

SUPPORTING STABILITY AND JUSTICE: A CASE STUDY OF NGO LEGAL SERVICES IN POST-CONFLICT BOSNIA-HERZEGOVINA

The international community struggles with the challenge of repairing the harms that haunt post-conflict societies, including restoring the homes, property and other kinds of well-being of traumatized populations. The work of Vasa Prava, a nongovernmental organization (NGO) that has helped heal such wounds in Bosnia-Herzegovina by providing legal services to the displaced and disadvantaged, constitutes a case study of success in a difficult context.

The future of Bosnia and Herzegovina remains the subject of international speculation. On 2 June 2006 The Times of London published an article entitled: “Calls For Freedom Make The Jigsaw Of Europe More Complicated Than Ever”, pointing out that 18 new countries had been created in Europe since 1989 and speculating that:

In the Balkans, Montenegro’s independence drive is likely to be followed by Kosovo, a predominantly ethnic Albanian province of Serbia. That could spark fresh moves by the ethnic Serb Republika Srpska to break away from Bosnia, and Herceg-Bosna’s Croats to join Croatia.¹

The article included a map of newly independent countries as of 2006 and, under the caption “2020? Ones That Could Be Next”, a map in which Bosnia and Herzegovina is replaced by Republika Srpska and Herceg-Bosna. In other words, the goal of the people who started the war in 1992 to create ethnic states through ethnic cleansing would be achieved. More than two years after the Times speculation, the future of Bosnia and Herzegovina remains uncertain.

¹ Jeremy Page and Richard Beeston, “Calls For Freedom Make The Jigsaw Of Europe More Complicated Than Ever” *The Times of London*, 2 June 2006
<<http://www.timesonline.co.uk/tol/news/world/europe/article670821.ece>> at 30 November 2008.

The Constitution of Bosnia and Herzegovina,² which was adopted as part of the Dayton Peace Agreement (DPA),³ recognized Bosniacs, Croats and Serbs as “constituent peoples” and divided the country into two officially designated Entities, the Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (Federation).⁴ The RS is overwhelmingly Serb and the Federation is predominantly Bosniac, with a significant number of Croats.⁵ The DPA also created the Office of the High Representative (OHR), an international institution which oversees the implementation of the civilian aspects of the peace agreement.⁶

In his most recent report to the Peace Implementation Council,⁷ the High Representative emphasized that, while BiH had taken an important step toward European integration by signing a Stabilization and Association Agreement,⁸

Regrettably, this important step has not led to a change in the way politics are conducted in Bosnia and Herzegovina. Instead, nationalist, anti-Dayton rhetoric challenging the sovereignty, territorial integrity and constitutional order of Bosnia and Herzegovina, as well as the authority of the High Representative and the Steering Board of the Peace Implementation Council, have continued to dominate politics in Bosnia

² The country will be referred to as Bosnia and Herzegovina, Bosnia or BiH, the country’s initials in Bosnian, throughout this article.

³ The General Framework Agreement for Peace in Bosnia and Herzegovina, commonly known as the Dayton Peace Agreement (DPA) ended the war in 1995.

⁴ DPA, Annex 4, Preamble and Article 1.3.

⁵ Before the war the RS was 54 percent Serb, 29 percent Bosniac, 9 percent and the rest Others. Two years after the war it was 97 percent Serb. “Request for evaluation of certain provisions of the Constitution of Republika Srpska and the Constitution of the Federation of Bosnia and Herzegovina”, Constitutional Court of Bosnia and Herzegovina, Case No. U 5/98-III, Third Partial Decision, 1 July 2000, page 24.

⁶ DPA, Annex 10. The High Representative has the power to “remove from office public officials who violate legal commitments and the Dayton Peace Agreement, and to impose laws as he sees fit if Bosnia and Herzegovina’s legislative bodies fail to do so.” See *Mandate of OHR* < http://www.ohr.int/ohr-info/gen-info/default.asp?content_id=38612 > at 23 November 2008.

⁷ Office of the High Representative, *Thirty-fourth Report of the High Representative for Bosnia and Herzegovina*, 1 April to 31 October 2008, <http://www.ohr.int/other-doc/hr-reports/default.asp?content_id=42678> at 21 November 2008. The Peace Implementation Council (PIC) was established following the signing of the DPA to provide international support for the peace process in Bosnia. Office of the High Representative, <http://www.ohr.int/pic/default.asp?content_id=38563> at November 23, 2008.

⁸ A Stabilization and Association Agreement is “the first contractual relationship with the EU necessary to achieve candidate status and possible accession to the Union.” 34th OHR Report, page 1.

and Herzegovina. Of particular note are the ongoing attacks by the Republika Srpska government against State institutions, competencies and laws. Together with provocative statements from the Bosniak side questioning the right of the Republika Srpska to exist, this has served to further undermine inter-ethnic trust, creating a cycle where it is more and more difficult for the country's political leaders to meet each other half way so that they may make the decisions needed to take the country forward.⁹

As the High Representative's report shows, although the war ended over 14 years ago, the future of the country is far from certain. No one expects a return to the killing and ethnic cleansing and most observers consider the break-up of BiH unlikely. But there is no guarantee that the country is headed toward stability and prosperity anytime soon. The legacy of the war is everywhere. The missing and the dead have not been fully accounted for. Many homes have still not been rebuilt. Segregation and discrimination are rampant. Unemployment is widespread. Government is bloated, fragmented and ineffective. Politics are dominated by nationalist gridlock.

Although there is the possibility that widespread recognition of Kosovo's independence could precipitate the break-up of BiH,¹⁰ it seems more likely that there will be either steady, slow progress or steady, slow decline. The formula for progress has been spelled out repeatedly. In essence it requires building the economy, respecting human rights, building democratic institutions and making government truly responsive to all citizens. Decline will come if nothing is done to change the current situation.

This article argues that a relatively small legal aid NGO – fewer than 50 total staff throughout the country as of 2008 – the Association Vasa Prava BiH (“Your Rights”), is

⁹ 34th OHR Report, page 1.

¹⁰ “Following Kosovo's declaration of independence, the Republika Srpska National Assembly adopted a resolution that condemned Kosovo's declaration and stated that the Republika Srpska authorities may seek a referendum of independence if a majority of EU and UN Member States recognized Kosovo's independence.” *Bosnia and Herzegovina 2008 Progress Report*, Commission of the European Communities, SEC(2008) 2693 Final, 5 November 2008, 7.

making a significant contribution toward achieving stability and prosperity through its advocacy on behalf of poor and disenfranchised Bosnians. Vasa Prava's work directly addresses the legacy of the war by dealing with problems with housing, income, health care and social services. It promotes individual human rights, helps to build a legal system that holds government to account and advocates for systemic changes to address real problems. It is helping to build an active civil society and a culture of rights. Perhaps most fundamentally, it is playing a vital role in making recovery-oriented legal reforms a reality for Bosnia's disadvantaged, dispossessed and disenfranchised populations, thus helping to rebuild their lives and their country. Obviously Vasa Prava alone cannot determine the future for BiH, but without it the risk of failure would be greater.

Vasa Prava – Brief Background

Vasa Prava is a domestic nongovernmental organization that provides free legal assistance on civil matters to refugees, displaced people, and other poor and disadvantaged Bosnians. Vasa Prava traces its roots back to the Legal Aid and Information Centre (LAIC) network created by Office of the United Nations High Commissioner for Refugees (UNHCR) in 1996, soon after the end of the war. At the peak there were 60 LAIC offices throughout the country. They provided community legal education legal advice, assistance in preparing documents, representation before administrative agencies and courts to enable refugees and displaced persons to re-establish their lives in their local communities. At the beginning the LAIC offices were run by international NGOs, using local staff. Between 1996 and 2002 LAIC created a smaller number of larger offices combined with outreach teams in order to handle more complex matter more efficiently. By 2003 the LAIC network had become an entirely

Bosnian operation. A group of Bosnian NGOs created Vasa Prava as a new Bosnian NGO and took over operation of the system.¹¹

As of late 2008 Vasa Prava has about 50 staff members, 16 offices and 60 mobile teams serving all municipalities. It provides legal advice and representation in court, conducts public awareness sessions, gives media presentations, trains local officials, prepares brochures on legal issues, operates a website and publishes a magazine. Since its founding as the LAIC network in 1996 the organization has assisted over 340,000 people on legal problems with housing, employment, education, health care, and asylum, among many others.

