process.*

It is our understanding that input from the NGO community was solicited via written communication during the drafting of the NGO Act. However, as was the case in the Cayman Islands (see above, British Virgin Islands #6), the nonprofit sector in St. Kitts and Nevis was relatively unresponsive in the initial phase of the legislation-drafting process. It is only now, with the drafting of Regulations, that the NGO community seems to be taking a more active interest in the legislation.

It is interesting to note that among the non-governmental representatives interviewed by the CPN team during its February visit, only one organization in St. Kitts was familiar with the law, and this organization is not actually a NGO but a statutory body—the St. Christopher National Trust. In Nevis, among the 13 NGOs the team met with, not even one group knew of the existence of the law.

As the process of drafting Regulations moves forward, a more extensive program of public outreach and education would seem to be in order—with opportunities provided for participation by civil society groups, business and individual donors/philanthropists, and other members of the public. Consultative meetings should be well-publicized and held prior to the drafting of the final Regulations.

5. *The Federation faces a special challenge in implementing the Act, namely, the need for an implementation and regulatory process that takes into account the unique administrative and governance structure in St. Kitts and Nevis with a Federal Government for the nation and a separate governance structure for the island of Nevis (the Nevis Island Administration).*

During the CPN team’s discussions in Nevis, we were made aware of provisions in the Act that would be carried out in Nevis by the Nevis Island Administration, such as registration under the Companies Act. NGOs interviewed in Nevis assume that they will be registering under the Act with the Finance Ministry in Nevis under the Nevis Companies Act. There may well be other procedures that need to be clarified for implementation of the NGO Act in Nevis.

² As used throughout this report, “NGO” refers not only to larger, more formally established nongovernmental organizations (that are, for example, likely to have the institutional capacity to complete registration and reporting requirements under the Act), but also to smaller, less formal, community-based NGOs. Such “grass roots” NGOs should not be ignored in drafting Regulations to the NGO Act and in providing for their participation under the NGO Act.

6. The Federation is encouraged to take advantage of the experience and lessons learned from other countries with good governance policies in place for registered NGOs.

One ready source of information on nonprofit law and good governance practices can be found at the web site of the International Center for Not-for-Profit Law <www.icnl.org>. The CPN's Legal and Regulatory Committee worked closely with ICNL's president, Mr. Douglas Rutzen, during our study of Caribbean philanthropy law, and this source might be helpful to St. Kitts and Nevis in identifying available resources.

The Way Forward

The Federation of St. Kitts and Nevis is to be commended for its *Non-Governmental Organisation Act (No. 41 of 2008)*. As noted in the following composite excerpt from statements made by NGO constituents interviewed for this report:

NGOs look to the Act to provide recognition and sustainability for the NGO community. The divisiveness of the intense political nature that pervades our society too often clouds the issues of concern to NGOs and has weakened the NGO sector over time. But it may be possible to use the NGO Act as a catalyst for strengthening the NGO community.

Much of the hard work in strengthening the nonprofit sector and philanthropy in St. Kitts and Nevis has already been accomplished—the country has in force an exemplary NGO Act, which came into force on January 14th, 2011.

Yet, the process is not complete until the Regulations to the Act have been promulgated. The drafting of full regulations is a process that will need to address an underlying tension inherent in the law itself and in the competing agendas of stakeholders supporting nonprofit law reform in the Federation. As identified in the BVI section of this report, this tension can be seen most clearly in the priorities of the financial services sector, whose approach to nonprofit legislation is more regulatory-focused and restrictive, and the priorities of the country's NGOs, charities, and service organizations, which more readily support philanthropy law reform that is less restrictive and more supportive of the nonprofit sector.

The effectiveness of provisions in the Act and in the Regulations—for example, the NGO Code of Conduct—will depend to a large extent on whether Kittitian and Nevisian NGOs buy into the process. The Act has the potential of significantly strengthening NGO governance capacity and increasing confidence in NGOs governance, both by Government and by prospective donors and supporters. However, as already stated in the BVI section of this report, if the legislation is to effectively achieve these worthy goals, the next steps in the implementation process must include:

Education — to increase understanding about the role of civil society and appreciation for the contributions of nonprofit organizations.

Openness of process — to prevent misunderstanding or a lack of trust among the various stakeholder groups promoting philanthropy law reform since they will often have differing priorities.

It is interesting to note that on fairly short notice, a group of 23 individuals representing 13 NGOs in Nevis came together for a meeting with the CPN team on February 17th to discuss, over a period of more than three hours, the new NGO Act. It appears that there is interest and perhaps even enthusiasm for the new law within the NGO community, and it is therefore a fortuitous moment for the Government of St. Kitts and Nevis to aggressively and conscientiously move the process forward.

List of Consultations

ST. KITTS

ARMONY, Mrs. Jacqueline
Former Executive Director
St. Christopher Heritage Society

CHANDIRAMANI, Mr. Kishu
Kittitian Businessman and
Philanthropist

COLLINS, Bishop Ron
Leader of the Evangelical Association

FERDINAND, Mr. J. Emile
Board Member
Chamber of Industry and Commerce

HUGHES, Ms. Karen
Legal Department
Government of St. Kitts and Nevis

LEADER, Ms. Natasha
Executive Director
St. Christopher National Trust

LIBURD, the Honorable Marcella
Minister of Health, Social Services,
Community Development, Culture and
Gender Affairs

PEREIRA, Mr. Greg
Kittitian Businessman and
Philanthropist

SEATON, Mr. Tapley
President
St. Christopher National Trust
Former Attorney General

SKERRITT, the Honorable Richard (Ricky)
Minister of Tourism and International
Transport

WIDDOWSON, Mr. Maurice
Kittitian Businessman and
Philanthropist

WYRE, Ms. Myrtle Mills
Kittitian Diaspora in the United States

NEVIS

Nevis Historical and Conservation Society

GORDON, Ms. Suzanne
Board Member

HENVILLE, Ms. Evelyn
Executive Director

HOBSON, Ms. Daphne
Board Member

MANNERS, Mr. Hanzel
President

ROBINSON, Mrs. Beverly
Membership Chair

SODERBERG, Mr. Tom
Peace Corps Volunteer

YEARWOOD, Mr. John
Board Member

NEVKIT Foundation

DALGLEISH, Ms. Jackie
President

ROBINSON, Mr. David
Board Member

**Meeting with Nevisian NGOs
Red Cross Building
February 17, 2011**

AVERY, Penny

BUSSUE, Andrea

Children Are Precious Foundation

CLARK, Violet

Special Olympics Committee

CLAXTON, Julie

Pink Lilly Cancer Care

DAVID, Aurelia

Wives Supporting Wives

DAVIS, Chesley

Nevis Cultural Development
Foundation

EVELYN, Eric

Empire Sports Club

HENDRICKSON, Garcia

Wives Supporting Wives

HENVILLE, Evelyn

Caribbean Foundation for Children

HERBERT, Vera

Pioneers Sports and Community Club

JAMES, Salome

The Change Centre

NGURYIN, Pauline

Pink Lilly Cancer Care

PARRY, Tasha

Community Cohesion Foundation

PINNEY, Delroy

One Love Rastafari Movement

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