

## **NGOs and Governments: Is Memorandum of Understanding enough?<sup>1, 2</sup>**

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### **ABSTRACT**

As the number of NGOs evolve in each field and each country, the need for project management in these organisations has increased. Especially when they are partnering with governments? Contracts need to fit in this changing environment, and they can play a meaningful role in the project's success. The fundamental aim of this research is to understand the memorandum of understanding, what is it exactly and are there any other options for an NGO when the need for a partnership with government becomes crucial. The paper ran a literature review on recent research to assess the main challenges with several types of contracts or agreement. Then, the paper established the impact of several types of contracts or agreements on NGOs' project with. Finally, the paper analysed how each effect and action of contracts or agreement can contribute to project management performances in the humanitarian sector. The obtained results have shown that NGOs have many options regarding contracting out with a government that could improve performance management but have better results in a long-term vision.

**Keywords:** memorandum of understanding, NGOs, project management, governments, development partnership, social contracting, public sector

### **INTRODUCTION**

For the past three decades, NGOs have grown in interest, in power and numbers. They can now answer many challenges and opportunities for reducing poverty and hunger, increasing child education, promoting human development and many more. Governments seek to forge a strategic partnership with NGOs. They have united to solve many issues by sharing a common

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<sup>1</sup> Editor's note: Student papers are authored by graduate or undergraduate students based on coursework at accredited universities or training programs. This paper was prepared for the course "International Contract Management" facilitated by Dr Paul D. Giammalvo of PT Mitratata Citragraha, Jakarta, Indonesia as an Adjunct Professor under contract to SKEMA Business School for the program Master of Science in Project and Programme Management and Business Development. <http://www.skema.edu/programmes/masters-of-science>. For more information on this global program (Lille and Paris in France; Belo Horizonte in Brazil), contact Dr Paul Gardiner, Global Programme Director, at [paul.gardiner@skema.edu](mailto:paul.gardiner@skema.edu).

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goal and a development guideline. These long-term developed goals would be pursued by the alliance of the public sector and non-profit sector.

We are going to study the partnership relations between NGOs and governments, in the field of international cooperation from a management perspective. Management allows us to analyse the relations between the NGOs and governments into account the two parts simultaneously, not only one as a complement of the other but also one in dialogue with the other. "Project Management will allow us to examine how these organisations have built their partnership relationships over the years and, more specifically, how actors negotiate their dependence and autonomy within their relationships in the memorandum of understanding" <sup>3</sup> .

The NGO sector is exceptionally diverse, heterogeneous and populated by organisations with hugely varied size, scope, targets, structures and motivations. Therefore, they face many challenges which, together with an absence of proper project management methodology, usually cause poor project planning, lack of stakeholder involvement, partial risk management strategies, unmotivated project team and eventually – lousy quality, losses of time and money.

Project management can be compared *to the preferred option to create, acquire, update, maintain expand and eventually dispose of the organisational asset* <sup>4</sup>

A **project** is defined to be "an investment that requires a set of logically linked and coordinated activities performed over a finite period to accomplish a unique result in support of the desired outcome" <sup>5</sup>. Humanitarian projects have always been one of the biggest challenges when it comes to project management; it includes five keys processes: the initiation process, the "humanitarian" planning process, the executing process, the monitoring and controlling process and the closing process. Through these steps, the project manager of a humanitarian project will have to plan the project, create it, control it and maintain it using the available resources or assets. For NGOs, it is a means-to-end, a strategic way to achieve their project and program through project management processes. Projects undertaken by NGOs is either an investment or a cost for the organisation from which they expect a positive return on investment or an asset. As an example of a single project, Doctors Without Borders create a medical program in Chechnya working closely with the Chechen Ministry of Healthy. The project was focused on tuberculosis and mental health in this country. They helped 156 patients diagnosed with

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<sup>3</sup> Navarros-Flores, O. (2009). *Le partenariat en coopération internationale: paradoxe ou compromis?* Québec, Canada: Presses de l'Université du Québec. Retrieved from Scholarvox:  
<http://www.scholarvox.com/reader/docid/88801658/page/1?searchterm=ong>

<sup>4</sup> Guild of Project Controls Compendium and Reference (2015, November 02). Managing project controls. Retrieved from <http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls>

<sup>5</sup> Guild of Project Controls Compendium and Reference (2015, November 02). Managing project controls. Retrieved from <http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls>

tuberculosis and 868 patients with a mental health issue. The project was successfully closed in March as committed to ensuring continuity of care for these patients. <sup>6</sup>

An “**asset**” can be described as “A tangible or intangible resource with economic value that an individual, corporation or country owns or controls with the expectation that it will provide future benefit” <sup>7</sup>. To start the project, NGOs need material & financial resources, which they primarily collect from donors and aids from the government. NGOs’ resources are in fact what they are going “to give” to the project (social, environmental, humanitarian purpose). Asset management is crucial in projects and program management. Assets are mostly infrastructure assets with long life spans and enormous capital outlay that are vital to providing a foundation for economic activity. Managing assets determines the efficiency of project and programs. An enormous amount of money is spent annually on maintaining and developing the asset base and providing services to improve asset management has become a significant competitive market internationally. There are five different types of assets:

- Human assets: Volunteers from Doctors Without borders, doctors, or anyone who can help the cause
- Information assets: every data Doctors Without borders collects to know better the field
- Physical assets: All the types of furniture DWB needs to operate and heal the wounded. However, also hospitals, clinics, orphanage
- Intangible assets: Copyright of Doctors without borders
- Financial assets: Funds and donations<sup>8</sup>

