Legislative Advocacy Resource Guide

Promoting Human Rights in Bosnia and Herzegovina

GLOBAL RIGHTS

Partners for Justice
GLOBAL RIGHTS is a human rights advocacy group that partners with local activists to challenge injustice and amplify new voices within the global discourse. With offices in countries around the world, we help local activists create just societies through proven strategies for effecting change.

- We seek justice for victims of human rights abuses.
- We work to promote racial and gender equality and help people and communities change their societies.
- We work through field offices, partnering with local human rights advocates to strengthen their effectiveness in combating abuses in their countries.
- We focus on developing the skills of local activists that are essential to addressing human rights concerns and promoting justice such as: documenting and exposing abuses; conducting community education and mobilization; advocating for legal and policy reform; and using the courts to increase access to justice for disadvantaged persons.
- We help local activists to engage with the international community, including the United Nations, to further their human rights objectives at home in Asia, Africa, Latin America, Europe, and the United States.

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# TABLE OF CONTENTS

Introduction ................................................................................................................................... 1

Part 1: Getting Started – Step by Step Advocacy ................................................................. 9
   Advocacy Fundamentals ......................................................................................................... 9
   Taking Action .......................................................................................................................... 13

Part 2: The Legislative Structure of Bosnia and Herzegovina................................. 23
   What are the steps in the legislative process? ................................................................. 29
   The Initiation Phase .............................................................................................................. 29
   The Committee Phase ......................................................................................................... 31
   The Plenary Phase ................................................................................................................ 32

Part 3: Other Options – International Law and Mechanisms that Support Legislative Advocacy ................................................................. 45
   The Shadow Report ............................................................................................................. 47
   Shadow Report Step-by-Step .............................................................................................. 49
   Releasing the Shadow Report ............................................................................................ 52
   Using the Shadow Report for Domestic Legislative Reform ........................................... 53

Annex 1: An Example from NGO experiences in BiH ................................................. 55

Annex 2: Public Forum Agenda .............................................................................................. 59

Annex 3: Glossary ...................................................................................................................... 60
INTRODUCTION

Civil society organizations play a crucial role in facilitating the transition to democracy. They require support to develop and implement efficient advocacy strategies to confront issues that are central to the ongoing peace implementation process. Bosnian non-governmental organizations (NGOs), unfamiliar with legislative advocacy, often lack the requisite tools to engage effectively in both executive and legislative policy-making and have thus struggled to play an effective role in the transition phase.

As a capacity building organization, Global Rights has sought to build sustainable skills in local organizations to promote and protect human rights through training, technical assistance, and other forms of support. This approach is based on the premise that sustainable change must come from within societies and that local advocates are often in the best position to bring about concrete, durable change. While international organizations play important short-term roles in improving human rights conditions and democratic participation, ultimately local actors are most effective in promoting respect for human rights and building lasting change. As part of the capacity building effort, Global Rights has thus sought to promote citizen participation in the larger democratic process through effective advocacy by NGOs at the state and entity levels in Bosnia and Herzegovina.

Establishing NGOs with the necessary skills, resources, and inclinations to influence the legislative process is an indispensable element in building a government that is accountable to the citizens of Bosnia and Herzegovina. The Global Rights Bosnia and Herzegovina Program also emphasizes the importance of building broad citizen participation in NGO advocacy coalitions that cut across the various ethnic, gender, and age barriers that continue to segregate civil society in the post-conflict era. Our methodology for building such coalitions is explained and discussed in this Guide and stands as a tool that can be used in the future by NGOs engaging in legislative advocacy campaigns.

Global Rights has organized and successfully led several advocacy campaigns in Bosnia and Herzegovina. In this Guide, we outline and discuss the development of our coalition advocacy campaigns. Using case studies to describe the experiences of our NGO advocacy coalitions we hope to share the impact achieved, the strategies and plans that worked, the obstacles encountered and methods used to overcome those obstacles. As the peace takes hold and the county’s legislative bodies begin to function, the emerging civil society community must have the tools that will allow them to engage in the legislative work of building a lasting peace in the country. We believe that the Guide will enable emerging coalitions to undertake effective legislative advocacy at the national and entity levels.

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PURPOSE OF THIS GUIDE
To advocate effectively, non-governmental organizations (NGOs) need to understand the relevant procedures, processes and practices of the various parliamentary bodies in Bosnia and Herzegovina (BiH). This Guide borrows from and builds on the knowledge developed through years of advocacy efforts by NGOs around the world. This Guide seeks to provide concrete and practical information about how laws are drafted, enacted and implemented — and how advocacy can contribute to the overall work of NGOs. It also provides basic information on relevant international opportunities for advocacy.

