

The state, social groups and volunteering

Reflections for debate from a comparative perspective

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B A C K G R O U N D

The project “Supporting Volunteering as a Resource in Uruguay – 00063280” was a joint initiative between United Nations Volunteers (UNV), the United Nations Development Programme (UNDP) and the Ministry for Social Development (as a partner in implementing the outcomes via the National Youth Institute (INJU) and the Directorate for Emergency Support and Social Inclusion (DINACIS)). Its overall aim was to create an environment which would encourage volunteering in development projects in Uruguay. More specifically, its objective was to contribute to the development of a public policy on volunteering for development. One of its action strategies is to develop applied studies, and to promote and disseminate information. This provides the context for this comparative study of legislative and public policy initiatives directed towards volunteering.

The aim of this document is to provide material for an informed debate on a Volunteering Act for social organisations in Uruguay, which will complement or become part of the existing Volunteering Act dealing with government programmes.

INTRODUCTION

The purpose of this report is to collate and provide a systematic description of action taken in relation to volunteering (focusing particularly on legislation, but also covering public policy initiatives).

In recent years, the term “volunteering” has grown more widespread, becoming associated with different, sometimes contradictory, approaches. These range from reinventing the Welfare State from a more humane, grass-roots perspective¹, through to a revitalised privatisation strategy which aims to challenge the state, not from a market standpoint, but from a non-hierarchical, co-operative perspective²; they also include the disturbing vision of a voluntary sector emerging out of a workless society³. Between these extremes lies a huge diversity of viewpoints, some of which are confused and conceptually strained.

With concepts which are not value-free, such as volunteering, the temptation is to mix the labels and the characteristics ascribed to them. And so we see some authors slipping in references to the Third Sector or Civil Society⁴ as synonyms for volunteering, possibly based on the idea of a Civil Society composed of “voluntary associations” as propounded by de Tocqueville. But it should be remembered that this was a way to bring together within a single category a variety of groups characterised by free association and non-compulsory membership, as a means of distinguishing them from corporations, the State,

¹ The 2002 Report on Human Development by the UNDP, “Deepening democracy in a fragmented world” states that volunteers contribute to “promoting wider participation in the institutions and rules that affect people’s lives and achieving more equitable economic and social outcomes”.

² Quoting Beck, Eduardo Bustelo says: “In the same vein, the NGO debate on volunteering has witnessed a merciless attack on the state and politics. The state has been identified as synonymous with corruption, inefficiency and insensitivity. Morality, non-existent in the public (state) sector, is “liberated” when it is transferred to the ambit of a society whose social commitment, now voluntary, expresses a “new” individual solidarity, the product of a personal and direct commitment, which finds its expression in concrete, non-bureaucratic and, above all, non-political projects. In the developed countries, there is not a single commentator who would not argue that the third sector or the voluntary NGO sector is where we are seeing the rebirth of a revitalised “spirit of society”, and where the foundations for political activity are being rebuilt. A “spirit of society” which reconciles the individual with the collective, and selfishness with good: a “spirit of society” without society and supposedly free from politics.” From Eduardo Bustelo: “¿Retornará lo social?” in Revista de Ciencias Sociales Iconos: FLACSO, Facultad Latinoamericana de Ciencias Sociales, Quito, Ecuador, September 2003 1390-1249. Article available at: http://www.flacso.org.ec/docs/i17_bustelo.pdf

³ Jeremy Rifkin: “El fin del Trabajo”, Paidós, Mexico, 1992 (orig. “The End of Work”)

⁴ Although we do not consider the point here, it is worth mentioning that some authors identify a previous transformation: from the idea of “Civil Society” to that of the “Third Sector”, which they argue was designed to respond to a functionalist vision, which eliminates the concept of conflict and the traditional structural nature of social processes. (These authors are critical of the concepts of the third and voluntary sectors, viewing them as justification for dismantling the Welfare State rather than as a manifestation of a global associative revolution). See Casas, Alejandro; “Una mirada crítica sobre el tercer sector” in the journal Trabajo Social, nº 15, Montevideo, 1999.

the family, etc. De Tocqueville's voluntary associations were characterised by *independent free will*, not necessarily by the *will to help*.

There is also a tendency to confuse the for-profit (or not-for-profit) motive of an organisation with the payment (or non-payment) of the individuals involved. But, both conceptually and empirically, these two variables are relatively independent of each other⁵.

This diversity of approach has an impact on the legal frameworks and the public policies used to promote the elusive idea of "volunteering" today. As we shall see, this diversity is one of the central issues in the debate.

This document seeks to prompt discussion. Its aim is to provide material for an informed democratic dialogue, bringing together within a single framework the vast range of issues and participants which link together the State, Civil Society Organisations and Volunteers. It avoids dwelling on technocratic points, on the understanding that the technical aspects and the information which emerges from this comparison of experiences are to serve solely as an aid to decision-making based on inclusive dialogue. That is the only way to ensure a sustainable and effective outcome on a topic such as the one which concerns us here.

The document begins with a brief background to volunteering in Uruguay. It goes on to summarise recent initiatives by the Uruguayan government in this field, in order to identify the lessons that can be learned. It highlights the importance of a network approach to co-ordinating and promoting volunteering in Uruguay.

The second part of the document deals briefly with the role of collective action in making the case for legislation. This will also provide a framework within which to define and develop the key issues for debate, from a comparative perspective.

Finally, the conclusion draws together the main elements of the debate in Uruguay and the region.

⁵ A well-known piece of research indicates that, at a global level, the recent increase in not-for-profit organisations is characterised by organisations which receive fees (and which are believed to fund themselves through the provision of services). Thus voluntary organisations seem to be acquiring a distinctly commercial focus, based on payment of their employees. See "LA SOCIEDAD CIVIL GLOBAL. Las dimensiones del sector no lucrativo." Lester Salamon, Fundación BBVA, Madrid, 1999

Context

In recent years, volunteering has captured people's attention, and has gone from being a relatively invisible and underappreciated phenomenon to something which enjoys public recognition and is highly valued. In addition, there seems to have been an increase in the number of people volunteering.

According to a study by the Institute for Communication and Development (ICD), at the time of its survey, 20% of Uruguayans were involved in some form of volunteering, devoting an average of 26 hours a month to voluntary activity⁶.

If the number of people who have carried out some form of voluntary activity at some point in their life is taken into account, the percentage of volunteers rises to 43% of the population.

This is a very large number in absolute terms, and is also very high in comparison with previous figures. In 1998 CIFRA found that 7% of the population were involved in volunteering, while a further 18% were interested in taking part but had not found a way to do so. In 2001, using a different methodology, FACTUM recorded a figure of twice that for the number of people involved in volunteering, i.e. 14% (Bettoni and Cruz).

Although this significant increase could be due in part to the fact that tasks not previously considered as "volunteering" have become more visible, it is clear that we are dealing with an important issue, whose impact is greater than its actual size would suggest.

⁶ Instituto de Comunicación y Desarrollo; "Dimensiones del Voluntariado en Uruguay"; Montevideo, 2009

The formation of an Executive Board for Volunteering

This section is based on the account given by Bettoni and Cruz⁷ of the process of developing relationships between social and government organisations in response to the International Year of Volunteers.

In June 2000, the National Committee for the International Year of Volunteers was created, at the request of the United Nations, bringing together a wide range of social organisations. The aim of this co-ordinating forum was, amongst other things, to exchange knowledge and experiences, to take action to extend the scope of volunteering and give it due recognition, and to call on the government to introduce programmes and policies for volunteering, including a Volunteering Act.

The initiative was born out of a civil society with huge expectations and managed to harness diverse efforts and design an action plan. As it had hoped, the Committee quickly attracted interest from the government, which gradually became involved in the project.

Government interest crystallised on 5 December 2000, when a Presidential decree gave the Committee its resounding support and set up an Executive Board, consisting of members of the previous committee and officials from government departments.