A **program** is “A temporary, flexible organisation structure created to coordinate, direct and oversee the implementation of a set of related projects and activities to deliver outcomes and benefits related to an organisation's strategic objectives; a programme is likely to have a life that spans several years.” <sup>9</sup>. Different types of the program exist (strategic program, operational program, multi-project program or mega project), in this case, NGOs manage the strategic and operational program as "delivering assets and benefits are directly linked to sponsoring's organisation's desired future state and day-to-day

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<sup>6</sup> Doctors Without Borders. (2017). Russian Federation. Retrieved from <https://www.doctorswithoutborders.org/what-we-do/countries/russian-federation>

<sup>7</sup> Guild of Project Controls Compendium and Reference (2015, November 02). Managing project controls. Retrieved from <http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls>

<sup>8</sup> Abu Ata, M., Dr Amirtharajah, M., Angelopoulou, G., Aoun, I., Ayora, R., Baker, C., . . . Yagci, O. (2017). *International Activity Report*. Doctors Without Borders.

<sup>9</sup> Guild of Project Controls Compendium and Reference (2015, November 02). Managing project controls. Retrieved from <http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls>

operation”<sup>10</sup>. To illustrate these definitions, we will take some examples from Doctors without Borders. A multi-project program can be illustrated by the actions of DWB in Afghanistan where they operate in different part of the country. DWS focuses on providing emergency, paediatric and maternal healthcare in Afghanistan; they need to be on every front with the same resources and technology<sup>11</sup>. Strategic project from Doctor without borders can be illustrated with their strategic marketing campaign to attract some donation for their humanitarian projects, they have recently made a campaign to “to confront people with the work that we do and ask them to take the action of making a donation” says Kevin Hill, digital marketing officer at Doctors Without Borders<sup>12</sup>. An operational program as donating projects for Doctor without Borders across the world. Moreover, finally for megaproject, projects in war zones, where many urgencies occur at the same time, for example in Syria, with lots of diseases, injuries, insecurities, terrorism, etc. This is one of the most challenging project Doctors Without Borders has to accomplish as it "bigger" than the organisation itself.<sup>13</sup>

A “**portfolio**” is "a collection of projects and programs and other work that are grouped to facilitate effective management of that work to meet strategic business objectives.”<sup>14</sup> A portfolio of projects objectives is to minimise the risk and maximise the return<sup>15</sup>. NGOs have a portfolio of assets available that they dedicate to humanitarian projects, with the objective being to develop the best "mix" of projects which will generate the most favourable return on those assets.<sup>16</sup>

Projects are undertaken by NGOs often deal with uncertainties, complexity and challenging task to deal with. Therefore, project management can accelerate the project success, one that is delivered on time and managed within a budget. Doctors without Borders runs thousands of

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<sup>10</sup> Program Classifications: GAPPS. (n.d.). Retrieved from <https://globalpmstandards.org/tools/complexity-rating/program-typology/>

<sup>11</sup> Doctors Without Borders. (2017). Afghanistan. Retrieved from <https://www.doctorswithoutborders.org/what-we-do/countries/afghanistan>

<sup>12</sup> Venkatesan, D. (2018, September 04). Doctors Without Borders embraces urgency. Retrieved from <http://strategyonline.ca/2018/09/04/doctors-without-borders-embraces-a-sense-of-urgency/>

<sup>13</sup> Abu Ata, M., Dr Amirtharajah, M., Angelopoulou, G., Aoun, I., Ayora, R., Baker, C., . . . Yagci, O. (2017). *International Activity Report*. Doctors Without Borders.

<sup>14</sup> Project Management Training For NGO Version 4.0 Based on PMBOK 5 Copyright © 2016 by PMI Mumbai Chapter. All rights reserved.

<sup>15</sup> Guild of Project Controls Compendium and Reference (2015, November 02). Managing project controls. Retrieved from <http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls>

<sup>16</sup> Guild of Project Controls Compendium and Reference (2015, November 02). Managing project controls. Retrieved from <http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls>

projects in different part of the world, on their International Activity report they have classified it by country, these projects constitute the portfolio of DWB. <sup>17</sup>

### Root-cause analysis: Kepner-Tregoe Method

#### Situation analysis

Memorandum of Understanding presents as a simple but effective technique for establishing clear objectives and targets, unambiguous criteria for evaluation, and a system of rewards for achievement. Writing an MOU is the first step in project management between an NGO and a government/company/institution, it is not a legal contract but set the bases for the real contract. Signing a memorandum of understanding constitutes more of a moral engagement rather than a contractual engagement. Depending on how the MoU is written, the degree of formality, this agreement can be legally binding and can become an enforceable contract.<sup>18</sup>

The anatomy of the memorandum of understanding is:

#### Parties (Head)

- a) Purpose, Scope, Background, Objectives (Brain, heart and lungs) → comprehensively identifies and addresses: operational issues, personal issues, financial issues, legal issues
- b) Financials (muscles and blood)
- c) Operational (skeletal structure)
- d) A term, termination (feet)

“If the memorandum of understanding is not well drafted it can” <sup>19</sup>:

1. Waste money and time
2. Trigger notification obligations to the NGOs, companies and governments involved
3. Even if the intent is a non-binding contract, it can bid the two or more parties
4. The two parties must know why they need a Memorandum of Understanding

#### Problem analysis

The NGO involved with the 2<sup>nd</sup> party have set the basis of their intention and commitment in the memorandum of understanding. The Memorandum of Understanding is not a valid contract, but

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<sup>17</sup> Abu Ata, M., Dr Amirtharajah, M., Angelopoulou, G., Aoun, I., Ayora, R., Baker, C., . . . Yagci, O. (2017). *International Activity Report*. Doctors Without Borders.