WHY A GUIDE?
Global Rights has engaged in human rights training programs in Bosnia and Herzegovina since 1997. Despite the success of these programs, substantial obstacles exist that have impeded the meaningful progress of human rights and the rule of law in Bosnia and Herzegovina.

Opaque policy-making, closed judicial processes and the lack of civil society expertise in monitoring government accountability have been significant factors in preventing full compliance with the European Convention on Human Rights and Fundamental Freedoms and other international human rights standards. These obstacles are also inhibiting the country’s transition to democracy and its return to a unified, multi-ethnic state. Although the political process has matured, policy-making in the country remains largely inaccessible. Neither the executive nor the legislative branches of government operates in a transparent or fully accountable manner. The public has very little information about the decisions of the government, and information that is released is often inaccurate or biased. The legislative process is particularly inaccessible. Even well-informed and well-resourced advocates have difficulty obtaining copies of legislation under consideration and cannot effectively monitor the progress of draft laws.

Increasing legislative accountability and transparency is crucial to building a democratic society that respects and protects human rights and fundamental freedoms. Local civil society plays an important role in this process, and Global Rights has focused extensively on building the capacity of local organizations to engage in legislative advocacy from a human rights approach. To equip civil society with the tools to influence policymaking and the legislative process, Global Rights has mobilized civil society groups throughout Bosnia and Herzegovina to press for legislative transparency and government accountability. In pursuing this mission, Global Rights has conducted several evaluations of the legislative process and mentored BiH NGOs in documenting human rights violations, monitoring legislation, mobilizing their constituencies, and developing strategies for advancing their legislative agendas.

Through years of work in strengthening the capacities of local NGOs in Bosnia and Herzegovina, we have realized the following:

• A large number of NGOs still have insufficient information about the legislative processes in the country;
• More active NGO participation in the legislative process is needed, but NGOs also need more training,
guidance and mentoring on legislative advocacy; and

- Legislators in the country rarely consult with outside groups or experts, especially not with BiH civil society, although such consultation would make their work more effective.

**HOW TO USE THIS GUIDE**

This Guide does not prescribe how to do advocacy work, rather it presents issues to consider when you advocate, tips to make your advocacy efforts more effective and information on the legislative process to inform your strategy development. This Guide is intended to assist NGOs to:

- Make informed choices about whether and how to participate in legislative advocacy;
- Understand the formal and informal procedures of the parliamentary bodies in the country;
- Build a strategy for effective advocacy; and
- Identify related advocacy activities at the international or regional level.

NGOs that engage and involve themselves in legislative advocacy are making a decision about how to use their often limited resources. This Guide is intended to assist NGOs in that decision-making process.

The Guide is divided into three sections:

**Part 1 Getting Started – Step by Step Advocacy** This section presents the basic components of a successful advocacy strategy.

**Part 2 The Legislative Structure of Bosnia and Herzegovina** This section presents a substantive overview of the legislative process, including an analysis of intervention points where NGOs can access the process, and identifies key steps that NGOs should consider in promoting a more effective human rights agenda.

**Part 3 Other Options – International Law and Mechanisms that Support Domestic Advocacy** This section presents international mechanisms that may be used to forward domestic policy goals, primarily through NGO appeals to international treaty bodies.
WHAT IS ADVOCACY?

Advocacy is the act of giving support to a cause and persuading those with power to act in support of that cause. Public advocacy is a democratic tool used to focus attention on specific issues that further the well-being of the community and bring about social change. The general goal of advocacy is to give a voice to the community and greater access to political power. With new systems of government and new NGOs evolving and growing, especially in BiH, people have more opportunities than ever to become involved in decision-making processes that affect their everyday lives.

Although this Guide is primarily aimed at legislative advocates, it also contains practical advice for more general advocacy.

WHY ADVOCATE?

Advocacy yields results whether you win or lose. Advocacy can:

- Build grassroots support for an issue or cause.
- Seek to enhance enforcement of existing rights.
- Influence policy makers or powerful actors in the community to support an issue or cause through the creation of new legislation.

WHAT IS AN ADVOCACY CAMPAIGN?

An advocacy campaign is a set of actions targeted to create support for a cause or proposal. Effective advocacy leads to a change in the way a cause or issue is dealt with in policy, law or practice.