The experience is illuminating. In issuing this decree the government gave its backing to an initiative that was entirely in the hands of civil society, and one with promising objectives. The government committed itself to the key substantive objectives of the time, and became involved in the organisation. This generated considerable enthusiasm and confidence among some social groups. A public-private body (the Executive Board) was set up, which acknowledged the previous organisation (the Executive Board included members of the IYV Committee, on which specific functions were conferred) and also took on board the main objectives that had been set (with a statement that the activities to celebrate the Year of Volunteers were of national interest). The Board also included the National Congress of Mayors, an excellent basis for gaining grass-roots support for its activities. Such were the expectations, but they were not to be fulfilled.

According to those involved, in practice this new body totally swamped the earlier initiative. “Based on people’s comments, we are virtually forced to conclude that the

⁷ Analia Bettoni and Anabel Cruz: “Voluntariado en Uruguay: perfiles, impacto y desafios”, ICD, 2001

government completely took over the structure which had been put together (...) The National Committee's ambitious proposals and its rich programme of activities seem to have become somewhat overshadowed by the operation of a new structure. (...)

“During the International Year, the Committee did not have in place an explicit communications policy, nor did the National Committee meet during the whole of 2001, with all the celebrations for IYV2001 having apparently been left in the hands of the Executive Board. If the presidential decree preserved the National Committee's independence, even granting it specific powers, then one has to ask why the National Committee was rendered powerless and remained inactive for the whole of 2001. The facts point to the Committee exercising a sort of self-denying ordinance, and it seems to have handed over its representative role to the Executive Board, although there was no official transfer. If, by creating an Executive Board, the Committee hoped to extend its activities and to put the organisation on a solid institutional footing, then the laudable goal of making volunteering a national political issue seems to have foundered. While relatively successful negotiations may have produced a formal government decree, they did not lead on to subsequent further achievements: not only did the civil society organisations lose the leading role they had won for themselves, but the high profile which had been built up was also put in jeopardy.”⁸

In short, in the view of some of those involved, setting up the Executive Board led to:

- ✘ more bureaucracy
- ✘ loss of enthusiasm and public visibility on the part of the Committee
- ✘ reduced creativity and commitment from the social organisations
- ✘ mistrust of the government's “invasive” aspirations.

The view expressed by civil society should be set against other points of view. However, a tendency towards state centralisation is a recognised characteristic of Uruguayan society, supported not only by state structures, but also by those of civil society. Fear of “government takeover” is a recurrent theme whenever there are political discussions on any initiative, such as volunteering, which has a legal impact on the relationship between government and civil society organisations⁹.

⁸ Bettoni and Cruz; op cit.

⁹ The Member of Parliament, Jaime Tobo, said, during plenary debate on the Volunteering Act 2005: “this bill is a means of putting pressure on civil society; it began with a bill tabled by the Executive which, fortunately, was watered down by the Senate. But, mark my words, they are going to insist on the regulation of civil societies which undertake volunteer activities in the private sector throughout the country, just as today they

The Volunteering Act 17885. Adapting to circumstances

When the Volunteering Act in force in Uruguay today was first discussed, its aim was essentially to respond to two problems: a) the need for a legal framework for acts of solidarity by its citizens, which would confer a legal status on volunteering and on the relationship that volunteers develop with government and civil society organisations. The legal vacuum identified in this area was a recipe for confusion, offering scope for subsequent employment disputes, job insecurity for those in permanent employment, etc. In short, it engendered insecurity which was felt by both parties but which was a particular source of complaint for the organisations involved; b) the need to incorporate a large group of volunteers into government programmes, given that there was: i) a pressing need, as the recently-created Ministry for Social Development was hoping to tackle a state of social emergency as a means of providing the main source of initial legitimacy for the new government; and ii) a ready supply of volunteers, given the large number of people – around 3,000 – who had spontaneously signed up as potential volunteers to join in this challenge.

But the fate of the project was determined by political necessity. The plurality of organisations involved and the heated discussions that were anticipated over government areas of influence and interference, together with the urgent need to resolve the issue of volunteers in government programmes, led the Senate to limit regulation to individual volunteers who are involved, whether directly or through private, not-for-profit organisations, in programmes overseen by public bodies.

As a rapporteur in the Senate, Senator Susana Dalmás, said: “...reality forces us to regulate what must be regulated in order to give proper direction and provide some guarantees in respect of the most immediate tasks, while at the same time we must channel and make use of the willingness to join in and get involved shown by so many members of the public who want to offer their support and who have already registered with the Ministry for Social Development.” As a result, they left voluntary involvement in civil society organisations for another occasion, and thus for a another social and political debate.

The problems posed by this Volunteering Act for government programmes, in terms of the

particular political context, were twofold: a) fear, in some sectors, that the influx of volunteers into public programmes would lead to a sudden and massive take-over of state structures by militants from the party in government, intent on spreading propaganda and furthering party aims. Provision against this risk was made in Section 3: “During the course of these activities, volunteers and volunteer organisations may not undertake proselytism of a religious, political or other nature”; b) volunteers’ expectations that, having worked as volunteers, they would be given formal employment in the public service. Section 4 guards against this: “Volunteering activities undertaken with public institutions shall not create a right to employment in the public service”.

As the programmes were put in place, these fears were dispelled, either because of the two legal safeguards, or because people’s desire to take part was genuinely motivated, right from the start, by a spirit of volunteering.

The key points in implementing the Act included the setting-up of a central register of volunteers, and accident insurance cover.

On the first of these points, public institutions are required to register with the National Office for Community Service, and social organisations that have agreements with the government must register with the Ministry of Employment and Social Security. This entails organisational and regulatory effort: registration requirements, registration methods, database management, etc. The Act imposes an obligation on organisations to register the agreement made with volunteers; it is not necessarily intended that there should be a national database, such as the National Register of Volunteers (RENAVOL) in Peru, where organisations and volunteers are officially registered on a public database (which may enable a greater degree of collective administration); rather, in principle, it simply provides a means of monitoring the legal relationship between the parties.

With regard to the accident cover provided by the Banco de Seguros del Estado, the Act states that volunteers have a right to accident insurance cover whilst carrying out their tasks, to be paid for by the public body for which they are working. The fact that the Banco de Seguros is a public body makes it easier to monitor compliance, and also makes for a more efficient (albeit excessively tardy) process when a claim is made after an accident.

The volunteering in civil society organisations bill

In June 2008 the Senate passed the Volunteering in Not-for-profit Civil Society Organisations Bill, thereby implementing the proposal to extend regulation to volunteering within civil society organisations which had been put forward during debate on the previous Act. However, the Chamber of Deputies has so far delayed dealing with the measure, which will not now be able to proceed given the imminent change in the legislature. It is a striking dismantling of a process that seemed so important and that was so pressing for social organisations¹⁰.

A network-based approach

To summarise, this brief analysis of the development of legislation on volunteering in Uruguay points to isolated and disjointed initiatives, which have so far failed to offer an integrated response which would provide a holistic legislative approach to the problem, coupled with the corresponding regulations and the necessary work on co-ordination, promotion, registration, etc.

Organised civil society groups and government have not offered sufficient support to provide sustained pressure for more integrated reform. Volunteer interest – the main reason behind the current Volunteering Act – is inherently spontaneous and diverse, and if it is not channelled into some minimal organisational structure, its achievements can be no more than sporadic. But it is, by its very nature, antagonistic towards any organisational framework which is excessively rigid in terms of the people, levels, timeframes and interests involved. Therefore, a delicate balance has to be preserved between plurality and co-ordination.