<sup>18</sup> Agarwal, A. (2016, July 30). *MOU VS. AGREEMENT*. Retrieved from Indian Law Watch: <http://indianlawwatch.com/practice/mou-vs-agreement/>

<sup>19</sup> Smith, S. W., Tepper, H. M., & Peters, F. (2017, April 27). *LETTERS OF INTENT & MEMORANDUM OF UNDERSTANDING. Is this what you intended?* Philadelphie, Philadelphia, USA

if one party do anything on the reliance of the MoU and sustains any loss, it can recover back the losses but cannot enforce the same. The estoppels bind both the parties of MoU, and any of them cannot take the adverse <sup>20</sup>.

Memorandum of Understanding can be too informal with no real objectives & tools to tackle the issue, leaving government or companies in a position of power concerning the NGOs. Too much formality and specification in NGO contracts can be seen as innovation restriction, and make it impossible for the NGOs to fulfil the term of the contract. It can lead to overlaps, weak accountability, and conflict between the parties.<sup>21</sup>

### Decision analysis

#### To have a successful contract with an NGO:

- The government should have sufficient capacity to undertake the project. It should know to design the memorandum of understanding and to manage the process.
- The NGO should participate and be included in the project design. Writing the memorandum of understanding is a part of the country strategy. There should be an emphasis on the guarantee of transparency and collaboration in the Memorandum of Understanding.
- The NGO should be autonomous and decide about its strategy and particularly about his **operational strategy**.
- Government is providing an enabling policy, a legal framework and a clean and fair regulatory environment.
- Longer-term, and predictable, contracts. <sup>22</sup>

### Potential Problem analysis

Regular meetings with the NGO and the government to assess progress made, the usefulness of the partnership is a way to build reflection into the process.<sup>23</sup>

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<sup>20</sup> Agarwal, A. (2016, July 30). *MOU VS. AGREEMENT*. Retrieved from Indian Law Watch: <http://indianlawwatch.com/practice/mou-vs-agreement/>

<sup>21</sup> Mcloughlin, C. (2008). *Contracting NGOs to Deliver Basic Services: An Annotated Bibliography*. The University of Birmingham, School of Public Policy. Birmingham: Internation Development Department.

<sup>22</sup> Mcloughlin, C. (2008). *Contracting NGOs to Deliver Basic Services: An Annotated Bibliography*. The University of Birmingham, School of Public Policy. Birmingham: Internation Development Department.

<sup>23</sup> Doh, J. (2012, July 19). *Partnering with NGOs: The 4 Keys to Success*. Retrieved from Network for Business Sustainability: <https://nbs.net/p/partnering-with-ngos-the-4-keys-to-success-3dc7693a-7a6e-446f-9c55-39f6d448a4e7>

Memorandum of Understanding should be built on shared purpose and relation (trust, benefits from a previous relationship or agreement, belief in the future value of the relationship) to be successful. The partnership is available when the contracts between two or more parties direct towards constructive cooperation rather than towards confrontation.<sup>24</sup>

To have a successful MoU, the two contractors should collaborate, and the state should not take over the project and let the NGO be independent on the field of action.

The partnership between NGOs and government are different from state to state, especially regarding the role of the government in the contract. Governments with weak capacity to satisfy the need of its citizen will benefit more from the NGOs which, at the contrary, can help the population by providing services and functions. Memorandum of Understanding is a written agreement but is not legally binding the two contractors. It is a framework for cooperation and negotiation between two entities. This type of agreement is not based on services, products, or just money but goodwill and faith. The two actors work together toward a common goal and adopt a common line of action. In a regular contract, each party are not equal and does not seek the same interest, there is, most of the time one person above the other in term of power. In a risky environment, a memorandum of understanding is likely to be respected because of many parameters (war, weather, political instability, and so on). The promises set in this agreement are not legally enforceable, and the first to be concerned are the population and the society.

These actors by signing a memorandum of understanding have a joint project and goal. Memorandum of Understanding is more than just an agreement; it carries a degree of seriousness and mutual respect. The research question we will try to answer are:

- ***Is a memorandum of understanding suitable for a social project in partnership with government?***
- ***How should the memorandum of understanding be a framework to make a successful partnership?***
- ***Purpose, Scope, Background, Objectives (Brain, heart and lungs) are the core of a memorandum of understanding; how should they be addressed?***

## **METHODOLOGY**

Once different alternatives will be highlighted beside the Memorandum Of Understanding, the study will aim at presenting the best option for doing a humanitarian project. The multi-attribute

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<sup>24</sup> Toftisova, R. (2001, March). Cooperation in the Area of Social Services Delivery and Mechanisms of State Financing of NGOs. Retrieved from The International Journal of Not-for-Profit Law: [http://www.icnl.org/research/journal/vol3iss4/special\\_3.htm](http://www.icnl.org/research/journal/vol3iss4/special_3.htm)

decision-making method is used to analyse different alternatives NGOs & government have to a partnership.

### **Step 1. Problem recognition: What are we trying to solve?**

Our most obvious concern is how to make a partnership work between an NGO and a government. The NGO-State relationship is created in order to do a project. Because there are many challenges in this world, especially in the humanitarian sector, is the Memorandum of Understanding the best way to achieve this kind of project?

Memorandum of Understanding is not a binding contract but more of an agreement between two parties. The two parties are not legally binding to each other, and the humanitarian project is at stake. Is it effective?

Often, the government takes power over the NGO; the two parties are not equal in the agreement, which cause dispute. We want to define and divide the role of each party. We will also study the relationship between the two parties as, we will see it later, will be one of the criteria to a successful project.

Finally, and the most critical problem we want to solve: how to achieve a humanitarian project with efficiency and performance? Do we need a partnership between NGOs and government?