Advocacy is also an important means for NGOs to engage with individuals at the grassroots level on issues that impact their daily lives. Advocacy campaigns are more likely to succeed once communities develop a larger sense of civic engagement. As a result, many advocacy campaigns must first build that sense of civic awareness by demanding local ownership of the political process. So in addition to creating positive change, advocacy campaigns are often instrumental in building popular engagement and demonstrating the power of average people to change their environments. And remember that the cause you are advocating for might not be successful in the most traditional sense, but the campaign may itself open new opportunities for participation and engagement that can lead to dramatic change.

Recent changes in the electoral system in Bosnia and Herzegovina provide an important new opportunity for advocates. Elected officials at the State and Entity levels are now directly accountable to the voters who elected them. This means that officials are no longer as accountable to the political party officials who put them on select party lists but are now accountable to the voters who live in their communities.

WHAT IS LEGISLATIVE ADVOCACY FOR HUMAN RIGHTS?

Advocacy for human rights aims to transform formal rights into actual changes in how the state treats individuals or communities. Human rights advocacy is the art of influencing the development of rights-based legislation, often without significant financial resources.
When advocating for human rights, NGOs may look to constitutional guarantees, national laws or even international law to define a country’s obligations. If adequate protections do not yet exist, NGOs might advocate for the adoption of new national laws or promote the ratification of international treaties to address those legal gaps. Advocating for the creation and adoption of rights-specific legislation, or changes to existing legislation, is called legislative advocacy. Legislative advocacy is particularly important because it reinforces the concept that the legislator is accountable to the individuals and communities he or she represents. Legislative advocacy is the focus of this Guide.

The following Guide draws on our shared experience of working with human rights organizations in BiH and elsewhere to create change in legislative bodies. This represents past experiences drawn from specific case studies, while also recognizing that we are always learning as we engage in specific advocacy campaigns. We are confident that this process of continuous learning is common to all who engage in human rights advocacy.

**WHAT DOES TRANSPARENCY MEAN?**

Transparency means that information about how laws are drafted and adopted is available to citizens. Transparency in legislative bodies ensures political accountability. Greater openness is a means of achieving more democratic legitimacy. Transparency is especially important to ensure that elected representatives are accountable to their constituents. For citizens to make informed political choices based on the actions of their elected representatives, the legislative process must be open.

The legislative process is made transparent through the opening of plenary sessions, publication of parliamentary records, access to draft laws, recording of votes and access to committees. Each of these elements is important for ensuring a transparent legislative body.¹

¹ For more information on parliamentary transparency, see In the Public Eye: Parliamentary Transparency in Europe and North America, (Global Rights, formerly International Human Rights Law Group, 1995).
THE ROLE OF NGOs

QUESTIONS TO CONSIDER

NGOs should consider the following questions in determining whether and in what ways to engage with a legislative body.

1. How is the problem/advocacy priority of an NGO related to the work of the relevant legislative body?
2. What are the potential benefits of developing and incorporating a legislative advocacy strategy into your work?
3. How can NGOs participate and influence the decision-making process? Are there any legal limitations on an NGO's ability to lobby on a specific issue?
4. What necessary resources are available to support an advocacy campaign?

WHAT ARE THE POTENTIAL BENEFITS OF DEVELOPING AND INCORPORATING AN ADVOCACY STRATEGY INTO YOUR WORK?

You and your organization have a right to question the laws and rules you are required to live by. Just because something is a law or policy does not mean that it is just or that it cannot be changed. The only way that others will know that you disagree with a law or policy is if you tell them and advocate for change. People have the power to make change happen.

NGOs benefit in a variety of ways from incorporating legislative advocacy into their strategic plans. Effective legislative advocacy can mobilize an NGO's constituency, educate the general public about an issue, build NGO coalitions and networks, and create or define legal rights.

As an NGO, you may wish to participate in legislative advocacy for many reasons, including to:

• Influence your government’s policy decisions;
• Pressure your government to implement national or international obligations;
• Encourage public debate on an issue;
• Contribute to the development of practical strategies to address your issue;
• Draw attention to your issue within your community;
• Develop contacts and networks, both at the government and NGO levels;
• Build coalitions, alliances and joint campaigns with NGOs working on similar issues;

HOW IS THE PROBLEM OR ADVOCACY PRIORITY OF AN NGO RELATED TO THE WORK OF THE RELEVANT LEGISLATIVE BODY?