The main goals of Vasa Prava are to:

- Support the rule of law and reinforce civil society;
- provide free legal assistance and information;
- facilitate the right of all refugees and displaced persons to freely return to their pre-war homes;
- promote and raise public awareness on civil, socio-economic, cultural and human rights and to promote access to justice for the enjoyment of rights;
- monitor human rights violations;
- serve as a resource to individuals, the community and the nation; and
- become a nationally and regionally recognized legal aid network known for excellence, non-partisan service delivery, advocacy and public education.¹²

I. The Situation in Bosnia And Herzegovina

Vasa Prava's importance is best understood in light of the legacy of the war and the current economic, social and political situation:

¹¹ UNHCR has continued to provide substantial financial support to Vasa Prava. The creation of Vasa Prava is an example of the success of UNHCR in providing early support for legal aid following conflicts. For examples of UNHCR's support for legal aid around the world see UNHCR, *Legal Aid Search Results*, <[http://www.unhcr.org/cgi-bin/texis/vtx/home?id=search&results=web&query=legal percent20aid](http://www.unhcr.org/cgi-bin/texis/vtx/home?id=search&results=web&query=legal%20aid)> at 30 November 2008.

¹² Vasa Prava, *Annual Report 2007*, p.7

The Impact of the 1992-1995 War

At least 100,000 people were killed during the war.¹³ The infamous massacre at Srebrenica at which Serb paramilitary forces killed an estimated 7,000 Bosnian Muslim men and boys is the most notorious example of the death and destruction that ravaged the country, but there are widows, widowers, orphans and elderly parents throughout BiH whose family members are gone. The emotional and economic impact of these deaths has devastated the lives of hundreds of thousands of people and deeply wounded the entire country.

According to the 1991 census, Bosnia had a population of 4,354,911. Approximately 2.5 million people, almost 60 percent of the population, were forced to leave their homes during the war, 1.2 million fleeing to other countries and 1.3 million displaced internally. Hundreds of thousands of people spent years living in unsafe, unsanitary and overcrowded public buildings.¹⁴

Half a million homes were damaged or destroyed during the war, out of a total of 1.3 million, causing an estimated US \$4 billion damage.¹⁵ The destruction was widespread and part of a deliberate campaign to drive people from their communities. Roads, water systems, telephone lines and power lines were all attacked. The war ravaged the social as well as the physical environment. In Zvornik, for example, “expulsions

¹³ There is no agreement on the actual number. For years responsible organizations inside and outside the country have said over 200,000 died. This estimate is based on information about specific individuals identified by the Research and Documentation Center (RDC) in Sarajevo, and provides a reliable minimum. RDC *Research Results and Database Evaluation*, 2007. <<http://www.idc.org.ba/aboutus.html>> at 16 August 2007. Researchers for the International Criminal Tribunal for the former Yugoslavia (ICTY) have estimated there were 102,000 victims. Tabeau, Ewa; Bijak and Jakub, *War-related Deaths in the 1992–1995 Armed Conflicts in Bosnia and Herzegovina: A Critique of Previous Estimates and Recent Results*, European Journal of Population, Volume 21, Numbers 2-3, June 2005, 187-215(29)

¹⁴ UNHCR, *Extremely Vulnerable Individuals: The Need for Continuing Integration Support in Light of the Difficulties to Reintegration Upon Return*, November 1999, 4.

¹⁵ UNHCR, *Review Of The UNHCR Housing Programme In Bosnia And Herzegovina* May 1998, 10

were followed by the destruction of houses, religious sites and community buildings in an effort to render return impossible ... The destruction of cultural objects was even more thorough: all twenty-six mosques and some other property belonging to the Islamic community in Zvornik were destroyed.”¹⁶ Similar destruction occurred all over the country.

By the end of the war in 1995 whole regions were in fact ethnically cleansed. Before the war there was a relatively large degree of residential and social integration. In what is now the RS the population was 55 percent Serb, 28 percent Bosniak, 9 percent Croat, 5 percent who self-identified as Yugoslav and 3 percent other. In what is now the Federation the population was 52 percent Bosniak, 22 percent Croat, 18 percent Serb, 6 percent Yugoslav and 3 percent other. The war changed all that. Estimates made in 1997, two years after the end of the war, showed that 97 percent in the RS were Bosnian Serbs and 73 percent in the Federation were Bosniaks, with Croats mostly segregated in their own regions.¹⁷

Rebuilding and Return

The parties to the Dayton Peace Agreement were required to “create in their territories the political, economic, and social conditions conducive to the voluntary return and harmonious reintegration of refugees and displaced persons, without preference for any particular group.”¹⁸ In effect the two Entities were obligated to reverse the effects of ethnic cleansing. However, there were enormous obstacles. Houses had been taken over

¹⁶ Dahlman and O Tuathail, *Broken Bosnia: The Localized Geopolitics of Displacement and Return in Two Bosnian Places*, *Annals of the Association of American Geographers*, 95(3), 2005, 648.

¹⁷ “Request for evaluation of certain provisions of the Constitution of Republika Srpska and the Constitution of the Federation of Bosnia and Herzegovina”, Constitutional Court of Bosnia and Herzegovina, Case No. U 5/98-III, Third Partial Decision, 1 July 2000, page 24.

¹⁸ DPA, Annex VII, Article II, paragraph 1

by the “victors” in the particular region. Property was damaged or destroyed and funds were needed to rebuild. There were no jobs. There was no guarantee of safety. Legal obstacles had been created because the governments had declared property abandoned and given it to members of the new “majority.”

Despite these obstacles, by December 2007 over one million refugees and internally displaced persons (IDPs) had been recorded as having recovered their pre-war homes. These included 465,733 “minority” returns and 559,278 “majority” returns. Approximately 739,000 people returned to the Federation and 264,000 to the RS. The return process has slowed down substantially. From over 100,000 returns in 2002, the number dropped to less than 7,000 in 2007.¹⁹

Although the official figures on returns represent a significant accomplishment, they do not mean the effects of ethnic cleansing have in fact been reversed. At least one million people have not returned to their homes. There are still 188,000 people registered as applicants for the status of displaced persons, 27,000 refugees still in Serbia, 5,000 in Montenegro and 2,000 in Croatia. A significant number of the returnees are elderly and many use their homes only on a part-time basis. There have been numerous sales of “returned” property, often at reduced prices.²⁰

Those who have returned face continuing discrimination. Many are unable to get electric, gas or phone service. Destroyed water pipes to minority areas have not been repaired. Illegally constructed buildings prevent use of property. Roads have not been

¹⁹ Minority and majority are the terms adopted by the international community, meaning whether the people were returning to an area where their “nationality” or ethnic group predominated or not. The minority returns refer to people who returned to their place of origin in BiH. UNHCR *Statistics Package*, 31 December 2007.