**The main aim is to see if social or ecological impact project can be done by the association of an NGO and a government, and how.**

### **Step 2: Development of feasible alternatives**

- **Keep the Memorandum of Understanding**<sup>25</sup> as the framework for the humanitarian project.
- **No partnership.**<sup>26</sup> It means there is no involvement of NGOs in the public sector. The government takes their responsibility regarding their population, environment, and social services.

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<sup>25</sup> Justice Connect. (2018). *Memorandum of Understanding (MOU): Legal information for community organisations*. Retrieved from Not-for-profit Law:  
[https://www.nfplaw.org.au/sites/default/files/media/Memorandum\\_of\\_Understanding\\_CTH.pdf](https://www.nfplaw.org.au/sites/default/files/media/Memorandum_of_Understanding_CTH.pdf)

<sup>26</sup> Setsile, D. O. (2002). *Contracting NGOs for Development: Lessons and Experiences for NGO-Government Collaboration in South Africa -A Case Study of the Association for Rural Advancement (r\FRL\.)*. Durban: Masters of Social Science in the School of the Development Studies University of Natal. Retrieved from  
[https://researchspace.ukzn.ac.za/bitstream/handle/10413/4887/Setsile\\_Dan\\_Obakeng\\_2002.pdf?sequence=1&isAllowed=y](https://researchspace.ukzn.ac.za/bitstream/handle/10413/4887/Setsile_Dan_Obakeng_2002.pdf?sequence=1&isAllowed=y)

- **NGOs Partnership Agreement** <sup>27</sup>. An agreement is a document in which two parties agreed upon to work together for a common objective. It can be enforceable in a court law, and it is always binding the parties to the agreement. It can be oral or written.
- **Sub-contracting** <sup>28</sup>: Government will pay the NGO to complete all or part of its contractual obligations.
- **Joint ventures** <sup>29</sup> : Contract-based arrangements
- **Performance-based contract** <sup>30</sup> : a form of contract in which some portion of the payment is based on the contractor's achieving measurable results, based on performance. <sup>31</sup>

### Step 3: Development of the outcomes

#### 1. Memorandum of Understanding

Memorandum of Understanding looks like a contract, but it is not. It sets out the framework of a proposed arrangement to aid further discussion and negotiation but doesn't bind the two parties as previously said. If a Memorandum of Understanding is not intended to be binding, this should be clearly stated in the document. <sup>32</sup>

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<sup>27</sup> Justice Connect. (2018, October 3). *Partnership*. Retrieved from Not-for-profit Law: <https://www.nfplaw.org.au/partnerships>

<sup>28</sup> Kevin Bryan, P. C. (2016). *Contracts for adaptive programming*. Alnap. Retrieved from <https://www.alnap.org/system/files/content/resource/files/main/10927.pdf>

<sup>29</sup> Justice Connect. (n.d.). *Understanding Contracts*. Not-for-profit Law

<sup>30</sup> World Health Organization. (n.d.). *What Is Performance-Based Contracting?* Retrieved from <http://www.who.int/management/resources/finances/Section2-3.pdf>

<sup>31</sup> Setsile, D. O. (2002). *Contracting NGOs for Development: Lessons and Experiences for NGO-Government Collaboration in South Africa -A Case Study of the Association for Rural Advancement (r\FRL\.)*. Durban: Masters of Social Science in the School of the Development Studies University of Natal. Retrieved from [https://researchspace.ukzn.ac.za/bitstream/handle/10413/4887/Setsile\\_Dan\\_Obakeng\\_2002.pdf?sequence=1&isAllowed=y](https://researchspace.ukzn.ac.za/bitstream/handle/10413/4887/Setsile_Dan_Obakeng_2002.pdf?sequence=1&isAllowed=y)

<sup>32</sup> Justice Connect. (2018). *Memorandum of Understanding (MOU): Legal information for community organisations*. Retrieved from Not-for-profit Law: [https://www.nfplaw.org.au/sites/default/files/media/Memorandum\\_of\\_Understanding\\_CTH.pdf](https://www.nfplaw.org.au/sites/default/files/media/Memorandum_of_Understanding_CTH.pdf)

## 2. No partnership

Governments and NGOs do not develop any relationship and any project regarding a social, ecological or humanitarian problem. A contentious relationship between the government and the NGO occurs when there is a focus on the role of NGOs as monitors and opposition to the government policies. Conflictual relationship undermines the coordination and collaboration needed between the government and the non-profit sector and put at humanitarian risk projects. (Setsile, 2002). No partnership also means there is no project to be developed between the two actors, which can be the ineffective and very often expensive way to undertake development work.

## 3. NGOs Partnership Agreement

A partnership is defined as a reciprocally salubrious alliance between organisations where roles, responsibilities and accountabilities are clearly defined. It is based on a shared vision regarding the objectives and purpose of work. NGO and government commit to sharing information and agree jointly on the processes necessary for achieving accountability to donors. The partnership agreement is a document in which two parties agreed upon to work together for a common objective. It is a legal paper that contains proposals, and its acceptance and intention of the parties are to bind each other with the terms of the agreement<sup>33</sup>. If the project is based on a partnership agreement, the two actors agree on pursuing the objectives. A partnership agreement is not, like Memorandum of Understanding, based on mutual respect and common social goal, but more on pursuing operational objectives. As previously said, some NGOs feel that a Memorandum of Understanding can be too informal and not bring solution to a humanitarian solution. This is primarily because the time for decision-making and setting up emergency operations is very brief, especially in a rapid-onset emergency, that NGOs prefers a contractual agreement rather than a longer-term relationship. The term 'partnership' has a unique legal meaning.<sup>34</sup>