This question relates to the mission of the NGO, the NGO’s resource allocation and whether an issue or concern that is central to the NGO’s mission is being considered by a particular legislative body. While it is not absolutely necessary that the issue be under active consideration within the legislative body—often the fact that it’s not being considered makes it a prime advocacy objective—it is still useful to know where the issue stands or if it has ever been debated within that legislature.
• Encourage transparency in government decision-making;
• Defend or carry out the interests of your constituents and ensure the needs of your community are prioritized in legislation or policy; and
• Reinforce the accountability of elected officials to the people they represent.

**HOW CAN NGOs PARTICIPATE AND INFLUENCE THE DECISION-MAKING PROCESS? ARE THERE ANY LEGAL LIMITATIONS ON AN NGO’S ABILITY TO LOBBY ON A PARTICULAR ISSUE?**

As discussed throughout this Guide, an NGO can influence policy decisions in many different ways, including by:

- Organizing public fora on critical legislative issues;
- Working with the media to disseminate information on your issue;
- Providing information and statistical data on your issue to legislators; and
- Monitoring the application of laws or general practices.

Most importantly, NGOs can help identify issues and educate policy makers on those issues. In Bosnia and Herzegovina, decision makers often lack access to information and have inadequate resources to obtain even crucial legal information on proposed legislation. NGO participation in the process, particularly by providing information, can greatly influence the outcome of that decision-making process.

In some countries, laws have been drafted to limit the amount of advocacy certain types of organizations can do. In such cases, it is important to consider the contours of those limitations, and whether such limitations themselves should be changed through effective advocacy.

**WHAT NECESSARY RESOURCES ARE AVAILABLE TO SUPPORT AN ADVOCACY CAMPAIGN?**

Before embarking on an advocacy campaign, your organization should consider the amount of resources needed and whether those resources are available or easily obtainable. Advocacy is possible with limited resources but some basic resources will be required. The most important resource is people. You must have—or build—a constituency of people who are interested in the issue. Staff or volunteers must be willing to devote their time to the effort. For successful advocacy campaigns, individual commitment is key.
PART 1:
GETTING STARTED
STEP BY STEP ADVOCACY

For advocacy to be effective, it must be responsive to the changing environment and to new opportunities that emerge. Advocacy is rarely an orderly, systematic process. Yet, preparing and planning for how your advocacy might unfold is an essential step in any effective advocacy campaign. To help in this process we have outlined the major steps in developing an advocacy strategy.

ADVOCACY FUNDAMENTALS

| STEP ONE | Define your policy issue: Where is change needed? |

The issue that your organization will advocate for must first be identified and defined. Ask yourself what do you want to change about your society? What are the important issues facing your constituency? What do your constituents think is the most important issue? It is generally advisable to focus your work on a select number of issues that are realistically manageable. Advocates who attempt to fix everything at once run the risk of fixing nothing. Identify the issue that will have the greatest impact and bring about the most significant change to your community. Focus on this issue first.

| STEP TWO | Define your objectives: What is the change needed? |

Your objectives are the changes in the legislation that you hope to achieve through your advocacy. These objectives are based on what the community thinks will bring about the most change. Legislative advocacy is a fluid process and you should be willing and able to be flexible in your approach and in determining your objectives.

To be effective, your goals and strategy must be defined at the beginning of the advocacy campaign. When choosing an advocacy objective, consider the political climate and the probability of success. Research your issue. Find out if there is any money or any other resources available to support your efforts or expand your organization’s capacities in this area. And remember that it is easier to influence new legislation than it is to amend existing legislation. In most cases, you should focus on supporting a legislative effort that seems realistic, achievable and worthwhile. This does not mean that you must pick an advocacy target that is easily winnable, but it is important to understand the relative difficulty of the campaign before you. And remember the value of setting incrementally winnable targets that will allow you to build enthusiasm, experience, and credibility along the way. Here are some tips.

- Define what you want to achieve, be as concrete as possible and be realistic. In the beginning, your objectives may be based primarily on the needs of your community and stated in general terms. Your efforts could be aimed at raising awareness and interest in the
rights of the disabled among parliamentarians. But as you become more informed about the legislative process, your objectives should become more defined and specific. Perhaps you want to focus on the creation of accessibility requirements for the disabled in State-owned buildings. In more advanced advocacy campaigns, the objective can be as specific as suggested language to be included in a pending law. Or it could be a draft of a brand new law. Having a measurable objective will help you evaluate your strategy.