²⁰ UNHCR, *Update: The State of Annex VII – March 2007*, <<http://www.unhcr.ba/updatesmay07/annexVII.htm>> at 16 August 2007.

repaired. “Disharmonized systems in the field of health care, pension funds, the existence of different school curricula, difference in the entity and cantonal legislation, the large number of subordinate decisions and legislation bring returnees in all the parts of the country into a discriminatory position.”²¹

Poverty and Employment and Social Welfare

The United Nations Development Program (UNDP) estimates that the poverty rate may be as high as 24 percent,²² however, the poverty rate does not fully describe the vulnerability of BiH residents. Using the World Bank Living Standards Measurement Survey, it has been estimated that “72 percent of adults in BiH are poor in some aspect of life: material consumption, education, health care, employment, housing, or property rights.” In BiH the poor “are also seriously affected by the feeling of powerlessness and the inability to make their voices heard in communication either with other members of the community or with the authorities. Even given the extensive decentralization of the resource distribution system, the poor frequently have difficulty gaining access to the institutions responsible for the decisions and rulings that have a significant impact on their lives.”²³

Estimates of unemployment range from 20 percent to 40 percent. In addition “endemic discrimination against members of minority communities continues to disproportionately affect returnees, denying them equal access to employment. Without employment many returnees are unable to ensure or maintain an adequate standard of

²¹ Helsinki Committee for Human Rights in Bosnia and Herzegovina, *Report on the Status of Human Rights in Bosnia and Herzegovina*, January-December 2005

²² United Nations Development Program, *Bosnia and Herzegovina – Poverty Reduction*, 26 September 2008, < <http://www.undp.ba/index.aspx?PID=25&RID=26>> at 16 February 2009.

²³ World Bank, *Mid-Term Development Strategy of Bosnia and Herzegovina (PRSP)*, March, 2004

living and, facing destitution, many either decide to go back to their area of displacement, or commute there to continue working.”²⁴

The social assistance system is “incapable of providing for the large numbers of the poor.”²⁵ Before the war the World Bank described the social protection system as “very highly developed.” After the war it was fragmented and localized, lacking any coordinated social policy. Once basic international humanitarian assistance ended, deep rooted problems emerged. Because financing social assistance is not related to policy or implementation, “The system thus promotes the creation of substantial but unrealizable social rights, completely disconnected from the revenue base ... leading to fundamental inequities in the implementation of rights and entitlements”²⁶

Government, Politics and Discrimination

An investigation by the UNDP found much wrong with governance, in terms of systems and performance:

- “BiH citizens still face a raft of discriminatory practices which circumscribe access to basic services and weaken the wider democratic process.”
- There is “routine disregard and patchy application of the rule of law. Citizens are deprived of legal certainty and equal treatment in the enforcement of regulations and administrative decisions.”
- Portions of the population are denied decent educational and employment opportunities and access to a variety of other entitlements is often limited. This situation both threatens to undermine BiH's human development inheritance, and the political settlement upon which peace was secured in 1995.
- The political and administrative framework created by the Dayton Peace Agreement has failed to bring effective solutions in many domains.
- BiH is still a fragmented country split along ethnic lines and burdened with a huge and ineffective public administration system.
- The weak Bosnian economy and its people of less than 4 million, have to support 14 governments, 150 ministries, 200 ministers and 146 local

²⁴ Amnesty International, *Bosnia and Herzegovina: Behind Closed Gates – Ethnic Discrimination in Employment* 2005, 3.

²⁵ World Bank, *supra*, 31.

²⁶ World Bank, *Bosnia and Herzegovina Poverty Assessment, Vol. I*, 21 November 2003, 100.

governments. This administrative structure results in a high level of complexity and a huge redundant bureaucracy.

- BiH has one of the highest numbers of administrative workers per capita in the region, yet at the same time the public sector does not provide a sufficient or effective service to citizens.²⁷

As a result local government is dominated by ethnic interest leading to the discriminatory denial of basic services. A report by UNDP's Rights-Based Municipal Assessment and Planning Project (RMAP), found "favouritism toward the ethnic majority ... when it comes to allocating financial resources [and] property rights. This is direct discrimination against those groups that are not in favor, in terms of a whole range of rights."²⁸

An assessment by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in December 2005 describes the general climate:

Discrimination on the basis of gender, age, ethnicity, religion and social status is still widespread. Such discrimination is caused by a number of obstacles, i.e. the constitutional framework, inadequate laws, lack of implementation of laws, lack of financial resources, unjust allocations of existing financial resources, lack of political will, lack of awareness among citizens of their rights, lack of government accountability and overall insensitivity to human rights issues.²⁹

Moving Forward

A report by the Secretary-General of the United Nations on justice in post-conflict countries laid out the challenges facing Bosnia: "Peace and stability can only prevail if the population perceives that politically charged issues, such as ethnic discrimination, unequal distribution of wealth and social services, abuse of power, denial of the right to

²⁷ UNDP, *National Human Development Report 2005 – Better Local Governance in Bosnia and Herzegovina*, 2005, 17.

²⁸ UNDP, *Consolidated Report of the Municipality Assessments in Bosnia and Herzegovina*, April 2004,

²⁹ OHCHR, *Taking Stock of Human Rights in Bosnia and Herzegovina*, Outcome Document, December 2005, 3.

property or citizenship and territorial disputes between States, can be addressed in a legitimate and fair manner.”³⁰

Admission to the European Union has become the shorthand way of describing what many people want Bosnia to become.³¹ To join the EU the country must achieve “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.”³² In 2003 a European Commission Feasibility Report listed sixteen priorities which must be addressed before EU accession negotiations could begin, including more effective governance, more effective public administration, an effective judiciary and effective human rights provisions.³³

Given the enduring legacy of the war and the multitude of economic, social and political challenges ahead, what difference can a relatively small legal aid NGO make? This article argues that Vasa Prava is a vital, and perhaps necessary, part of the solution to the country’s problems. Particularly considering the failure of political leadership, creating a culture of rights in which all citizens are treated equally by a responsive government can only come about through active involvement by citizens themselves. For poor and marginalized people, which in BiH includes a substantial portion of the population, active involvement is hard to achieve without assistance. Vasa Prava provides that assistance.

³⁰ United Nations Security Council, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, S2004/616, 23 August 2004, 4.

³¹ Although there are many obstacles to Bosnia joining the European Union, popular support for European integration is strong according to a comprehensive survey of citizen attitudes released in July 2007. Oxford Research International, *Bosnia 2007 – Visions of the Future, Part 1*, July 2007, 58 <<http://www.oxfordresearch.com/7.html>> at 30 November 2008.

³² European Council, *European Council In Copenhagen Conclusions Of The Presidency* 22 June 1993, 14.

³³ Commission of the European Communities, *Report from the Commission to the Council on the Preparedness of Bosnia and Herzegovina to Negotiate a Stabilisation and Association Agreement with the European Union*, COM(2003) 692, 11 November 2003, 692.

II. Vasa Prava's Work

The core functions of Vasa Prava are to educate people about their rights, provide advice and representation, and work for systemic change on behalf of all disadvantaged people in BiH. Vasa Prava is the only legal services organization operating throughout the country. Most of its work involves providing direct legal assistance to individuals, which gives them a significant amount of information about the problems people face. Vasa Prava clients are the poorest, most disenfranchised and excluded members of Bosnian society.³⁴

In 2005 Vasa Prava had approximately 80 employees in 16 offices throughout the country. Outreach was done at over 120 locations. Financial limitations reduced the staff to 36 in 9 offices in 2009, with 50 mobile outreach locations. Despite becoming smaller since then, Vasa Prava has continued to provide services in all areas of BiH.

In 2007 Vasa Prava assisted 27,556 people, over 15,000 of whom were new clients. Of the new clients 3,420 were displaced persons, 4,222 were returnees, 754 were refugees, 6,555 were vulnerable local residents and 169 were in other categories. They handled 35,686 cases including providing legal advice and preparation of documents in 18,870 cases, legal representation in administrative proceedings in 7,892 cases, legal representation in court in 7,451 cases, legal representation before human rights institutions in 368 cases and other types of actions in 1,105 cases.³⁵ Civil legal assistance is provided in almost all areas of concern to poor and marginalized people, including property rights, utilities, family and marital rights, pensions, labor rights, and social welfare.

³⁴ The author has worked with Vasa Prava and its predecessor organization, the Legal Aid and Information Center network since 2000.

³⁵ Vasa Prava, *Annual Report 2007*, 7, and authors interviews with key staff, beneficiaries and donors.