## 4. Sub-contracting

The government has formal contracts with NGOs to implement specific projects. The Prime contractor (or referred to in the sector as the lead contractor), in our case, it is the government, may decide to sub-contract some or all of its obligations to another organisation, the Sub-contractor, the NGO here, in exchange for a fee. Sub-contracting arrangements require ongoing good communication and collaborative working. Sub-contract includes a clause on collaborative working to assist parties to collaborate, communicate and meet their respective obligations under the Sub-contract as well as a clause that the Subcontractor provides all reasonable

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<sup>33</sup> Agarwal, A. (2016, July 30). *MOU VS. AGREEMENT*. Retrieved from Indian Law Watch: <http://indianlawwatch.com/practice/mou-vs-agreement/>

<sup>34</sup> Justice Connect. (2018, October 3). *Partnership*. Retrieved from Not-for-profit Law: <https://www.nfplaw.org.au/partnerships>

assistance and information to the Prime Contractor to enable it to meet its obligations under the Funding Deed and Program Level Agreements.<sup>35</sup>

## 5. Joint ventures

Joint ventures are contract-based arrangements and are usually established for a specific project when organisations agree to work to achieve a shared goal jointly. When two organisations enter into a joint venture, they separately agree to work together for a particular purpose or project. Depending on what is agreed between the organisations, the organisations forming the joint venture might contribute money, skills, knowledge or other resources to the joint venture<sup>36</sup>. Joint-venture is suitable for a project where the purpose is fundraising, service delivery and advocacy, and can be arranged for another type of projects. It is a legal contract that sets out governance, decision making and control, who is responsible for day-to-day management, dispute resolution process, and of course, the goal of the joint venture.

## 6. Performance-based contract

In a Performance-based contract a clear set of objectives and indicators, systematic efforts to collect data on the progress of the selected indicators, and consequences, either rewards or sanctions for the contractor, that are based on performance. Because it is performance-based, it leads to consequences for the contractor, such as a provision of rewards or imposition of sanctions. Rewards can include the continuation of the contract in situations in which there is a credible threat of termination, provision of performance bonuses, or public recognition. Sanctions can include termination of the contract, financial penalties, public criticism, and debarment from receiving future contracts.<sup>37</sup>

### Step 4: Selection of criterion<sup>38</sup>

To rank these different alternatives and to find out which one is the most relevant, accurate and the more adapted for NGOs, we should establish some criteria adapted to humanitarian project and how can we accomplish them.

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<sup>35</sup> Justice Connect. (2015). *Working with other organisations*. Retrieved from Not-for-Profit Law Guide: [https://www.nfplaw.org.au/sites/default/files/media/Working\\_with\\_other\\_organisations\\_2.pdf](https://www.nfplaw.org.au/sites/default/files/media/Working_with_other_organisations_2.pdf)

<sup>36</sup> Justice Connect. (n.d.). *Understanding Contracts*. Not-for-profit Law.

<sup>37</sup> World Health Organization. (n.d.). *What Is Performance-Based Contracting?* Retrieved from <http://www.who.int/management/resources/finances/Section2-3.pdf>

<sup>38</sup> Setsile, D. O. (2002). *Contracting NGOs for Development: Lessons and Experiences for NGO-Government Collaboration in South Africa -A Case Study of the Association for Rural Advancement (r\FRL\.)*. Durban: Masters of Social Science in the School of the Development Studies University of Natal. Récupéré sur [https://researchspace.ukzn.ac.za/bitstream/handle/10413/4887/Setsile\\_Dan\\_Obakeng\\_2002.pdf?sequence=1&isAllowed=y](https://researchspace.ukzn.ac.za/bitstream/handle/10413/4887/Setsile_Dan_Obakeng_2002.pdf?sequence=1&isAllowed=y)

The first one is the **legality**; as we saw, a humanitarian project has to be framed on a legal basis where partners are legally binding. We will see there will be a different contract: formal contract and relational contract.

The 2<sup>nd</sup> one is the **clarity and transparency**. It is achieved through dialogue with a focus on consultations and sharing of data. Communication and transparency, including a financial one, increase the level of trust among organisations. Exchange of information between parties, consultation, sharing of expertise and advice, as well as the voicing of community needs and interests, are essential preconditions for successful contracting to take place.

The 3<sup>rd</sup> one is **credibility**; many humanitarian projects are unpredictable, hard to resolve, hard to finish. It may take time and much involvement to succeed, management and process have to be credible and tailored for the project, or it will never be achieved.

The fourth one is the **performance-oriented approach**, because there may be no measurable 'result' that adequately captures what the project is trying to achieve, or because desired results cannot be specified in advance.

Moreover, the final one is **the type of relationship NGO and government have**. A good relationship is only possible when both parties share mutual objectives. If the government's engagement on the humanitarian project is low, NGOs will find dialogue and collaboration detrimental. On the contrary, dialogue with NGOs may not be very productive when the State-NGO relationship is too cosy. In such situations, NGOs tend to accept both the government's information and the government's role in coordinating all development activities, including those of NGOs uncritically.

We will also use in addition to these criterions the SMART goals <sup>39</sup> :

Specific: It is understandable and clear for anyone in the project.

Measurable: Is the project measurable, so the team member can track their progress and stay motivated?

Attainable: Is the goal realistic and achievable?

Realistic: Is it applicable in the current socio-economic environment?

Time-based: A goal should be set within a time frame. With no time frame tied to it, there's no sense of urgency.