- Do your research before you make your objectives public. Know what has happened in the past on the issue. Remember that you will likely have to compromise. It may be helpful to build in provisions or demands that you are willing to sacrifice in final negotiations.

- Know what you are willing to give up or compromise on, and remember that compromises are part of the legislative process. Decide in advance how much you are willing to sacrifice, and determine which positions you will not compromise under any circumstances. Remember that you can remain true to your principles while being flexible on less critical details. Make sure that any allies you enlist agree with your compromises.

- Be well-informed about the legislative process and the issue you are addressing. Knowledge about the process helps you understand who has the most power in the drafting or voting process. This information enables you to shape your advocacy strategy. It also helps you anticipate where challenges might arise and how your opponents might try to oppose your efforts. The more information you have about the process and the issue the more effective you can be.

- Seek guidance from other NGOs that have conducted legislative campaigns. This is particularly important when you are trying to amend a law. Other NGOs may be able to provide you with information on how the original law was initially developed and who the supporters and detractors of the law were. Since legislative advocacy is a relatively new NGO practice in Bosnia and Herzegovina, NGOs may have limited information on past legislative history. As legislative advocacy efforts expand NGO information networks will become more important.

- Be aware that not every issue has an easy legislative answer. Many issues that are important to you may not be explicitly addressed or easily fixed through legislation. Make sure you identify an issue that has a potential legislative solution.

STEP THREE
Define your message:
Why is change needed?

Your message is the reason others should support your objectives. The message explains the problem in general terms. For example, during the campaign for the BiH Gender Equality Law, the message was that women deserve equal rights and treatment. Developing a message is often the simplest and most effective way to build awareness about your issue. While it is often said that the facts speak for
themselves, that is only true if the facts are presented in a format that is easily understandable.

• Create a message that is simple, easily understood and appealing to as broad a base as possible. While different members of your group may have different concerns or priorities, your message should be coherent and general. For example, during a major campaign for the rights of the disabled in the United States, the blind community and the wheelchair community were occasionally on different sides of specific legislative issues. The blind community wanted laws that would mandate the use of street curbs to help the visually impaired identify street intersections. The wheelchair community did not want curbs because they restricted wheelchair access. But rather than focus on their differences, these two important communities within the larger movement agreed to set aside their difference and adopt one unified message. Their message was simple: Disabled people face discrimination and discrimination is illegal.

• The message should not be too technical.

• Don’t create too many messages. You may need to refine your message according to your audience’s self interest but the basic principle underlying the message should be the same.

• The message should be truthful.

**STEP FOUR**

Develop your strategy: How will change happen?

Your strategy is the critical component of your advocacy campaign. A **strategy** is a well thought out plan of action with concrete steps and activities. Development of a strategy requires a thorough analysis of the issue, the political context, and the general environment. Legislative advocacy often has an **inside strategy** that focuses on directly influencing decision makers and an **outside strategy** that focuses on creating public awareness and mobilizing those outside the legislature who can influence decision makers.

**QUESTIONS TO ASK WHEN DEVELOPING YOUR STRATEGY:**

1. Has your government signed any relevant international treaties? Are there any monitoring mechanisms in those treaties?

2. Are there any government policy statements on your issue?

3. Are there any government bodies that monitor or are responsible for your issue? If no, could there be?

4. Are any Members of Parliament interested in your issue? Is there a sub-committee or committee in the legislature that is responsible for the issue?

5. Have the political parties taken a position on the issue?

6. How can you access policy makers? Are there any formal mechanisms of access?
7. What or who influences the government position on this issue, i.e. businesses, other countries, financial institutions?

8. Is the media influential on this issue? Which media is most influential? Are there particular journalists who cover this issue? Will the media care about this issue?

9. How important is public opinion in the political process? Will working on this issue strengthen the role of the public in determining policy?

10. Are there particular individuals who could influence this issue, such as academics, retired government officials, religious or community leaders?

At minimum, your strategy must answer these points:

- Who can make your objective happen?
- How can you influence those individuals?
- Who will support you in the effort?
- Who will oppose you in the effort?

IMPROVING YOUR ADVOCACY

Nothing succeeds like success. Constant evaluation and adaptation of your advocacy effort is the best way to ensure success. The idea behind self-assessment is to provide useful feedback and alter your strategies or goals as necessary. Adaptability, creativity and persistence are characteristics of successful advocates. If one strategy does not work, try a different one. Legislative advocacy is a gradual process that takes time, energy, persistence and tenacity. Remember the following guidelines:

- Knowing the legislative process and the procedure of the legislative body counts. Such knowledge helps an advocate negotiate the corridors of power, while enhancing the ability to anticipate an opponent’s move.