The National Volunteer Network (RNV) in Colombia, established in 2003, brought together all the voluntary organisations in the country. Adopting an inclusive, pluralistic

¹⁰ The Director of the Uruguay Volunteer Centre, Eugenia Puglia, said in the Senate committee during debate on the Bill: "What happened was that, once a legal framework and regulation were put in place governing activity in the public sector, there was an increase in the number of employment disputes involving people supposedly working as volunteers or out of good will, claiming compensation from civil society organisations. This led many of these organisations, some of them of very sizeable, to take a decision at Board level not to work with volunteers so long as there was no legal regulatory framework for these organisations. In fact, in the last three years we have suffered a fall in volunteer participation, because we have decided that, until we have a legal framework in this area, we are not prepared to work with them, and indeed we are not doing so."

and democratic approach, it has developed a national volunteer database and an inventory of internal and external communication media; it undertakes some administrative and financial management for voluntary organisations and it has been involved in drafting the Volunteering Act, which sets up the National Volunteer System.

This is an example of how a network-based approach, with decentralised management of a diverse group of interwoven relationships which become closer or more arms-length depending on circumstances and issues, is the most common means of achieving that happy formula for “organisational diversity”. While volunteer networks face an almost infinite number of potential challenges, it is worth highlighting the following issues:

- Joint promotion of planning capabilities. Preparation of joint strategic programmes (or, where appropriate, immediate action programmes).
- Staff training – with the involvement of universities (particularly in partnership with extension departments), polytechnics, etc.
- Systematic organisation of information to create a voluntary sector management tool, maintaining a geographical and subject-based database, and recording good practice and experience.
- Introduction of regular dialogue/training/planning sessions, both virtual and physical.
- The development of PR activities to recognise the work of volunteers and give it a higher profile.

It is recommended that a Virtual National Volunteering Portal be created to provide a permanent platform for taking forward these goals. As well as offering scope for co-ordinating action, communicating and systematically recording information, it would also provide a space for public debate, a type of forum for exchanging ideas which would encourage mutual recognition and reinforce the volunteering ethos.

Given the non-hierarchical nature of these networks, government involvement tends to be problematic. In some cases, organisations view the lack of government participation as a positive sign, a mark of independence. However, the government is one of the key players in a volunteering network in Uruguay, not just as a potential promoter, regulator and funder of the volunteering activities undertaken by social organisations, but also through

its direct management of voluntary resources in its social programmes; it does not act with a single voice, but is involved through various different aspects of its work and at different local and national levels. The nature of its involvement should be defined (and continuously redefined) as the initiative evolves, in what will doubtless prove to be a complex interplay of co-operation and conflict.

Another interesting development of relevance is the European Volunteer Centre (CEV). The CEV began life in 1990, and in 1992 it was accorded official status as an “international not-for-profit organisation”. It is a European network that brings together 74 national and regional volunteer centres and agencies, with very close links to the official institutions of the European Union¹¹. Its aims are:

- to promote and win recognition for volunteering as an expression of active citizenship in Europe among the general public, the media, businesses and policy-makers at all relevant levels of government;
- to act as a bridge for communication between volunteer organisations and the work of the European institutions in developing policies;
- to promote and support the role of volunteering infrastructure in advancing volunteering as an expression of active citizenship in Europe;
- to serve as a knowledge and research resource for volunteering in Europe;
- to promote innovation and good practice in the field of supporting and reinforcing volunteering, participation and active citizenship through exchange, structured dialogue and network-building;
- to develop strategic partnerships and alliances with key stakeholders across all sectors;
- to increase and diversify the membership of CEV;
- to maintain and develop the efficient management of the organisation.

¹¹ See the CEV official webpage: <http://www.cev.be>

CEV channels the collective priorities and concerns of its member organisations to the institutions of the European Union. It also acts as a central forum for the exchange of policy, practice and information on volunteering. When considering the specific activities which might be undertaken by a volunteer network in Uruguay, the following services provided by CEV are relevant:

- gathering and providing information on developments within the EU on volunteer related topics;
- representing the needs and concerns of CEV members within EU policy and with international institutions;
- conducting research on volunteering;
- encouraging networking between organisations and facilitating the exchange of good practice and innovation;
- providing a forum to find partners for European-wide projects;
- general assemblies, conferences, seminars, workshops and meetings;
- an interactive website and a monthly electronic newsletter.

Reasons for legislating

In this second part, before debating the potential content of government action, we first consider the reasons for legislation. Insofar as volunteering is an activity that may take place outside the ambit of the state, sometimes making a point of its independence, we need to identify the reasons for government involvement. The answer will also enable us to categorise the various possible legislative options and to discuss the problem issues, which we will deal with below.

The decision to legislate on a particular issue suggests that a problem has been identified which can be solved through a regulation or a set of legal rules.

Without going into conceptual debates, we will simply say that the grounds for action lie in the existence of a problem of the “public good”, whether it involves “positive externalities” which can be encouraged, or “negative externalities” which need to be limited and/or regulated (what could be termed a “public detriment”).

In other words, we shall view government intervention as being justified by the existence or potential existence of a collective gain or loss and by the scope to promote or limit the respective gain or loss through public instruments. This raises two issues:

- a) The problem of the public good (positive or negative externality); there must be a possibility of achieving a social gain or limiting a collective loss which cannot be achieved “amicably”, i.e. there are insufficient individual incentives to achieve what is socially beneficial.

We say that there are positive externalities when a potential social benefit exists alongside a state of conflict: that is, there is the potential to provide a benefit to society (public good), but there are insufficient individual incentives for it to be fully achieved (the problem of collective action). The government will either look to promote incentives to achieve this good or will supply it directly itself.

We say that there are negative externalities when there is a set of incentives for someone to act in a way which is in his own private interest but which has potential

negative costs for those who are not directly involved. The state will try to regulate and limit these negative externalities, transferring the costs, where necessary, to those responsible.

- b) The possibility of a public solution; state intervention must offer an expectation of obtaining some gain or limiting a collective cost. In other words, given the problem, state intervention is considered appropriate (some problems of this type – termed problems of collective action – could also be resolved by co-ordinated voluntary action, without the need for imposition from above), and the state is considered capable of taking it forward.

Positive externalities of volunteering

The identification of benefits depends on the ideology and the conceptual frameworks adopted. But the minimum consensus is that volunteering, as human resource capital available to promote social welfare (in addition to the strategies used), with volunteers being motivated by their convictions and a sense of solidarity, represents a potential benefit that could become a major factor in the development of society.

Volunteering is based on a personal commitment to be involved. And so, by definition, we need to consider the incentives for individuals to undertake voluntary activities. Clearly, one could not have a law forcing people to volunteer, because this would be a contradiction in itself (for example, if we were to view compulsory military service as volunteering). However, legislation can help to maximise the potential benefits by addressing areas such as communication with volunteers, recognition, training, funding, aligning and harmonising voluntary action with development priorities defined at national and local levels, etc.

Negative externalities of volunteering

There are no direct costs associated with volunteering, but there are risks which, if not regulated, could lead to costs for third parties or for those directly involved in the volunteer relationship.

The main risk is that of a potential distortion of the labour market, through the replacement of official, paid employment by voluntary work. There is always the possibility of subcontracting activities carried out by salaried public servants to organisations that use voluntary labour, and within those organisations there is a risk that introducing the concept of the volunteer creates job insecurity for those in paid employment.

Likewise, there is the risk of confusion, real or potential, over the relationship between the volunteer and the organisation, and this is the main reason why organisations working with volunteers called for a volunteering act in Uruguay. If it is not possible to enter into a legal agreement on voluntary work, organisations lay themselves open to subsequent complaints, based on arguments about the promise of payment, insurance cover, etc., whilst volunteers run the risk of not receiving certificates for the work undertaken, not being reimbursed for their expenses, etc.

Key issues for discussion

The arguments set out above, coupled with a delineation of the various areas over which the state can legislate (voluntary action, voluntary organisations, and volunteers), allow us to illustrate the main themes of political debate, which will serve as a map on which to locate the topics and the various solutions identified in Latin America for each topic. From this we can produce a table of action taken to regulate positive and negative externalities, and the definitions used.