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<sup>39</sup> Haughey, D. (n.d.). SMART Goals. Retrieved from <https://www.projectsmart.co.uk/smart-goals.php>

	No partnership	MoUs	NGOs Partnership Agreement	Sub-contracting	Joint-ventures	Performance-based contract
<b>Legality</b>	No written agreement	Not legally binding	Relational contract	Formal contract	Contract-based arrangements	Formal contract
<b>Clarity &amp; Transparency</b>	None	Objectives can become unclear with no real purpose	Act in good faith for the sake of the partnership, real engagement and project management	Delivery of a specific service or product. Government: control	General obligations towards the other party may not obvious	Definition of objectives and key performance indicators by which to measure contractor performance
<b>Credibility</b>	None	MoU is based on a long-term partnership. Very often NGOs feel there is no explicit engagement for the project	A long-term relationship cannot be suitable for quick decision-making response.	Short term vision, not credible in term of sustainability	Common purpose and design thinking, management of a project in a short-time vision. Short-term vision, so not credible	The result can not reflect the improvement the situation of the project as performance does. The contract is fulfilled when the performance of the project is acceptable
<b>Performance-oriented approach</b>	None	MoU is more based on a relationship and a long-term goal. If the goal is not achieved, there are no consequences	Results and performance (via long-term relationship)	Not based on performance but results	Not based on performance but results	Measured by performance, set of objectives, KPIs
<b>Relationship &amp; Equality</b>	Adversaire	Based on trust and partnership	Long-term relationship, each party is responsible for the other	Not a long-term relationship, can be dependent and clientelistic	Trust and confidence must be avoided (fiduciaryRelationship). A contractual relationship only.	Not real relationship between the government and the NGO. No based on a long-term vision.
<b>Specific</b>	None	Some objectives can't be clear for everyone	Everyone understands what is at stake	Clear in the contract	Maybe not clear for an NGO	Understandable and clear with the help of KPIs
<b>Measurable</b>	None	Impossible to measurable the objective nor the goal	the motivation can fade as this is a long-term agreement	Government is in control so that the progress can be biased	Results can be measured, not progress	Measurable with KPIs, progress is track and encouraged
<b>Attainable</b>	There is no goal	Most of the time, no	Only if the objectives are clear	Yes	Yes	Yes
<b>Realistic</b>	No	No	Depends on the term of the partnership	Yes	Yes	Yes with performance as a driver for a project
<b>Time-based</b>	There is no goal	Long-term goal	Can be a long-term goal	Yes	Yes	Yes

Table 1: Multi-attribute Decision Making<sup>40</sup>

<sup>40</sup> By author, (2018, October). Multi-attribute Decision Making

## FINDINGS

### Step 5: Analysis and comparison of the alternatives

By a system of points and the importance of each criterion, we can now classify the alternatives solutions.

Criteria	Ordinal ranking	Normalized Weight (A)	No partnership		MoUs		Partnership		Sub-contracting		Joint-ventures		Performance-based contract	
			B	A * B	C	A * C	D	A * D	E	A * E	F	A * F	G	A * G
Legality	2	0,04	0	0	1	0,04	2	0,07	2	0,07	2	0,07	2	0,07
Clarity & Transparency	6	0,11	0	0	1	0,11	2	0,22	1	0,11	1	0,11	2	0,22
Credibility	9	0,16	0	0	0	0,00	1	0,16	1	0,16	1	0,16	2	0,33
Performance-oriented approach	10	0,18	0	0	0	0,00	2	0,36	1	0,18	1	0,18	2	0,36
Relationship & Equality	1	0,02	0	0	2	0,04	2	0,04	1	0,02	0	0,00	1	0,02
Specific	3	0,05	0	0	0	0,00	2	0,11	2	0,11	1	0,05	2	0,11
Measurable	4	0,07	0	0	0	0,00	1	0,07	1	0,07	1	0,07	2	0,15
Attainable	7	0,13	0	0	0	0,00	1	0,13	2	0,25	2	0,25	2	0,25
Realistic	8	0,15	0	0	0	0,00	1	0,15	2	0,29	2	0,29	2	0,29
Time Based	5	0,09	0	0	0	0,00	1	0,09	2	0,18	2	0,18	2	0,18
Total	55	1,00	0	0	4	4,00	15	15,00	15	15,00	13	13,00	19	19,00
Rank				6		5		2		3		4		1

Table 2: Comparison of the alternatives<sup>41</sup> From the analysis, we have from table 2; we can see that NGOs partnership agreement and performance-based contract have the highest score, even though a performance-based contract has 19,00, this

<sup>41</sup> By author, (October 2018). Comparison of the alternatives

*is explained by the importance of the criteria of credibility. As expected, Memorandum of Understanding second to last, proving that this is not a suitable way to achieve a humanitarian project.*

### **Step 6: Selection of the preferred alternative**

As seen in the multi-decision criteria, the preferred alternative is the performance-based contract. It gathers the most factors to do a successful project in the humanitarian sector. It differentiates itself from the NGOs partnership agreement from a credibility perspective, one of the most crucial elements of a humanitarian project. Humane project management needs to be particularly credible when entering a plan and evaluating outcomes, as there are high risk and uncertainty in the process of achieving the plan.

### **Step 7: Performance monitoring and post evaluation of the result**

Humanitarian, social, environmental projects must be taken seriously and have a written contract to be realised. Memorandum of Understanding is not enough to achieve a plan that has a real impact on people. If the project manager wants result and achievement, he should go for a performance-based contract. This type of deal, as it is indicated, calculates performance, and not just results. As previously said, humanitarian projects are a high-risk project and are not usual. Everything can happen, figuring an outcome may be too risky. As an example, saving a population can be the outcome, but what we want to measure is, is the population safe from any danger now? This is performance, a long-term result that can be adapted on a plural situation with different criteria chosen by the NGOs project manager and the government. Performance-based contract rests upon Pay-for-performance concept (or P4P) which is a transfer of money or material goods conditional on taking a measurable action or achieving a predetermined performance target (Rena Eichler, 2006). With the P4P, the relationship between NGOs and government are not necessary for the contract, in fact, it can motivate both parties and drive them to act even in conflicting ways. PhD Rena Eichler had noticed that there was a big jump in performance between the year prior and the first year in P4P in Haiti, but also a significant improvement in project performance in 2005 when all NGOs used pay-for-performance.