Vasa Prava's significance comes as much from the way it provides services as the type of cases it does. It does everything from publishing brochures to presenting cases to the European Court of Human Rights. Much of its work involves letting people know of their rights. The idea that people have rights and can actually do things to enforce them is a new concept for many in Bosnia. Simply getting the word out is an important task. Vasa Prava lawyers appear on radio and TV constantly. Topics have included labor laws, utility services, back utility bills, illegal construction, temporary refugee status, the Freedom of Access to Information law, veteran's benefits, disability benefits, administrative appeal procedures, civilian victims of war, gender based violence and many others. Similar information is distributed through brochures and leaflets, Vasa Prava Magazine and their website.

Almost seven thousand people attended 661 Vasa Prava workshops and information sessions in 2007. The discussions at these workshops are practical: How to maintain your status as a refugee. How to apply for medical care and social welfare benefits. How to get your utility service restored. How to file an administrative appeal. Because Vasa Prava works throughout the country, it is able to tailor its public education efforts to the needs of the people they serve.

The goals of the outreach efforts are to let people know their rights so they can exercise them on their own, and to let people know that Vasa Prava is there to assist them if they need help. Help can take the form of a simple advice session or assistance in filing out a form. When more is needed, Vasa Prava will actually take on the case and do whatever is necessary, from calling a local official to filing a case in court. When systemic problems are identified, advocacy can take the form of "test case" lawsuits

intended to change laws or practices, negotiating with government officials or lobbying for legislative changes.

All these services complement and build on one another. Vasa Prava is able to do systemic work because it sees patterns of problems through its many individual contacts. It can provide effective training because of its extensive experience with so many communities. And so on. In short Vasa Prava uses the entire range of legal strategies to meet the needs of the poor and disadvantaged in BiH.

A review of the substantive work done by Vasa Prava and its predecessor organization, the LAIC network, shows their involvement in many of the critical issues facing BiH in its effort to achieve more effective governance.

A. Refugees and Internally Displaced Persons

UNHCR, in keeping with its humanitarian role in repatriating refugees and internally displaced persons (IDPs), established the LAIC network explicitly “to provide Bosnian refugees and displaced persons, as well as third-country asylum seekers and refugees, with information and advice on existing services and the enforcement of individual rights.”³⁶ Throughout the existence of the LAIC network and in the first years of Vasa Prava’s operations, virtually all the work focused on enabling refugees and IDPs to meet basic human needs.

Property Repossession

One of the most critical and complicated issues in rebuilding BiH has been property repossession. Trying to undo the effects of the war and restore pre-war rights in a climate of unrelenting hostility and inadequate resources has been a colossal undertaking. Considering that by May 2006 over one million refugees and internally

³⁶ UNHCR, *Directory of Legal Aid and Information Centres*, May 1999, 6.

displaced persons had recovered their pre-war homes, the degree of success has been remarkable, even if repossession of property has not always meant actually moving back home. Vasa Prava and the LAIC network played an essential role in this effort.

Restoration of legal rights to property was a necessary first step for people to return home. In October 2000 five major international organizations³⁷ adopted the Property Law Implementation Plan (PLIP) to ensure that all outstanding claims by refugees and displaced persons to repossess their properties were resolved. The intention was to create domestic legal procedures to apply the laws fairly. It treated property issues as a matter of rule of law and respect for civil rights, not the subject of political contention.^{38, 39}

Even after a proper legal framework was established, huge obstacles remained. Nationalistic political leaders, seeking to preserve their political bases, resisted implementation of property laws. Local officials went to “considerable lengths to prevent, hinder, disrupt and delay return...”⁴⁰ and in any case most municipalities lacked the administrative capacity to process claims. On top of all this there was, and remains, a housing shortage in some areas.

The PLIP addressed the problem through political intervention, capacity building and provision of housing assistance. Monitoring of actual implementation of

³⁷ Office of the High Representative (OHR), United Nations High Commissioner for Refugees (UNHCR), Organisation for Security and Cooperation in Europe (OSCE), United Nations Mission in Bosnia and Herzegovina (UNMIBH), and the Commission for Real Property Claims (CRPC).

³⁸ OHR, UNMIBH, OSCE, UNHCR, CRPC, *Property Law Implementation Plan: Interagency Framework Document*, October 2000, 6.

³⁹ In the first 4 years of Dayton the international community focused on creating a legal framework for property return. Over intense opposition and through the use of the High Representative’s powers to impose laws, the Entities were compelled to undo wartime laws which had given vacant properties to favoured groups and created significant barriers to return. While many adjustments had to be made along the way, as of 2000 the basic structure for resolving property claims was in place.

⁴⁰ OHR, *supra*, at 6.

property laws, determining how and why particular municipalities obstructed the laws, and taking necessary legal enforcement measures were essential. The LAIC network was in the best position to actually do detailed monitoring and enforcement because it was working with thousands of people seeking to get their homes back.

Many claims were denied for political reasons or due to misapplication of the laws. LAIC lawyers and advocates took those cases through the administrative and sometimes judicial dispute resolution processes. Because the property laws are complex and the property ownership regime was being transformed from social to private ownership, municipal officials often did not know what to do. The LAIC staff provided training throughout the country. Getting the word out to refugees and IDPs was also important. Again, the centres were key players in the public information campaigns.

A typical LAIC case illustrates some of the barriers encountered:

N.R., a refugee, who filed a request for property repossession in August 1998. Two years later she got a positive decision, which ordered the occupant of her apartment to vacate in 90 days. The temporary occupant refused to leave even after a complaint to the Cantonal Ministry resulted in an order to municipal authorities to proceed with eviction within 7 days. The municipal officials refused on the grounds that there was not adequate alternative accommodation available. Ms. R. went to her local LAIC, which complained to the Federal administrative inspector. Again, no action was taken. Only after the case was brought to the Municipal Court and an order was issued in October 2002 requiring the police to evict did the temporary occupant finally decide to leave.⁴¹

At the same time the LAICs provided information and advice to families needing alternative accommodation when faced with eviction. They held numerous public information sessions and distributed brochures explaining exactly what the eligibility requirements were and describing what actions disqualified people from receiving

⁴¹ Vasa Prava case file reviewed by author.

alternative accommodation. In country-wide surveys of conditions they were able to identify the quantity and quality of available accommodations and document the practices of various municipalities.

As late as 2005, Vasa Prava was still devoting a substantial amount of effort to restoration of property rights. Another case example serves to illustrate the need for sustained legal advocacy to solve the problems.

J.B. an elderly, single individual, had obtained an apartment in Zenica in 1984. Having been forced out during the war, J.B. applied for return of her apartment in 1999. The local authorities denied her request on the grounds that her documentation was incomplete. She attempted an administrative appeal on her own and it took until 2002 for the first instance body to reject her claim. She then sought assistance from the legal aid office in Dobož.

On behalf of J.B., the Vasa Prava lawyer requested that the competent ministry provide the required documentation, filed an appeal to the second instance administrative body, filed three complaints with the Federation Ombudsman and filed a complaint with the Federal Administration Inspector challenging the administrative appeals body's refusal to act on the appeal. Once a favourable decision was obtained from the second instance body the lawyer had to get the Ombudsman's office to intervene to require that the administrative officials be instructed to implement the decision. Finally, in July 2005, 6 years to the month after the process started, J.B. received the keys to her apartment.⁴²

The themes in the cases were always the same. Administrative bodies made incorrect decisions, refused to hold hearings, refused to make decisions and/or refused to implement decisions of higher authorities. In order to get relief for their clients the lawyers had to be fully aware of all the intricacies of the real property laws, know all about administrative procedure law and know what relief was available from the Ombudsman, the Federal inspectors and the courts. Getting property back required constant advocacy. While the degree of success in property returns is primarily due to the

⁴² Vasa Prava case file reviewed by author.

international organizations that created the Property Law Implementation Plan, the plan could not have been executed without Vasa Prava and the LAIC.