As a reference point, we will use for comparison current legislation on volunteering from Brazil, Colombia, Bolivia and Argentina, within our own region, and from Spain, whose legislation has served as a model.

The Brazilian law, a point of reference on the topic, is particularly brief. Act 9,608 of 1998 consists, in substance, of three sections (the other two sections being purely formalities). It

defines volunteering and lays down the formal conditions of the agreement between the organisation and the volunteer, to be set out in a written contract.

Colombia was part of the “first generation” of legislation. In 2001, Act 729 was passed, but its objective was different from that of the Brazilian legislation (which was to set up a legal framework for the agreement between organisation and volunteer); the Colombian legislation scarcely mentions the agreement or the rights and obligations involved¹², focusing instead on networking and joint action by organisations, and putting forward a structure for a National Volunteer System.

In Argentina, Act 25,855 of 2004 consists of 14 sections (in addition to transitional provisions), and was passed after the dismantling of the state in the nineties and a huge rise in the number of volunteers during the subsequent financial and social crisis¹³.

The Bolivian law, Act 3,314 of 2005, has 12 substantive sections, but it is far more substantial and broader in scope than the other acts considered here. It is innovative in the relationship it establishes between volunteering and the university extension movement.

National and international volunteering activities in Spain are particularly relevant, with the state being a key player. At national level, Act 6 of 1996 was passed after legislation had already been approved at regional level in the autonomous regions of Aragon, Madrid and Castile La Mancha. Legislation on volunteering is now fairly widespread throughout Spain, with only one autonomous community not having legislation on the subject.

¹² Under Decree 4290 of 25 November 2005, which introduces regulations pursuant to Act 720, every organisation must draw up and display a volunteering code, setting out volunteers' rights and obligations.

¹³ Between 1998 and 2002 the number of volunteers in Argentine tripled. See Bernardo Kliksberg; “El voluntariado en Latinoamérica, siete tesis para la discusión” in Helene Perold and María Nieves Tapia (editors); “El Servicio Cívico y el Voluntariado en América Latina y el Caribe”, Global Service Institute, 2007

	Definition	Regulation of negative externalities	Promotion of positive externalities
Voluntary activity	<p>Definition of voluntary activity</p> <p>What characteristics define voluntary activity?</p>	<p>Relationship between formal paid employment and voluntary work Is formal employment being replaced?</p>	<p>Relationship between volunteer’s objectives and local or national development objectives? Are the objectives of the voluntary activity aligned with the development objectives set by national and local institutions?</p>
Volunteers	<p>Definition of volunteers</p> <p>What characteristics define volunteers?</p>	<p>Relationship with their organisations Are their rights and obligations defined?</p>	<p>Use of volunteers Is there enough encouragement of volunteering in society? Are volunteers registered on a database?</p>
Voluntary Organisations	<p>Definition of organisations which use volunteers</p> <p>What characteristics define such organisations? Public or private? How should one define the profit motive?</p>	<p>Relationship with their volunteers Are their rights and obligations defined?</p> <p>Relationship between the government and civil society</p> <p>Are government functions being taken on by social organisations which use volunteers?</p>	<p>Use of the organisations that work with volunteers</p> <p>Is there enough encouragement of organisations that make use of voluntary activity? How is payment regulated? Performance, delivery requirements, etc.</p>

Definitions

Voluntary Activity

The laws which take care to define volunteer activities are essentially very similar. They have two characteristics in common: the lack of payment (voluntary nature, not-for-profit, no employment relationship, etc.); and the focus on achieving some common good (defined in many different ways, but always in general terms). In some legislation this focus on the common good appears alongside the definition of the volunteer (as is the case in Argentina) and in others alongside the definition of voluntary organisations (Bolivia).

Argentina	“The purpose of this Act is to promote volunteering, which is a means by which citizens can show solidarity within the community, through not-for-profit activities...”
Colombia	<p>“Volunteering. This is the body of public interest activities undertaken by natural or legal persons, who serve their community by virtue of a relationship of a civil and voluntary nature.”</p> <p>“Public interest activities. For the purposes of this Act, public interest activities are activities involving participation in social welfare, civic affairs, the use of leisure and free time, religion, education, culture, science, sport, healthcare, development co-operation, environmental protection, protection of the economy, research and other similar activities consistent with the aim of Voluntary Action.”</p>
Brazil	“For the purposes of this Act, voluntary service means unpaid activity undertaken by a natural person or a public body of any nature, or by a private, not-for-profit institution, with a civic, cultural, educational, scientific, leisure or social welfare purpose, which may be for mutual benefit”.
Bolivia	“Volunteering. Volunteering means any activity undertaken by individuals, associations, or legally constituted bodies which associate freely and without a profit motive, outside the context of an employment relationship or public service, in order to promote the common good.”

Spain	<p>“For the purposes of this Act, volunteering means any activity in the public interest undertaken by natural persons, other than pursuant to an employment, public service or commercial relationship or any other relationship involving payment, which satisfies the following requirements:</p> <ul style="list-style-type: none"> a) It is altruistic in nature and shows solidarity. b) It is undertaken freely, and not out of a personal obligation or legal duty. c) It is undertaken without remuneration, without prejudice to the right to be reimbursed for expenses incurred in carrying out the voluntary activity. d) It is undertaken through a private or public organisation and in accordance with specific programmes or projects. <p>2. All isolated or sporadic voluntary activities, those not within the ambit of public or private not-for-profit organisations, and those prompted by family relationships, friendship or the desire to be a good neighbour, are excluded.”</p> <p>Public interest activities.</p> <p>For the purposes of the previous section, public interest activities are activities involving participation in social welfare, civic affairs, education, culture, science, sport, healthcare, development co-operation, environmental protection, protection of the economy, or research, the development of civil society, the promotion of volunteering, or any other activities of a similar nature.”</p>
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Volunteers

One point of difference within this set of similar definitions is whether or not voluntary activities must be undertaken within an organisation. The Bolivian legislation envisages the possibility of volunteering without belonging to an organisation; but when it comes to defining rights, these are all linked to the organisation to which the volunteer belongs. In other words, while it is a way of acknowledging the existence of voluntary work outside an organisational framework, such work is outside the remit of the Act.

Argentina	<p>A volunteers is any natural person who undertakes, of his own free will, free of charge, for altruistic purposes and as a demonstration of solidarity, tasks in the public interest for the said organisations, without receiving any remuneration, salary, or financial reward in return.</p> <p>All isolated or sporadic voluntary activities, those prompted by family relationships, friendship or the desire to be a good neighbour, and those which are not carried out by free choice, or which arise from a legal obligation or duty, shall be excluded from this Act.</p> <p>Activities for the common good and in the public interest are those activities involving participation in social welfare, civic affairs, education, culture, science, sport, healthcare, development co-operation, environmental protection, or any other activities of a similar nature. This list is not exhaustive.</p>
Colombia	<p>Volunteer. Any natural person who freely and responsibly, without receiving any salary, offers his time, labour and talent to achieve the common good, whether as an individual or as part of a group, and whether under or outside the auspices of a public or private organisation.</p>
Bolivia	<p>Volunteer. A volunteer means any natural person who, of his own free will, free of charge and responsibly, whether as an individual or within the context of an organisation, carries out voluntary activity which entails a commitment in support of society and individuals.</p>
Spain	<p>The concept of a volunteer.</p> <p>A volunteer is any natural person who freely undertakes to carry out the activities described in Sections 3 and 4. (Sections 3 and 4 are the sections which define voluntary activity and public interest activities.)</p>
Uruguay	<p>A volunteer is any natural person who, of his own free will, offers his time, work or skills, on an occasional or regular basis, for the public good, as an individual or within a framework provided by not-for-profit non-governmental organisations, whether these are officially recognised or not, or by national or international public institutions, and for which he receives no payment.</p>

Voluntary organisations

In this area there is a clear dividing line, which provides perhaps the most important difference between the various pieces of legislation: it concerns the public or private nature of the organisations that use the services of volunteers. Argentina specifically includes both types of organisation, whilst Bolivia recognises only social initiatives. Spain also recognises both public and private options, provided that they take place within the context of government programmes. In this it is similar to the legislation in force in Uruguay. But in the Uruguayan example the explicit intention is to regulate only the state sector, whilst in Spain it seems that the intention is to channel all voluntary activity within a framework provided by state objectives (which is understandable in view of the role of the Spanish state in funding civil society). We shall see this later when we address the alignment of voluntary effort with local and national development objectives.