## **CONCLUSION**

Our most obvious concern is how to make a partnership work between an NGO and a government.

*So: Is the Memorandum of Understanding the best way to achieve this kind of project?*

Memorandum of Understanding is not a binding contract but more of an agreement between two parties. The two parties are not legally binding to each other, and the humanitarian project

is at stake. *Is it effective?* Often, the government takes power over the NGO; the two parties are not equal in the agreement, which cause dispute. *What should be the role and relationship between NGOs and governments?* Finally, and the most critical problem we want to solve: *how to achieve a humanitarian project with efficiency and performance? Do we need a partnership between NGOs and government?*

Memorandum of understanding is a solemn agreement, but not legally binding one, which causes a problem if NGOs want measurable results and improvement in complicated situations. The key in the MoU is the collaborative relationship between NGOs and government. However, it is not the most efficient way to conduct a humanitarian project with high risk and need for a quick answer.

A relationship between NGOs and government is crucial, and we have seen there are many barriers to achieve it. Many examples prove that an NGO-state collaboration helps the development of the population as NGO have a social understanding of the situation and can provide the services with the financial help of the state. However, a project cannot always be based upon relationship. The objectives can fade. To undertake a project and to achieve strategic objectives, NGOs should use and develop practical tools to measure and improve their performance across their portfolio projects. One of the best test and proven practice is the "Logical Framework Approach" (or LFA"), developed in 1970 but still in use today. This document is known as the "LogFrame Document" or simply "LogFrame"<sup>42</sup>. This approach is based on a 4 x 4 framework with *activities, outputs, outcomes and impacts* down the vertical axis and *narrative, indicators, means of verification and assumptions* across the horizontal axis.

This framework meets the needs of influential decision-makers to have a summary of plans and KPIs. It can be pair up with the performance-based contract as the metrics can be understood both by the government's representatives and the NGOs.<sup>43</sup> With a performance-based contract, NGO-state is bound, a project is measured with KPIs, but also, the relationship is not needed (even if encouraged). We must not forget what is at stake are poverty, health, environment, education, peace and many more. NGOs should take the most efficient contract to resolve the situation, not the most convenient one.

## Bibliography

- [1] Agarwal, A. (2016, July 30). *MoU VS. Agreement*. Retrieved from Indian Law Watch: <http://indianlawwatch.com/practice/mou-vs-agreement/>
- [2] Andrijauskiene, M. K. (2015, July). *The Importance of PM Methodologies & Tools in NGOs: Case Study of Lithuania and Germany*.

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<sup>42</sup> Planning Planet. (n.d.). Retrieved from <http://www.planningplanet.com/guild/gpccar/identifying-engaging-stakeholders>

<sup>43</sup> Logical Frameworks. (2010, December 30). Retrieved from <https://ngoperformance.org/related-initiatives/logframes/>

- [3] Bryan, K., & Carter, P. (2016). *Contracts for adaptive programming*. Alnap. Retrieved from <https://www.alnap.org/system/files/content/resource/files/main/10927.pdf>
- [4] Burris, T. (2017, September 26). *Definition of a Cooperative Agreement*. Retrieved from Bizfluent: <https://bizfluent.com/facts-6934369-definition-cooperative-agreement.html>
- [5] Doh, J. (2012, July 19). *Partnering with NGOs: The 4 Keys to Success*. Retrieved from Network for Business Sustainability: <https://nbs.net/p/partnering-with-ngos-the-4-keys-to-success-3dc7693a-7a6e-446f-9c55-39f6d448a4e7>
- [6] Giammalvo, P. D. (n.d.). *Introduction to Managing Project Controls*. Retrieved from Planning Planet: <http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls>
- [7] Gibbons, R., & Henderson, R. (2011). *Relational Contracts and Organizational Capabilities*. MIT and HBS. Organization Science.
- [8] Justice Connect. (2015). *Working with other organisations*. Retrieved from Not-for-Profit Law Guide: [https://www.nfplaw.org.au/sites/default/files/media/Working\\_with\\_other\\_organisations\\_2.pdf](https://www.nfplaw.org.au/sites/default/files/media/Working_with_other_organisations_2.pdf)
- [9] Justice Connect. (2018). *Memorandum of Understanding (MOU): Legal information for community organisations*. Retrieved from Not-for-profit Law: [https://www.nfplaw.org.au/sites/default/files/media/Memorandum\\_of\\_Understanding\\_CTH.pdf](https://www.nfplaw.org.au/sites/default/files/media/Memorandum_of_Understanding_CTH.pdf)
- [10] Justice Connect. (2018, October 3). *Partnership*. Retrieved from Not-for-profit Law: <https://www.nfplaw.org.au/partnerships>
- [11] Justice Connect. (n.d.). *Understanding Contracts*. Not-for-profit Law.
- [12] Keleckaite, M. (2015). *The Importance of Project Management Methodologies and Tools in Non-Governmental Organizations: Case Study of Lithuania and Germany*.
- [13] Kevin Bryan, P. C. (2016). *Contracts for adaptive programming*. Alnap. Retrieved from <https://www.alnap.org/system/files/content/resource/files/main/10927.pdf>
- [14] Mcloughlin, C. (2008). *Contracting NGOs to Deliver Basic Services: An Annotated Bibliography*. University of Birmingham, School of Public Policy. Birmingham: Internation Development Department.
- [15] Navarros-Flores, O. (2009). *Le partenariat en coopération internationale : paradoxe ou compromis ?* Québec, Canada: Presses de l'Université du Québec. Retrieved from