Reintegration into Local Communities

Establishing legal ownership to a house or apartment and getting the wartime occupants out were critical steps to returning home, but that was rarely enough. Over 50 percent of the homes in the Federation and around 25 percent in the RS had been damaged during the war and at least five percent in each Entity had been demolished. In addition power lines, water pipes and roads had been destroyed.

But the biggest problem for hundreds of thousands of people was that they were trying to return to an area that had been ethnically cleansed. Labeled “minority returns,” these people were trying to go back to places where they would face deep hatred and municipal governments controlled by the “majority”.⁴³ In addition to the huge psychological problems of trying to live where they were not wanted, these returnees were the victims of discrimination in their efforts to get utilities restored, register as residents, enroll their children in school, establish the right to health care and social services and get approval to rebuild their homes.

The LAIC network and Vasa Prava took on all the problems encountered by people actually trying to return home, whether they were in the minority or majority. A seemingly simple first step, registering as a resident, was often very difficult. People were required to register in the municipality to which they wanted to return in order to be eligible for essential benefits and services. However, decisions about registration were hard to make because people risked losing assistance in their temporary settlements, only

⁴³ As of 2007 UNHCR reported 465,733 “minority” returns and 559,278 “majority” returns. In the absence of a census, no one knows how many people are actually living in their old communities. See page 8 above.

to encounter insurmountable barriers to returning to their former homes. There were also many problems in getting the required documents, often from hostile officials. Legal advice and advocacy were often required. Vasa Prava did many cases of this type.

Restoring electric and water service was also crucial. The experience of M.J., an LAIC client from Ključ municipality, was typical. Although his house was rebuilt, the electric company, Elektro distribucija, said he would have to pay the equivalent of well over 1,000 Euros to get power lines run to his house. After some bargaining he was told that if he installed poles himself the company would run the cables. After he did the work he was told he still had to pay a large amount of money, well beyond his means. It took intervention by the LAIC to restore power to the entire village.⁴⁴

Having encountered many variations of the electricity problem, Vasa Prava took an active role in negotiations between the BiH Ministry for Refugees and Displaced Persons, the BiH Ministry of Energy and Public Enterprises and representatives of the international community on ways to restore power throughout the country. As with the property issues, the international organizations played the lead role, but because Vasa Prava had represented thousands of individual property owners, they were able to show patterns of discriminatory actions by the power companies. This information was essential to forcing an agreement to give returnees in all of BiH equal access to the electric power system, without having to pay for electric meters or the labor cost of connections to their homes, and without being taxed for restoration of power. Since the memorandum of understanding was signed, Vasa Prava lawyers have been actively

⁴⁴ LAIC case records reviewed by author.

involved in implementing it and often file complaints with the government ministries to insure compliance with the agreement.⁴⁵

While the total number of people who actually returned to their pre-war homes will not be known until there is a new census, it is certain that many people are back in their old communities.⁴⁶ That would not have happened without the promise in Annex 7 to the DPA and the strong backing of the international community, but it also required the immensely practical education, advice and advocacy from LAIC and Vasa Prava.

B. Vasa Prava's Expansion of Services and Populations Served

Starting with its establishment in 2003, Vasa Prava has continuously broadened its reach beyond refugees and IDPs. At the start almost all of Vasa Prava's beneficiaries were refugees and IDPs; by 2007 close to half of those served were other vulnerable people. The categories of people now provided free legal aid, except in criminal matters, include:

asylum seekers, human trafficking victims, refugees, returnees, displaced persons, stateless persons, torture victims, prison camp survivors, persons under humanitarian residence, children without parental care, minorities, single parents, victims of domestic violence, and local vulnerable population such as: welfare beneficiaries, civilian victims of war, disabled war veterans and disabled peacetime military, unemployed persons, pensioners, and employees deprived of their labour rights.⁴⁷

By types of services, the case breakdown for 2007 was: labor rights – 19 percent; family and marital rights – nine percent; pensions – 10 percent; personal property – six

⁴⁵ Author's interviews with Vasa Prava lawyers.

⁴⁶ There has not been a national census for BiH since 1991. Bosniaks have resisted a new census on the grounds that it would legitimize ethnic cleansing. Serb politicians oppose any census that would leave out questions of ethnic or religious identity. *Row Over BiH Census Evokes Bygone Multiethnic Past*, Southeast European Times, 21 November 2008, <http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2008/10/21/feature-02> 28 November 2008.

⁴⁷ *Vasa Prava Annual Report 2007*, pg. 7.

percent; public documents – six percent; utilities – nine percent; private property – 15 percent; social welfare – seven percent; and other --19 percent.

While there is no reliable way to determine the number of people who would qualify for Vasa Prava's services, it is certain that the organization can only provide direct services to a modest percentage of those in need.⁴⁸ To broaden its reach Vasa Prava seeks to do its work in a strategic way by advocating for systemic changes through its representation of individuals. Strategic advocacy focuses both on overall systems – the functioning of municipal government – and substantive issues such as pensions and social welfare programs.

Administrative Justice

Discriminatory practices, disregard of the rule of law, ethnic fragmentation, and a complex and redundant bureaucracy extend to almost every encounter Bosnians have with their government. Officials ignore requests from citizens, fail to comply with deadlines, refuse to collect information required by law and refuse to respond to complaints from inspectors and ombudsmen. The administrative appeals system does not correct these problems because first and second instance appeals bodies often do not issue decisions, first instance bodies often ignore decisions of second instance bodies, second instance bodies often ignore court decisions and courts often send cases back to administrators without making decisions on the merits of the claim.

⁴⁸ As of July 2008 the population of BiH was estimated to be about 4.5 million, with an estimated poverty rate of 25 percent. United States Central Intelligence Agency, *The World Factbook – Bosnia and Herzegovina*, 3 and 9. <<https://www.cia.gov/library/publications/the-world-factbook/geos/bk.html>> at 29 November 2008. Using the poverty level as a rough gauge of eligibility for Vasa Prava services would mean over a million people would qualify. Vasa Prava served 27,500 people in 2007, less than 3 percent of the potentially eligible population. Of course not every eligible person has a legal problem in any given year, but 55 Vasa Prava staff people cannot come close to serving everyone.

In general the legal framework for oversight and control of government functions is adequate but in practice it has not worked. To address these problems the United States Agency for International Development (USAID) funded the Administrative and Procedural Systems Reform Project. Vasa Prava played a central role in one component, the Administrative Justice Initiative. Working with the Center for Institutional Reform and the Informal Sector (IRIS),⁴⁹ Vasa Prava focused on the over 40 municipalities covered by their offices in Sarajevo and Dobož. The immediate objective was to improve the way government officials resolved the multitude of administrative cases dealing with essential government benefits. The longer term objective was to change the way government functions in serving citizens throughout BiH.

Vasa Prava adopted a three part strategy: aggressive pursuit of individual cases; public awareness and education; and strategic advocacy. Individual cases were carefully tracked to measure compliance with legal requirements and appropriate interventions were made when violations were identified. Disciplinary and minor offence proceedings were initiated against offending officials. In some instances damages actions were filed to recover compensation for harm suffered as a result of illegal practices. Vasa Prava lawyers regularly invoked the European Convention on Human Rights in seeking judicial relief from unlawful actions. The organization also conducted numerous seminars and training sessions for government officials to educate them about their responsibilities.

Recognizing that advocacy on behalf of individuals and educating the public and government officials was not enough, Vasa Prava broadened its reach by launching systemic advocacy campaigns to address problems with the civilian war victims benefits

⁴⁹ The IRIS Center is at the University of Maryland, Department of Economics <http://www.iris.umd.edu/> The Administrative Justice Initiative was undertaken with support from the Public Interest Law Institute, Budapest, Hungary. <http://www.pili.org/en/> The author was a consultant on the project.

program and the pension system. The intent was to use these campaigns to develop an advocacy model to be applied to other issues.