Argentina	An organisation in which volunteering activities are undertaken means any public or private not-for-profit legal person, whatever its legal form, which takes part, directly or indirectly, in programmes and/or projects that pursue purposes or goals in the public interest and common good, whether within the country or abroad, and whether or not it has state support, subsidy or patronage.
Colombia	<p>Voluntary organisations. Any not-for-profit organisation with legal personality whose purpose is to implement plans, programmes, projects and activities related to volunteering, with the participation of volunteers.</p> <p>Bodies making use of voluntary activity. Any body whose purpose is not voluntary activity, but which carries out voluntary activities.</p>
Bolivia	<p>Voluntary organisations. Voluntary organisations are social initiative organisations that take part, directly or indirectly, in programmes and/or projects that pursue purposes or goals in the public interest or common good, whether or not they have state support, subsidy or patronage. Public Interest Activities. Public interest activities are activities involving participation in social welfare, civic affairs, education, culture, science, sport, healthcare; emergency, disaster and/or crisis relief; co-operation in development projects, environmental protection, promotion of sustainable development, civil protection, the development of civil society and the promotion of volunteering, or any other activities of a similar nature.</p>

Spain	<p>The purpose of this Act is to promote and facilitate involvement by citizens in voluntary activities within public or private not-for-profit organisations.</p> <p>1. This Act shall apply to volunteers who take part in programmes at state or supra-autonomous community level, and to the corresponding organisations to the extent that they undertake such programmes.</p> <p>2. It shall also apply to voluntary organisations which take part in programmes whose activities fall within the exclusive competence of the state.</p>
Uruguay	<p>The volunteer activities to which this Act applies are those activities which are undertaken within the framework of specific programmes or projects overseen by public institutions.</p>

None of the laws under consideration defines a **not-for-profit organisation**. Although they set out the criteria for common good, they do not do the same in respect of not-for-profit. Thus they leave the issue to be dealt with by specific legislation on the subject, whether or not such legislation exists, thereby sidestepping a thorny issue. The Chilean Bill, tabled in 2004 and currently still going through the parliamentary process, is an exception; it dealt with volunteering in regulations as part of a much more general Act, the Associations and Participation by Citizens in Public Administration Act. During a very complex discussion, the debate on the risks of state domination provided the main grounds for arguments in the Senate in favour of rejecting the Bill. “The truth is that the government is going too far in its desire to promote socialism ... in its desire to interfere in private bodies, community groups and citizens’ organisations. This is pure Marxist socialism, Mr. Speaker!” said one Senator when explaining his no vote¹⁴. In simple terms, and purely as a point of reference for the debate, we shall consider the defining characteristics of a not-for-profit organisation.

Not-for-profit organisations should be¹⁵:

- Organised: with a degree of institutional structure. They should have some form of legal authorisation or possess permanent organisational structures, objectives, functions and activities.

¹⁴ See: http://www.camara.cl/pley/pley_detalle.aspx?prmID=3888&prmBL=3562-06

¹⁵ Rafael Cháves and José Luis Monzón: “Economía social y sector no lucrativo: actualidad científica y perspectivas”, CIRIEC, Spain, 2001.

- Private: organisationally separate from government. This does not mean they may not receive government support.
- Self-governing: capable of making their own decisions and running their own affairs.
- Non-profit-making: any profits should not be distributed among members. The organisation may make a profit, but it must be reinvested in furtherance of the organisation's purpose.
- Voluntary: with voluntary membership or affiliation. This does not mean that they must use volunteer resources, but that people can join or leave of their own free will.

It is not easy, however, to define the absence of profit. Two approaches are considered here:

1. The outcome approach: under this approach a not-for-profit organisation is one whose aim is to achieve social goals rather than seeking to make a profit.
2. The process approach: this requires the existence of organisational and distributional rules which restrict the organisation's behaviour, in particular a rule preventing distribution of profits. This does not guarantee that no incentives to seek individual benefits will exist in the organisation, but it reduces those incentives and, in any event, limits them to remuneration, ruling out a return on investments.

Reflecting on the opportunities for debate on this subject in Uruguay, we will take a brief moment to identify those organisations which could be classified as not-for-profit social organisations.

Co-operatives?

The Co-operative System Act 18407 lays down “A prohibition on distributing company reserves and a requirement for any remaining assets in the event of liquidation to be used for disinterested purposes”. It also requires co-operation between co-operatives and a commitment to the community. Therefore, under both the outcome and process approaches, in Uruguay co-operatives are not-for-profit organisations.

Foundations?

According to Act 17163, foundations do not distribute profits and they have a public interest purpose. This rules out the possibility of their being purely market-focussed organisations, meaning that they satisfy the definition of a not-for-profit organisation.

Political parties?

According to the Political Parties Act 18485, “political parties are associations of people without a profit motive, whose purpose in coming together is collectively to undertake political activities of any nature”. They are sometimes considered to be not-for-profit civil society groups, even though their role is to represent interests and ideas, rather than to provide goods and services. Under some legislation, such as the Bolivian law, they are explicitly excluded from being classified alongside other voluntary organisations.

Trade unions?

As with political parties, and provided that they are independent from other groups, they can be considered as not-for-profit social organisations.

Religious or sporting organisations, etc.?

Provided that they do not distribute profits among their members, and that they meet the other criteria, such as being independent of the state and private companies in terms of their organisational hierarchy, the only possible objection to their being classed as not-for-profit would arise under the outcome approach, insofar as their objectives are not focused on the community.

Positive externalities

Relationship between the volunteer's motives and local or national development objectives. Are the objectives of the voluntary activity aligned with the development objectives set by national and local institutions?

The Spanish legislation provides robust assurance that volunteers' efforts will be aligned with the goals set by government, because it defines them in terms of their relationship to government programmes. Colombia designed the National Volunteer System in order to promote a co-ordinated network of organisations, and Bolivia established CONAVOL, the National Volunteer Council, setting out in detail the rights and organisational structure of the institution. Neither the Argentinean nor the Brazilian legislation displays the same intent to provide direction.

Government measures to promote volunteering

There is considerable diversity among the measures used to promote volunteering. It is perhaps the area which displays the most creativity and most closely reflects local circumstances. Brazil does not lay down any type of promotional activity. The Argentinean legislation provides for dissemination, and states that previous voluntary experience will be taken into account in applications for public service employment. Colombia commits physical, technical and financial resources from the state to the organisations. The Bolivian legislation contemplates various means of disseminating information and collaborative working with the universities. The Spanish legislation emphasises the role of volunteering in government programmes, and finance is available from public funds even though the Act does not specifically mention this as a means to encourage voluntary activity. It also makes provision for carrying out campaigns and offering volunteers various benefits.