- Scholarvox: <http://www.scholarvox.com/reader/docid/88801658/page/1?searchterm=ong>
- [16] NGO Performance. (2011). *Logical Framework*. Retrieved from NGO Performance: <https://ngoperformance.org/related-initiatives/logframes/>
- [17] Office of Research & Office of Global Affairs. (2014). *INTERNATIONAL MEMORANDUM OF UNDERSTANDING (MOU) BASIC GUIDE*. University Davis.
- [18] RBCG1. (2009, March 25). *Anatomy Of A Memorandum Of Understanding*. Retrieved from SlideShare: [https://fr.slideshare.net/RBCG1/anatomy-of-a-memorandum-of-understanding?qid=62efdfb9-9b5b-415f-9042-9818e2993eeb&v=&b=&from\\_search=13](https://fr.slideshare.net/RBCG1/anatomy-of-a-memorandum-of-understanding?qid=62efdfb9-9b5b-415f-9042-9818e2993eeb&v=&b=&from_search=13)
- [19] Rena Eichler, P. (2006, October 26). *Paying for Performance in Haiti*. (B. B. Associates, Ed.)
- [20] Setsile, D. O. (2002). *Contracting NGOs for Development: Lessons and Experiences for NGO-Government Collaboration in South Africa -A Case Study of the Association for Rural Advancement (r\FRL\.)*. Durban: Masters of Social Science in the School of the Development Studies University of Natal, Retrieved from [https://researchspace.ukzn.ac.za/bitstream/handle/10413/4887/Setsile\\_Dan\\_Obakeng\\_2002.pdf?sequence=1&isAllowed=y](https://researchspace.ukzn.ac.za/bitstream/handle/10413/4887/Setsile_Dan_Obakeng_2002.pdf?sequence=1&isAllowed=y)
- [21] Smith, S. W., Tepper, H. M., & Peters, F. (2017, April 27). *LETTERS OF INTENT & MEMORANDUM OF UNDERSTANDING. Is this what you intended?*. Philadelphia, Philadelphia, USA.
- [22] Tim Childs Consulting. (2008). *FORMALISING PARTNERSHIPS KIT*. NCOSS.
- [23] Toftisova, R. (2001, March). *Cooperation in the Area of Social Services Delivery and Mechanisms of State Financing of NGOs*. Retrieved from The International Journal of Not-for-Profit Law: [http://www.icnl.org/research/journal/vol3iss4/special\\_3.htm](http://www.icnl.org/research/journal/vol3iss4/special_3.htm)
- [24] William T. Grant Foundation. (n.d.). *Structuring a Partnership*. Retrieved from William T. Grant Foundation: <http://rpp.wtgrantfoundation.org/structuring-a-partnership>
- [25] World Health Organization. (n.d.). *What Is Performance-Based Contracting?* Retrieved from <http://www.who.int/management/resources/finances/Section2-3.pdf>
- [26] Haughey, D. (n.d.). SMART Goals. Retrieved from <https://www.projectsmaart.co.uk/smart-goals.php>
- [27] Logical Frameworks. (2010, December 30). Retrieved from <https://ngoperformance.org/related-initiatives/logframes>

- [28] Doctors Without Borders. (2017). Russian Federation. Retrieved from <https://www.doctorswithoutborders.org/what-we-do/countries/russian-federation>
- [29] Venkatesan, D. (2018, September 04). Doctors Without Borders embraces urgency. Retrieved from <http://strategyonline.ca/2018/09/04/doctors-without-borders-embraces-a-sense-of-urgency/>
- [30] Doctors Without Borders. (2017). Afghanistan. Retrieved from <https://www.doctorswithoutborders.org/what-we-do/countries/afghanistan>
- [31] Program Classifications: GAPPS. (n.d.). Retrieved from <https://globalpmstandards.org/tools/complexity-rating/program-typology/>
- [32] Clark, J. (n.d.). The Relationship Between the State and the Voluntary Sector. Retrieved from <http://www.gdrc.org/ngo/state-ngo.html>
- [33] Abu Ata, M., Dr Amirtharajah, M., Angelopoulou, G., Aoun, I., Ayora, R., Baker, C., . . . Yagci, O. (2017). *International Activity Report*. Doctors Without Borders.
- [34] Garilao, Ernesto. 1987. "Indigenous NGOs as Strategic Institutions: Managing the Relationship with Government and Resource Agencies." *World Development* 15(Supplement)
- [35] Gordon Drabek, Anne, ed. 1987. "Development Alternatives: The Challenge for NGOs." *World Development* 15
- [36] Hulme, David and Michael Edwards, eds. 1992. *Making a Difference? NGOs and Development in a Changing World*. London: Earthscan.
- [37] Organisation for Economic Cooperation and Development (OECD). 1988. *Voluntary Aid for Development: The Role of NGOs*. OECD: Paris.
- [38] Abu Ata, M., Dr Amirtharajah, M., Angelopoulou, G., Aoun, I., Ayora, R., Baker, C., . . . Yagci, O. (2017). *International Activity Report*. Doctors Without Borders.
- [39] Uphoff, Norman. 1987. "Relations between Government and NGOs and the Promotion of Autonomous Development." Paper presented to the Conference on the Promotion of Autonomous Development. Cornell University, Ithaca, N.Y.
- [40] Salmen, Lawrence and Paige Eaves. 1989. *World Bank Work with Nongovernmental Organizations. Policy, Planning and Research Working Paper 305*. World Bank, Country Economics Department, Washington, D.

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