Civilian Victims of War

The Civilian Victims of War program⁵⁰ provides cash assistance, medical care, and other services to the surviving family members of civilians killed during the war and to civilians who became disabled because of the war. Due to under-funding, maladministration and outright discrimination, the program falls far short of meeting its goals.

The case of S.S., a Vasa Prava client, shows one of the problems with the program:

Ms. S.S. and her family, all Bosniaks, lived in Dobož, now part of the Republika Srpska, before the war. Her husband was compelled to serve in a work squad for the RS army during the war. He was killed in 1995. Ms. S.S. and her children had been forced to leave Dobož because they were Bosniaks. When she was finally able to return to Dobož in 2005, long after the end of the war, she applied for assistance under the civilian victims program. Her application was denied because under RS law she was required to apply within 6 months after her husband's death, an impossibility because there is no way a Bosniak could have returned to Dobož that soon after the war.⁵¹

In addition to the deadlines encountered by Ms. S.S., there are many other barriers to receiving assistance. Applications are left to sit, excessive documentation is required, government departments do not produce documents they have, appeals are never decided, corrupt officials demand bribes, and so on. There is ample evidence of outright discrimination against members of the "wrong" ethnic group who apply. Rigid

⁵⁰ The Civilian Victims of War program now operates under different statutory authority in the Federation and the RS. The original program traces back to at least 1984 in the former Yugoslavia. Vasa Prava, *Analysis Of The Regulations On Civilian Victims Of War In BiH*, July 15, 2005. (Author's files.)

⁵¹ Vasa Prava case file reviewed by author.

documentation requirements provide no alternative methods of proof when documents were destroyed during the war. Funding is inadequate.

Clearly a case-by-case approach alone would not be sufficient. While continuing to do individual cases, Vasa Prava has embarked on a broader campaign. A publicity campaign, particularly through radio and TV appearances, has raised awareness of the issues. Vasa Prava has allied itself with several organizations concerned with the program, for example the Landmine Survivors Network, which has many members seeking assistance. The publicity led to an invitation for Vasa Prava to participate in a legislative effort to reform the program. Members of the national legislature asked Vasa Prava to assist in drafting a statute that would create uniform eligibility requirements and benefit levels throughout the country, would remove control of the program from the Entities, would provide adequate funding and would establish fair procedures for administering the program. Although the changes have not yet been adopted, the fact that representative of civilian victims are lobbying for amendments is significant in a country with no history of citizen involvement in the legislative process.

Pension Contributions

There are serious problems with the pension system in BiH. The system uses payments for current workers to support current pensioners. The widespread failure of employers to pay contributions means there is not enough money to pay pensions, disability payments and related health care benefits. Armed with the information showing that employers regularly defaulted on their obligations, Vasa Prava began pressuring the pension authorities to enforce the employer contribution laws. The lawyers filed individual claims, initiated legal proceedings and brought media attention the problem.

This led to high level meetings between Vasa Prava lawyers and pension and tax officials which in turn led to greater enforcement action. The Federation Pension Bureau began a media campaign to let employers know they were going to be taking legal measures to collect contributions. At the same time the Cantonal Court for Sarajevo issued rulings in several cases that required to the Employment Bureau to take action to ensure that beneficiaries' rights were protected.

In 2005 the Constitutional Court issued a judgment holding that individual pensioners had standing to sue to enforce the right to pension contributions from employers. This provided Vasa Prava with another tool to use for their clients and enhanced their power in negotiating with government officials. Advocacy by Vasa Prava and increased public attention to the issue caused the RS Pension and Disability Insurance Fund to issue a formal public call to all joint stock companies to provide the data on contributions going back to 1998, with a goal of resolving outstanding pension and disability claims.

The pension contribution issue is far from resolved, but Vasa Prava has been able to assist many individuals in establishing their rights, has educated many more about what to their rights are, has made significant changes to the behavior of government agencies that will help all pensioners and applicants for health, disability and unemployment assistance and has raised the importance of the issue on the public agenda.

Asylum and Trafficking

In 2004 Vasa Prava signed a protocol with the BiH Ministry of Security on provision of free legal aid to asylum seekers, persons with temporary resident status based on humanitarian grounds and victims of trafficking. In a statement that could apply

to many areas of Vasa Prava's work the Office to Monitor and Combat Trafficking in Persons of the United States Department of State commended their efforts on trafficking:

Vasa Prava is the only NGO providing *pro bono* legal assistance to victims of human trafficking in Bosnia and Herzegovina.... Attorneys from *Vasa Prava* are available to domestic victims from the time they arrive at a shelter, even if they are not formally registered by the state, and arrange all residency permits and asylum applications for foreign victims. If a victim chooses to testify, *Vasa Prava* represents the individual from the first statement until trial completion.

Through its uniform approach and intermediary work between victims and government, *Vasa Prava* has also helped to strengthen the rule of law in Bosnia and Herzegovina. Victims assisted by *Vasa Prava* are more likely to testify against their traffickers in criminal proceedings and have provided critical testimony leading to the conviction of several notorious traffickers and organized crime rings. *Vasa Prava* performs an integral civil role that the Bosnian Government, due to funding and logistical restraints, cannot fulfill, and has given a voice to those previously silenced.⁵²

Legal Aid

Vasa Prava is a leading member of a coalition of NGOs advocating for the creation of a state-funded, domestic legal aid program. Since 2003, with the active support of the Public Interest Law Institute (PILI), UNHCR and the Organization for Security and Co-operation in Europe (OSCE), the coalition has lobbied the Ministry of Justice and the State Parliament for adoption of a comprehensive legal aid law. The draft law prepared by the coalition provided the basis for a law now being considered by the RS Assembly. Vasa Prava's substantial experience in providing civil legal aid has provided evidence of the need for a comprehensive legal aid program and direction in fashioning a program that responds to the needs of people in BiH. While much remains to be done to actually establish a legal aid program, a solid foundation has been built.

⁵² United States Department of State, *Trafficking in Persons Report -Released by the Office to Monitor and Combat Trafficking in Persons*, 12 June 2007. < <http://www.state.gov/g/tip/rls/tiprpt/2007/82800.htm>> at 1 August 2007.

Anti-Discrimination Advocacy

Vasa Prava again collaborated with the PILI on a major project titled "Promoting Anti-Discrimination Laws and Practice in BiH,"⁵³ to ensure that vulnerable ethnic and religious minorities have equal access to employment, education, and other basic human rights. The overall objectives of the project are to raise public awareness of problem of discrimination, to promote the adoption of anti-discrimination legislation, policies and practices in BiH, and to increase the capacity of civil society to combat discrimination.

During 2007 and 2008 Vasa Prava and PILI conducted a series of workshops at a regional and national level to hear from stakeholders about the problems they encounter and to begin to fashion remedies. At the same time there was a media campaign, using posters, brochures, and television and radio public service announcements, to educate the public about discrimination. Another key aspect of the project has been to increase the capacity of Vasa Prava and other advocacy NGOs to use strategic litigation to attack discrimination on a systemic basis.⁵⁴ While litigation efforts are still in the development stage a number of issues – for example, discrimination in employment practices and provision of municipal services – have been identified as likely subjects of lawsuits.

Although the BiH Constitution explicitly adopts the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols (ECHR),⁵⁵ which includes anti-discrimination provisions,⁵⁶ there is no comprehensive domestic anti-discrimination legislation. Vasa Prava is now a member of the Ministry of Human Rights and Refugees' working group, which is drafting legislation to fill this major gap. By

⁵³ The project was done with major support from the European Commission.

⁵⁴ The author took part in 3 strategic litigation training sessions during 2007 and 2008.

⁵⁵ Constitution of BiH, Article II, Section 2.

⁵⁶ ECHR, Article 14 and Protocol 12.