Argentina	<p>Ways to encourage volunteering</p> <p>The Executive, through the relevant bodies, shall foster programmes which offer technical assistance and training to the voluntary sector, and shall undertake campaigns to publicise and provide recognition for voluntary activities through government communications media, and within the education system. Volunteers shall enjoy the benefits stipulated by regulation as a means of encouraging, recognising and valuing the contribution made to society by voluntary activity. Previous voluntary service, duly accredited, shall be compulsorily taken into account in competitions for employment in the three branches of government.</p>
Colombia	<p>Co-operation in implementing public and civic policy. Voluntary organisations and bodies making use of voluntary activity shall have the right to receive financial, material and technical support from public resources to assist them in the proper performance of their activities, and to participate in devising public and civic policies in the manner stipulated in the Constitution and the relevant legislation.</p>
Bolivia	<p>The following incentives shall be available for volunteering:</p> <p>I. Academic credits for voluntary work in those schools, universities and public and/or private educational institutions which have entered into specific agreements with the National Volunteer Council (CONAVOL).</p> <p>II. A system of internships for students and/or graduates from Bolivian and foreign universities, in areas of voluntary work relating to:</p> <ul style="list-style-type: none"> a) Development projects and programmes which integrate volunteering into the country's national, departmental, and municipal development plans. b) Programmes which allow for the recognition and strategic use of the local traditions of self-help and community help to be found in the country. <p>Recognition and Promotion of Volunteer Work. The fifth day of December each year is established as National Volunteering Day, the aim of which is to:</p> <ul style="list-style-type: none"> - Promote the philosophy, values and principles of voluntary service in schools and encourage teenagers and young people to play a greater part in the various volunteer programmes available at the time. - Inform and raise awareness more widely among the population as to the importance of serving the community through voluntary work undertaken during emergencies, natural disasters, and crises, and as part of any form of development activity.

Spain	<p>Measures to encourage volunteering</p> <p>The Central Government shall foster the introduction of technical assistance mechanisms, training programmes, information services, and campaigns to publicise and provide recognition for voluntary activities.</p> <p>Incentives for volunteering</p> <p>Volunteers shall be eligible for discounts or reductions on state-run public transport, free entry to museums run by the Central Government, and any other benefits laid down by regulation, in accordance with the terms laid down by the relevant department or departments.</p>
Uruguay	<p>The State shall encourage voluntary activity through information campaigns, publicity, training and recognition for volunteering activities.</p> <p>(Promotion of benefits for those taking part.) Public institutions which encourage voluntary involvement in activities in the general interest shall seek to obtain special allowances or reductions in public transport fares or other similar benefits to enable volunteers to carry out the functions assigned to them.</p> <p>(National Volunteering Day.) The fifth of December is established as “National Volunteering Day” to coincide with the “International Volunteer Day for Economic and Social Development” established by the United Nations General Assembly.</p>

NEGATIVE EXTERNALITIES

The relationship between formal paid employment and voluntary work. Is substitution taking place?

The risk that volunteering may be used improperly as a substitute for formal employment is one of the key criticisms levelled at volunteering. The countries whose laws explicitly prohibit this are Spain: “Under no circumstances shall volunteering be a substitute for paid employment”; Argentina: “Services provided by a volunteer shall not replace paid employment”; and Uruguay: “The services of volunteers may not be used as a substitute for formal employment or in order to avoid obligations towards workers. Volunteer services take place outside the framework of employment relations and social security.”

The relationship between volunteers and organisations

One of the main objectives of legislation on volunteering is to confer legal status on the agreement between the parties. In this way abuse and misinterpretation can be avoided. The Brazilian legislation focuses principally on this objective, requiring a written agreement between the parties. The Argentinean and Bolivian legislation is almost identical in this respect, setting out in detail the characteristics of the agreement. The Colombian legislation does not mention the issue. The Uruguayan Act mentions the need for a written agreement and the scope for it to be revoked by either party, also in writing.

Argentina	The conditions of the Common Basic Volunteer Agreement shall be set out in writing before the commencement of any activities involving the organisation and the volunteer, and shall include the following requirements: <ul style="list-style-type: none">a) Information identifying the organisation;b) The volunteer’s name, marital status, identity document details and address;c) The rights and obligations on both parties;d) The activities to be carried out by the volunteer and the amount of time the volunteer undertakes to dedicate to the activity;e) The start and end dates for the activities, and the grounds and procedure by which either party may, with due notice, terminate the relationship;
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	<p>f) The signature of the volunteer and the appointed person from the organisation, giving their mutual agreement to the appointment and to the principles and objectives underpinning the activities;</p> <p>g) Two copies of the agreement shall be signed, to the same effect and purpose, one of which shall be given to the volunteer.</p>
Brazil	Voluntary service shall be undertaken under an agreement entered into between the organisation, whether public or private, and the volunteer, which shall state the purpose and conditions of service.
Bolivia	<p>Every organisation shall, before commencement of the voluntary activities, establish a written agreement between the organisation and the volunteer, which shall include the following requirements:</p> <ul style="list-style-type: none"> - Information identifying the volunteer and/or the organisation - The volunteer's name, marital status, identity document details and address; - The rights and obligations on both parties; - The activities to be carried out by the volunteer and the amount of time the volunteer undertakes to dedicate to the activity; - The start and end dates for the activities, and the grounds and procedure by which either party may, with due notice, terminate the relationship; - The signature of the volunteer and the appointed person from the organisation, giving their mutual agreement to the appointment and to the principles and objectives underpinning the activities; - Two copies of the agreement shall be signed, to the same effect and purpose, one of which shall be given to the volunteer.
Spain	<p>The appointment of a volunteer within an organisation shall be formalised in writing through the relevant agreement or undertaking which, in addition to stipulating the altruistic nature of the relationship, shall include, as a minimum, the following provisions:</p> <ul style="list-style-type: none"> a) The body of rights and obligations on both parties, which must comply with the provisions of this Act. b) The content of the functions and activities which the volunteer undertakes to perform, and the amount of time he undertakes to devote to them. c) The training needed by the volunteer to carry out his functions. d) The length of the commitment and the grounds and procedure by which either party may terminate the relationship.

Uruguay	<p>The relationship between the volunteers and the public institutions or the organisations responsible for drawing up agreements with the volunteers shall be formalised in writing in a co-operation agreement or undertaking, setting out the scope of the activity involved and the name of the volunteer.</p> <p>Where the volunteers are minors, the aforementioned document shall also record the express agreement of the legal representatives of the boys, girls, or adolescents, who shall in all cases be at least 13 (thirteen) years old.</p> <p>The agreement may be terminated in writing by any of the parties.</p>
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Defining volunteers' rights and obligations:

In most cases, the definition of volunteers' rights and obligations is very long. The Brazilian legislation acknowledges only the possibility of reimbursing travel and subsistence costs, which must be approved in advance. Colombia requires confidentiality and gives volunteers a right to accreditation. The other statutes set out considerably longer lists of rights, which consist of a mix of incentives for volunteering, such as training, full involvement, accreditation (which is also included among actions to promote positive externalities), and safeguards for basic rights, as well as setting out various kinds of obligation. One original feature of the Bolivian legislation is to make volunteering within the university context part of the curriculum. The subject of accident insurance has conflicting implications, as is the case with anything involving a commitment to expenditure by government or the organisations involved; it can be argued that in Argentina failure to resolve this issue (together with another issue with cost implications – promotional activity) explains why the area has still not been regulated¹⁶. In fact, the right to accident insurance has not even been brought into force by the Executive.