October 2008 a proposed law had been drafted using European models and was being circulated for public comment. If adopted, the law would create new administrative remedies and give the courts substantial powers to force both government agencies and private organizations to end discriminatory practices on a systemic basis.⁵⁷

No one involved in the anti-discrimination project expects major changes soon, but they do believe that the groundwork has been laid for a long term campaign to realize the promise of equal treatment for all in BiH. Vasa Prava will be a central player in that campaign.

III. The Importance of Vasa Prava

The necessity of doing the kind of work Vasa Prava does in post-conflict societies has been recognized by the United Nations. The UN Secretary-General's report on transitional justice⁵⁸ stressed the need to support domestic reform constituencies. "Civil society organizations, national legal associations, human rights groups and advocates for victims and the vulnerable must all be given a voice in" rule of law reforms, justice reconstruction and transitional justice initiatives. "Effective rule of law and justice strategies must be comprehensive, engaging all institutions of the justice sector, both official and non-governmental..." "Beyond the criminal law realm, such strategies must also ensure effective legal mechanisms for redressing civil claims and disputes, including property disputes, administrative law challenges, nationality and citizenship claims and other key legal issues arising in post-conflict settings." There must be support for "access to justice to overcome common cultural, linguistic, economic, logistical or

⁵⁷ Author's review of draft law and interviews with Vasa Prava and PILI staff.

⁵⁸ See p. 22 above

gender-specific impediments. Legal aid and public representation programs are essential in this regard.”⁵⁹

A substantial part of Vasa Prava’s work helps ameliorate the practical consequences of the war. As described in detail above, the organization helps people return to their homes, rebuild them, get utility services, establish residency, obtain financial assistance and health care, and register their children for school. Looking forward, it is dealing with emerging issues such as care for children with disabilities or protection for victims of trafficking. These activities clearly benefit the people who come to Vasa Prava for help. The question is, does Vasa Prava’s work promote stability and help alleviate poverty for the society overall? A review of the type of work it does strongly suggests the answer is yes.

Vasa Prava promotes government improvement in several ways. Through their advocacy, its lawyers force government departments to deal with issues that those departments have ignored. By constantly invoking the law, they educate officials about their obligations. This is often supplemented with informal and formal training. Administrative appeals, however inadequate at times, force additional scrutiny of department operations. Judicial review brings even more attention, as does the use of the inspectorates and ombudsmen. The use of offence and disciplinary proceedings has a direct impact on the behavior of recalcitrant officials. [What are offence proceedings? And should it be spelled “offense”?] The failure of officials to do their work properly can be due to lack of training, lack of resources, lack of knowledge of the law, indifference,

⁵⁹ United Nations Security Council, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, S2004/616, 23 August 2004, 7-13.

hostility, discrimination or in some cases outright corruption. Vasa Prava's work, to differing degrees, takes on all of these issues.

Justice systems encompass not just courts, judges, police and prosecutors, but all the means of resolving disputes and enforcing the rule of law. Government agencies and the corresponding administrative appeals systems, as well as ombudsmen and inspectors, are all vital components of the justice system. The poor, disenfranchised and dispossessed members of society are even more dependent than most people on the proper functioning of these oversight bodies because their very survival often depends on the help they get from government. Proper treatment, in turn, often depends on the effective functioning of appeals systems and judicial review and oversight.

On paper BiH has a good justice system. The Law on Administrative Procedures and the Law on Administrative Disputes provide for the timely, fair and inexpensive administrative and judicial review of government agency actions. The practice clearly falls well short of the legal requirements. One of Vasa Prava's primary goals is to make that system work, both at the administrative and judicial levels. No system functions properly without outside pressure to make it follow the rules. That pressure is most effective when it combines the real life needs of claimants with the knowledge and skill of trained advocates.

The laws in BiH are often exceedingly complex and ineffective because many originated during the communist era, were sometimes adopted with overtly discriminatory purposes, may conflict with other laws, may not provide real solutions to problems addressed, or are simply poorly drafted. With 14 legislative bodies in operation in BiH confusion and conflict are inevitable.

Vasa Prava's work highlights problems with existing laws and their expertise and experience helps in fashioning more effective laws. Their work on the Civilian Victims of War program demonstrates this point. The statutes creating the program trace directly to pre-war Yugoslavia. While they have been amended to varying degrees in each Entity, many of the provisions simply do not apply properly to the 1992-95 war. Plus, each Entity made changes which were either overtly or indirectly discriminatory. Vasa Prava's work with many applicants for civilian victim's benefits put it in an excellent position to develop a new law, which they were asked to do. Lobbying by citizen's groups and advocacy organizations is relatively new to BiH, and Vasa Prava is helping to pave the way through this effort and others.

Through its extensive outreach, media and public education efforts, Vasa Prava is helping to create a culture of rights, in which citizens understand that they, as individuals, have rights and that there are actions they can take to protect and enforce those rights. As a corollary to this, Vasa Prava, is supporting the development of an active civil society through its work with law students, citizen's groups, advocacy groups and service organizations. It does this by sometimes representing the groups and their members and sometimes by collaborating on projects.

Vasa Prava has several other qualities which make it effective. First, it is a thoroughly Bosnian organization. It is a registered national NGO, with its own board of directors and Bosnian staff. Because it is part of the Bosnian community, the staff has deep familiarity with the history and current problems. It is one of the few NGOs that provides services throughout the country, which gives it a broad perspective on the issues.

Of equal importance, the organization has a deep commitment to creating a pluralistic society where everyone's rights are protected. This commitment comes from the shared values of the staff and board and permeates all aspects of Vasa Prava's work. They know personally and from their clients how harmful it is to have a political structure that puts ethnicity first. They are working hard to create democratic institutions that serve everyone, regardless of ethnicity.

IV. Conclusion: Possible Lessons and Implications

The BiH Constitution gives pride of place to human rights by declaring that "Bosnia and Herzegovina and both Entities shall ensure the highest level of internationally recognized human rights and fundamental freedoms."⁶⁰ Vasa Prava represents individuals in order to realize those rights and freedoms. Vasa Prava's core mission is to promote civil, socio-economic, cultural and human rights and to provide fair access to justice for the realization of those rights. The preamble to the Universal Declaration of Human rights acknowledges that "disregard and contempt for human rights" has "resulted in barbarous acts which have outraged the conscience of mankind", a statement that applies with full force to the 1992-1995 war. Correspondingly, recognition of human rights is the "foundation of freedom, justice and peace in the world." Vasa Prava helps turn those lofty principles into day to day reality for ordinary citizens of BiH.

Vasa Prava's significance extends beyond the work it does for individuals and even beyond the benefit to individuals who are not its direct clients. It is helping to create links between ordinary people and the government institutions that are intended to serve their needs. In forging those links it is, step by step, improving the performance of those

⁶⁰ Article II, Section 1.

institutions and helping create a climate in which there is transparency and accountability. Vasa Prava cannot directly address the serious political failures in Bosnia, but, by helping build responsive institutions it can show people that change is possible and give them more reason to demand political change.

One possible criticism of support for civil society organizations such as Vasa Prava—whether in Bosnia or elsewhere—is that they are not sustainable. That is, they require outside support to continue operating, and in the absence of such support they cannot sustain their work. There are several powerful counterarguments to this criticism.⁶¹ For the sake of brevity here, suffice to say that the very sustainability of a country’s recovery can be influenced by the kind of services offered by Vasa Prava. Furthermore, such civil society services can be far superior to any potentially offered by the country’s government, by virtue of an NGO’s greater flexibility and a government agency’s greater susceptibility to corruption and political control. Finally, in many societies legal services NGOs do prove sustainable as they diversify their funding sources. In a situation such as Bosnia’s then, helping to sustain recovery through NGO support trumps relative quibbling over whether a civil society group is sustainable over the long haul.

Lessons from Vasa Prava’s Work

Advocacy Matters

No matter how good the laws or the system for enforcing them, real change requires that individuals and disadvantaged groups have knowledgeable and skilled legal representation.