¹⁶ "Why the delay in regulating? One reason is that the question of insurance has not been resolved. Who will pay the volunteer's hospital expenses if he or she contracts a disease at work, or if they break a bone in their foot helping to build the roof of a dining room? Many civil society organisations say they cannot afford to pay. 'Civil society organisations have not got the money to pay for obligatory insurance cover. Volunteers have a right to it, but as civil society organisations we cannot guarantee it. We are asking the government to take responsibility for it, because we have taken on issues that should be dealt with by government', says Victor Hirsch, director of Caritas Quilmes, which has 1,000 volunteers." In Revista Tercer Sector: <http://www.tercersector.org.ar/notas/notaT60.php>

Argentina	<p>Volunteers shall have the following rights:</p> <ul style="list-style-type: none"> a) To receive information on the organisation’s objectives and activities; b) To receive training to enable them to carry out their activities; c) To be registered when they join and leave the organisation, in accordance with the regulations; d) To have a form of identification providing evidence of their volunteer status; e) To be reimbursed for any expenses incurred in the performance of their activity, with the prior and express agreement of the organisation. Such reimbursement shall not, under any circumstances, be deemed remuneration; f) To receive a certificate for the activities carried out and the training received (not brought into force); g) To be insured against accident and illness arising directly from undertaking voluntary activities, as provided for by regulations (not brought into force); h) For the voluntary activity to be taken into account when filling vacancies in the national civil service, in accordance with Section 11 of this Act. <p>Volunteers shall:</p> <ul style="list-style-type: none"> a) Perform their activities with due diligence, and accept the organisation’s purpose and objectives; b) Respect the rights of the beneficiaries of the programmes in which they participate; c) Keep confidential any information received during the course of their activities, where disclosure would infringe an individual’s personal rights; d) Take part in any training undertaken by the organisation in order to improve the quality of the services provided; e) Refrain from accepting any type of financial consideration from those benefiting from their activities; f) Use the organisation’s accreditation and publicity material appropriately.
Colombia	Volunteers shall keep confidential all plans, programmes, projects and activities as required, and may request accreditation of the services provided.
Brazil	The volunteer may be reimbursed for expenses incurred in carrying out his activities. The expenses to be reimbursed must be approved by the organisation.

Bolivia	<p>Volunteers have the following rights:</p> <ol style="list-style-type: none"> a) To receive, both at the outset and on a continuing basis, information, training, specific training for the voluntary work involved, guidance, support and, where appropriate, the physical resources needed to undertake the functions assigned to them. b) To receive information on the organisation's objectives and activities. c) To be treated without discrimination, and with respect for their liberty, dignity, privacy and beliefs. d) To take an active part in the organisation for which they work, collaborating in the formation, design, implementation and evaluation of its programmes, in accordance with its statutes or the applicable regulations, safeguarding the movable and immovable property of the organisation. e) To be reimbursed, via the organisation, for expenses incurred in carrying out their activities, in accordance with the provision made by the organisation, where the voluntary organisation has specific funding available for the voluntary activity undertaken. f) To carry out their activity in a healthy, safe environment in accordance with the nature and characteristics of the activity. g) To receive respect and recognition for the social value of their contribution, from both public and private organisations. h) To change to a different programme or, as the case may be, to working for a different beneficiary, where there are justified grounds for doing so, to the extent that this is possible within the organisation, and taking into account the need to safeguard the smooth operation of the institution. i) To obtain a certificate for the activities carried out and the training received. j) To obtain short-term medical insurance from the public healthcare system for the voluntary work, on presentation of their credentials as a volunteer. k) The healthcare provided by the public social security system shall only cover health problems in respect of accidents and/or illnesses arising from the voluntary activities. l) Voluntary activity undertaken in co-operation with public and private universities shall be awarded sufficient credits to allow it to substitute for elective subjects. The said accreditation and substitution shall be determined by prior agreement with the universities which subscribe to this national volunteering programme.
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- m) Emergency voluntary work which requires the individual to volunteer during working hours shall be deemed hours of work for workers and employees and class time for students, where the National Volunteering Council certifies the work undertaken and the time involved.
- n) The country's Departmental and Municipal Councils shall make budgetary provision from money received from the Institute for Human Development to deal with emergencies, disasters, crises, droughts, and floods, by providing equipment, provisions, materials and supplies required by:
- Departmental and municipal emergency personnel;
 - Relief and development volunteer personnel accredited by the National Volunteering Council.

Volunteers have the following **duties**:

- a) To carry out their work with the utmost diligence in accordance with the undertaking they gave on joining the organisation or programme and with any instructions they may be given during the course of their work.
- b) To respect the rights of the programme beneficiaries and to behave accordingly.
- c) To keep confidential any information received during the course of their activities, where disclosure could infringe an individual's personal rights and/or the rights of the institution.
- d) To refrain from accepting any type of financial consideration from those benefiting from their activities.
- e) To participate in the training and coaching planned by the organisation in respect of the activities and functions to be undertaken, and in any continuing training and coaching required in order to maintain the quality of the services provided.
- f) To take part in drawing up and evaluating programmes and activities relating to their tasks.
- g) To accept, respect, comply with and adhere to the objectives and purposes of the organisation with which they are working.
- h) To use the organisation's accreditation and publicity material appropriately.
- i) To respect and take care of the physical resources put at their disposal by the organisation.

Spain	<p>Volunteers have the following rights:</p> <ul style="list-style-type: none"> a) To receive, both at the outset and on a continuing basis, information, training, guidance, support and, where appropriate, the physical resources required to carry out the functions assigned to them. b) To be treated without discrimination, and with respect for their liberty, dignity, privacy and beliefs. c) To take an active part in the organisation for which they work, collaborating in the formation, design, implementation and evaluation of its programmes, in accordance with its statutes or the applicable regulations. d) To be insured against accidents and illnesses arising directly from the performance of the voluntary activity, in accordance with the conditions and amounts insured stipulated in regulations. e) To be reimbursed for expenses incurred whilst carrying out their activities. f) To have a form of identification providing evidence of their volunteer status. g) To carry out their activity under proper health and safety conditions in accordance with the nature and characteristics of the activity. h) To receive respect and recognition for the social value of their contribution. <p>Volunteers shall:</p> <ul style="list-style-type: none"> a) Fulfil their commitments to the organisations of which they are members, respecting the organisations' purpose and rules. b) Keep confidential, where appropriate, any information which they receive or of which they become aware whilst carrying out their voluntary activities. c) Decline any remuneration they may be offered by a beneficiary or by any other person related to their activity. d) Respect the rights of those who benefit from their voluntary activities. e) Behave diligently and with a spirit of solidarity. f) Take part in the training planned by the organisation, particularly in respect of the activities and functions assigned to them, and in any continuing training required in order to maintain the quality of the services provided. g) Follow relevant instructions issued during the course of their activities. h) Use the organisation's accreditation and publicity material appropriately. i) Respect and take care of the physical resources put at their disposal by the organisation.
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Uruguay	<p>The volunteer has the following rights:</p> <ol style="list-style-type: none"> a) To receive the information, training, guidance, support and resources needed to carry out the tasks assigned to him, from the time when he takes up his post, and thereafter on a continuing basis. b) To respect for his freedom, dignity, privacy and beliefs, and to be treated without any form of discrimination. c) To be actively involved in organising, developing, designing, performing and evaluating the activities to be undertaken in the organisation of which he is a member, in accordance with its operational rules or regulations. d) To receive a form of identification providing proof of his status as a volunteer, issued by the institution or organisation in which he is a volunteer. e) To perform his activity under the proper health and safety conditions, in accordance with the nature and characteristics of the task. f) To be covered in the performance of his activities by accident insurance, which shall be the responsibility of the public institution with which he is a volunteer. g) To recognition for the civic value of his contribution. h) To accreditation for his involvement. i) In the case of voluntary service performed by boys, girls and adolescents, as referred to in the second paragraph of Section 5 of this Act, daily hours of work shall not exceed six hours. j) To perform his activity within the framework of the rights deriving from this Act and all other provisions of the law. <p>It is the duty of the volunteer to:</p> <ol style="list-style-type: none"> a) Comply with the commitments entered into with the public institutions with which he is involved, respecting the objectives and rules of the said institutions. b) Refuse any payment from the beneficiary or from any other person related to his activities. c) Respect the rights, freedom, dignity, privacy and beliefs of the people or groups to which his activities are directed. d) Give his express written consent to a prior psychological and physical examination where the nature of the activities to be performed so requires. e) Take part in the training activities planned by the institution or organisation in which he is a volunteer, such as training to carry out the functions entrusted to him, and ongoing training required to maintain the quality of service provision. f) Make proper use of the material resources which the institution or organisation with which he is involved puts at his disposal, and account for them as required on completion of the task assigned to him. g) Notify the entity, with such advance notice as may have been agreed, of any absence from his activities, or of a decision to resign from them, so that the necessary steps can be taken to avoid any detriment to the work entrusted to him. h) Comply with any obligations arising from the co-operation agreement referred to in Section 5 of this Act and all other provisions of the law.
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Description of the rights and obligations of the organisations which use volunteer resources

To the extent that the relationship between the parties is defined, rights granted to one party create obligations on the other. This section and the previous section, therefore, complement each other. Promotional measures directed towards organisations are set out in the section on the promotion of positive externalities.