⁶¹ See, e.g., Stephen Golub, *Myths of Sustainability*, subsection in, *Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative*, Rule of Law Series, Number 41, Democracy and Rule of Law Project, Carnegie Endowment for International Peace (Washington: Carnegie Endowment).

A Small Organization Can Make a Big Difference

Whether at its peak of over 120 staff or its current size of fewer than 40, Vasa Prava has demonstrated that a small organization with proper skills, commitment and focus can have a major influence on government and private actions.

The Method for Providing Legal Aid is Important

Legal Aid NGOs can accomplish much more than systems that rely on individual private lawyers. Publicly funded legal aid systems using private lawyers cannot develop the knowledge base or provide the wide array of services – public education, outreach, advice, individual representation, systemic advocacy – that can be provided by legal aid NGOs.

Advocacy for the Disadvantaged Promotes Justice Sector Reform

The justice sector includes not only courts but all levels of government. Equal justice for all cannot be achieved without the poor and disadvantaged having a voice in the system. Legal aid NGOs help those voices to be heard.

Advocacy Promotes Post-Conflict Reconciliation and Economic Development

Resolution of immediate post-conflict issues – housing, identity papers, social welfare services – lays the groundwork for longer term economic development. Legal aid NGOs help with both short and long term issues and can adjust their services as needs evolve.

Long Term International Support is a Good Investment

Building an effective system to represent the poor and disadvantaged takes time and money. Outside support is necessary to provide the services when they are most

needed, but must also last long enough to firmly establish domestically-supported systems.

Bosnia is not the only country struggling with its past. While each country has its own unique history, the lessons learned from Vasa Prava's work suggest the need for international support for similar organizations wherever rebuilding efforts are underway. More broadly, the Vasa Prava experience shows that legal advice, representation and advocacy can hold governments to account for meeting the needs poor and disenfranchised. That lesson applies everywhere.

REFERENCES

- Amnesty International, *Bosnia and Herzegovina: Behind Closed Gates – Ethnic Discrimination in Employment* (2005) p. 3.
- Bosnia and Herzegovina 2008 Progress Report*, Commission of the European Communities, SEC(2008) 2693 Final, 5 November 2008, 7.
- Commission of the European Communities, *Report from the Commission to the Council on the Preparedness of Bosnia and Herzegovina to Negotiate a Stabilisation and Association Agreement with the European Union*, COM(2003) 692, 11 November 2003
- Dahlman and O Tuathail, *Broken Bosnia: The Localized Geopolitics of Displacement and Return in Two Bosnian Places*, *Annals of the Association of American Geographers*, 95(3), 2005, 648.
- European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, Article 14 and Protocol 12.
- European Council, *European Council In Copenhagen Conclusions Of The Presidency* 22 June 1993, 14.
- Stephen Golub, *Myths of Sustainability*, subsection in, *Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative*, Rule of Law Series, Number 41, Democracy and Rule of Law Project, Carnegie Endowment for International Peace (Washington: Carnegie Endowment).
- General Framework Agreement for Peace in Bosnia and Herzegovina, 14 December 1995
- Helsinki Committee for Human Rights in Bosnia and Herzegovina, *Report on the Status of Human Rights in Bosnia and Herzegovina*, January-December 2005
- International Center for Transitional Justice, *Bosnia and Herzegovina: Selected Developments in Transitional Justice*, October 2004
- International Criminal Tribunal for the former Yugoslavia,
- International Crisis Group, *Ensuring Bosnia's Future: A New International Engagement Strategy*, Europe Report No. 180, 15 February 2007
- Office of the High Representative, *Mandate of OHR*, http://www.ohr.int/ohr-info/gen-info/default.asp?content_id=38612. 23 November 2008.
- Office of the High Representative, *Thirty-fourth Report of the High Representative for Bosnia and Herzegovina*, 1 April to 31 October 2008, http://www.ohr.int/other-doc/hr-reports/default.asp?content_id=42678, 21 November 2008.

Office of the High Representative, Retrieved 16 August 2007, from <http://www.ohr.int/ohr-info/gen-info/#pic>

OHR, UNMIBH, OSCE, UNHCR, CRPC, *Property Law Implementation Plan: Interagency Framework Document*, October 2000, 6.

OHCHR, *Taking Stock of Human Rights in Bosnia and Herzegovina*, Outcome Document, December 2005, 3.

Oxford Research International, *The Silent Majority Speaks: Snapshots of Today and Visions of the Future of Bosnia and Herzegovina*, United Nations Development Programme, 7 July 2007

Jeremy Page and Richard Beeston, "Calls For Freedom Make The Jigsaw Of Europe More Complicated Than Ever" *The Times of London*, 2 June 2006
<<http://www.timesonline.co.uk/tol/news/world/europe/article670821.ece>> at 30 November 2008.

Research and Documentation Center, *Research Results and Database Evaluation*, 2007.
<<http://www.idc.org.ba/aboutus.html>> at 16 August 2007.

Row Over BiH Census Evokes Bygone Multiethnic Past, Southeast European Times, 21 November 2008,
<http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2008/10/21/feature-02> at 28 November 2008.

"Request for evaluation of certain provisions of the Constitution of Republika Srpska and the Constitution of the Federation of Bosnia and Herzegovina", Constitutional Court of Bosnia and Herzegovina, Case No. U 5/98-III, Third Partial Decision, 1 July 2000, 24.

Tabeau, Ewa; Bijak and Jakub, *War-related Deaths in the 1992–1995 Armed Conflicts in Bosnia and Herzegovina: A Critique of Previous Estimates and Recent Results*, European Journal of Population, Volume 21, Numbers 2-3, June 2005, pp. 187-215(29)

UNDP, *Bosnia and Herzegovina – Poverty Reduction*, 26 September 2008, <<http://www.undp.ba/index.aspx?PID=25&RID=26>> at 16 February 2009.

UNDP, *Consolidated Report of the Municipality Assessments in Bosnia and Herzegovina*, April 2004

UNDP, *National Human Development Report 2005 – Better Local Governance in Bosnia and Herzegovina*, pg. 17.

UNHCR, *Directory of Legal Aid and Information Centres*, May 1999, 6.

UNHCR, *Extremely Vulnerable Individuals: The Need for Continuing Integration Support in Light of the Difficulties to Reintegration Upon Return*, November 1999, 4.

UNHCR, *Legal Aid Search Results*, <[http://www.unhcr.org/cgi-bin/texis/vtx/home?id=search&results=web&query=legal percent20aid](http://www.unhcr.org/cgi-bin/texis/vtx/home?id=search&results=web&query=legal%20aid)> at 30 November 2008.

UNHCR, *Review Of The UNHCR Housing Programme In Bosnia And Herzegovina* May 1998, 10.

UNHCR *Statistics Package*, 31 December 2007.

UNHCR, *Update: The State of Annex VII – March 2007*, Retrieved 16 August 2007, from <http://www.unhcr.ba/updatesmay07/annexVII.htm>

United Nations Security Council, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, S2004/616, 23 August 2004.

United States Central Intelligence Agency, *The World Factbook – Bosnia and Herzegovina*, 3 and 9. <<https://www.cia.gov/library/publications/the-world-factbook/geos/bk.html>> at 29 November 2008.

United States Department of State, *Trafficking in Persons Report -Released by the Office to Monitor and Combat Trafficking in Persons*, 12 June 2007. <<http://www.state.gov/g/tip/rls/tiprpt/2007/82800.htm>> at 1 August 2007.

Vasa Prava, *Annual Report 2007*, 7.

Vasa Prava, *Analysis Of The Regulations On Civilian Victims Of War In BiH*, July 15, 2005. (Author's files.)

World Bank, *Bosnia and Herzegovina Poverty Assessment, Vol. I*, 21 November 2003, pp. 49-50

World Bank, *Mid-Term Development Strategy of Bosnia and Herzegovina (PRSP)*, March, 2004