Argentina	The organisation shall keep a written record of the appointment and cessation of appointment of volunteers.
Bolivia	<p>Responsibilities of Voluntary Organisations.</p> <ul style="list-style-type: none"> a) To fulfil their commitments to their volunteers, as set out in the joining agreement. b) To ensure provision of food, accommodation and minor expenses relating to the voluntary work, where the work so requires, and where previously agreed by the voluntary organisation of which the volunteer is a member and/or the host institution which has requested the service of volunteers. c) To put in place information and communications systems to enable proper monitoring and guidance in respect of the performance of the tasks entrusted to the volunteers. d) To provide volunteers with appropriate up-to-date coaching and training, to enable them to carry out their activities properly and responsibly. e) To provide their volunteers with appropriate information on the nature of the voluntary activity to be undertaken. f) To ensure proper health and safety conditions in accordance with the nature of the voluntary activity to be undertaken. g) To provide volunteers with accreditation (an identity card) providing authorisation and identification in respect of their activities. h) To issue volunteers with a certificate providing accreditation for the services provided. i) To keep a record of the appointment and cessation of appointment of volunteers and to send this information to the National Volunteering Council (CONAVOL), to enable it to update its database. j) To provide up-to-date on-going theoretical and practical training appropriate to the volunteer programme to be undertaken. k) Voluntary relief organisations shall have in place contingency plans for each activity to be undertaken, in accordance with their area of expertise. They shall inform their volunteers of the procedures to be followed during the various stages of the disaster cycle.

Spain	<ul style="list-style-type: none"> a) To fulfil their commitments to their volunteers, as set out in the joining agreement. b) To provide proof that they have insurance appropriate to the nature and circumstances of the activities undertaken by the volunteers, which provides cover for accidents and illnesses arising directly from the performance of voluntary activities, in accordance with the conditions and amounts insured stipulated in regulations. c) To pay expenses incurred in undertaking voluntary work and to provide volunteers with the appropriate means to carry out their tasks. d) To establish internal information and guidance systems appropriate to the tasks entrusted to volunteers. e) To provide volunteers with the necessary training to enable them to perform their activities properly. f) To ensure that volunteers are able to carry out their activities under proper health and safety conditions in accordance with the nature of the voluntary activity to be undertaken. g) To provide volunteers with accreditation providing authorisation and identification in respect of their activities. h) To issue volunteers with a certificate providing accreditation for the services provided. i) To keep a record of the appointment and cessation of appointment of volunteers.
Uruguay	<p>Public institutions must provide the National Office for Community Service with a list of volunteers who have a direct or indirect relationship with them, and notify it when a volunteer is added to or removed from that list. They must also notify it of the tasks assigned to volunteers.</p> <p>Any organisation responsible for drawing up agreements with the State must register its volunteer agreement with the Ministry of Employment and Social Security.</p>

The relationship between the state and civil society: Are government functions being replaced by voluntary organisations?

The legal frameworks do not provide an adequate answer on this issue, having relatively little to say on the subject. Criticism surrounding substitution has been most vigorous in Spain, where the state has a major role as funder, promoter and regulator of the voluntary sector. According to Zurdo Alaguero¹⁷, the state is seeking to use the voluntary sector to achieve two objectives, in which it is proving successful: a) to produce cheap goods, by transferring government functions to society; and b) to achieve greater social legitimacy for public interventions, in order to defuse tensions.

This risk is more accentuated in those countries, such as in Europe, where state funding represents approximately half of civil society income. Through its financial influence the state can achieve more control, over some organisations at least.

¹⁷ Angel Zurdo Alaguero; "Voluntariado y Estado: Las funciones ambivalentes del Nuevo Voluntariado", *Política y Sociedad*, Vol. 43, No. 1, 2006.

CONCLUSION

In 2005 the Uruguayan parliament passed a Volunteering Act; as the legislation applied only to government programmes, a collective decision has yet to be taken on volunteering within social organisations. Such a decision may be implemented by legal measures and/or through programmes.

Our analysis of the recent course of events and the comparative perspectives that we have put forward here have allowed us to identify some options and, very cautiously, to put forward some small lessons which may help to feed the debate.

That caution is justified by the need to strike a balance between basic technical requirements and the infinite possibilities offered by democratic debate. As with all public policy issues, but particularly with this issue, this is no place for the approach adopted by the social engineer who sketches out a structure in the solitude of his study and then attempts to replicate it in the real world. There are tensions and dilemmas inherent in volunteering, which need to be managed through a constant process of dialogue, in which solutions are continually redefined. There can be no definitive legal solution to the relationship between volunteering and formal paid work, between the state and civil society, between stimulus and interference, etc., insofar as they are dynamic concepts, which are interpreted and planned within a given context. Volunteering affects the state, social organisations, individual citizens, private companies and international institutions, with a diverse range of ideas and interests, rhythm and logic, which need a forum for the exchange of ideas rather than a rigid legal structure.

There are some problematic points lurking in the approval process for any legislation on volunteering; in most cases these have been resolved by omission. The best-known example is to be found in the Brazilian legislation: this confines itself to the particular issue it wants to address, leaving other potential issues to be dealt with later (through regulation, public policy initiatives, etc.). The salutary aim of tackling what are seen as the most pressing problems seems to offer the commonest approach, in which society's energies are quietly focused, without being sidetracked by fruitless ideological debates. The key point, at every stage, is to consider whether or not each topic should be dealt with in legal terms and, if so, to set limits on any intervention. It may be that all that is needed is a general statement of the type: "Voluntary activity may not, under any circumstances,

replace paid employment”, as is laid down, with some variations, in several pieces of legislation. (Other statements could also be included, such as: “it shall not substitute for the responsibilities incumbent on the state” etc.).

Avoiding ideological maximalism, one of the main areas of dispute is the commitment of resources, especially financial resources. Implementation costs, and those charged with meeting them, vary from one piece of legislation to another, and when legislation is passed the following requirements should be considered in order to ensure it has a viable future: i) accident insurance; ii) a register of volunteers and organisations working with volunteers, which involves costs both for the social organisations, which must notify the authorities, and for the state, which has to handle and catalogue the information; iii) information dissemination activities; iv) training, etc. We are not dealing with homogeneous blocks here, but with small, medium and large organisations, in terms of the projects and resources involved, and with public institutions of various sizes and operating at different levels. The impact of these costs on the various organisations involved varies widely, as does their capacity to meet them. If the law does not take these factors into account, its full potential will be restricted.

But, as well as the content, the approach towards the voluntary system is also important. It can be seen from the comparison of data, and from recent experience in Uruguay, that – more importantly than the legal framework – there is a need to encourage networking, which calls for flexible co-ordination based on strategic objectives, with an active role for the state as a guiding body within a non-hierarchical and unstructured approach. We have identified some tools, such as the construction of a web portal; the collection, analysis and free exchange of information; the drawing up of strategic objectives through debate; and other issues that point towards a new logic of interrelationships characterised by flexibility, openness and reduced hierarchies.

Future regulation, policies and more ambitious programmes can be accommodated within this network of interrelationships, but now they will be grounded in a legitimacy gained from being the product of social involvement and an inclusive political approach.

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