- NGOs must seek strong and effective champions within the legislature. Make sure your supporters in the legislature receive ample public credit—when desired—and that they receive that credit at home, among their colleagues and within civil society. At the same time, bear in mind that for legislative advocates, there are no permanent friends or enemies.

- A successful advocacy campaign remains true to its principles but is flexible on other details, such as timing, the scope of the legislation’s provisions or its method of implementation.

- Advocacy campaigns have patterns. They have highs and lows, and flat moments in between. Campaigns need leaders who have skills and respect. A campaign can be quiet and still very effective. There are times when the next strategic move is no move at all. Campaigns that methodically build support and intensity often end in major and lasting change.

- Knowing how to count votes is essential, even if it seems tedious. Understand how the votes of particular Members of Parliament may impact other Members of Parliament, or how the position of one political party affects the position of other political parties. Legislative bodies have their own characteristics which may change with each election. Learning the legislative body’s culture
through experience is essential. It is important to follow the voting, and to use those vote tallies to mobilize constituent calls for the accountability of elected officials.

- Effective advocates establish themselves as authoritative information resources, thereby gaining access, credibility and standing.

- Activists have special responsibilities to help make the work done in the legislature understandable to people working at the grassroots.

- Activists must continually refine tactics and strategies so that ineffective strategies are discarded and new approaches are incorporated into evolving campaigns. To meet these challenges, activists must be careful listeners, and hear what the grassroots, legislators, the media, the international community and other civil society actors are saying about their issue. Listening means paying attention to what they say, weighing it and making strategic changes as needed.

These guidelines show that the issue must be clarified, the grassroots involved, the public informed, the leaders engaged, the NGO coalition nurtured, and the votes counted and recounted. Losing is also instructive. Everyone should learn from it. Only those elected officials who cast votes against the effort should be blamed. Don’t blame your allies or other coalition members. And winning should be celebrated by sharing credit generously. Effective advocacy requires an “inside” and an “outside” strategy. Walking the halls of the legislature must go hand in hand with building and demonstrating grassroots support. Finally, remember that even the best advocates rarely change votes. Be patient and determined.

**TAKING ACTION**

As you begin exploring legislative advocacy, spend some time deciding how you will begin your work. This will form the foundation of your advocacy efforts.

- Identify potential NGO partners. Look for partners or allies among a broad range of NGOs, not just those with whom you regularly partner. Think creatively about who will support your issue or partner with you.

- Build your connections. Networking with other NGOs, decision makers, media, community leaders and legislative staff can help you in the future.

- Decide who will represent you to the public, the media and the legislature. Representation can be important in establishing your credibility, your link to the community and your access to decision makers. You do not need to have the same representative at every forum, but you may need to identify representatives who are experts on the issue or who can speak from personal experience depending on the audience and the purpose of the meeting.

- Hone your skills and the skills of other representatives to represent your organization effectively. How you present your issue, your community or your organization can be as important as the substance of your message.

Since executing a successful advocacy campaign can be a long and complex process, it may be helpful for NGOs to
organize their advocacy strategies into individual components. Many NGOs have had success by concentrating efforts on the following elements of a comprehensive campaign:

1) Research and analysis
2) Coalition or alliance building with other NGOs
3) Constituency mobilization
4) Using the media
5) Influencing legislators
6) Long-term planning
7) Planning for implementation after the advocacy campaign

1. RESEARCH AND ANALYSIS

Information is power. Time spent gathering information on the legislative process in the beginning can help you avoid simple mistakes and save you time in the long run. The more you understand the formal rules and procedures of the decision-making process, the more power you will have to influence it.

Information on your issue is important to understanding the process. The initial step in any campaign is informing decision makers about why your issue is important. The more compelling details you can provide the more likely you are to raise interest in your issue. At the beginning of your campaign, you should focus on understanding the issue and discovering entry points within the legislature or government. You should also undertake an inventory of what resources and advantages you have that will help the campaign.

- Collect detailed information, statistics, research, testimonials and other important information on your issue. The quality and amount of information you are able to provide to decision makers directly influences the amount of credibility you will have. Involving your constituents in data collection can help build support and ownership of the advocacy effort.

- If a draft law exists, obtain it, read and analyze it. If possible, learn the history of the draft law.

- If the issue has been before the legislature in the past, research what happened. Focus on what impeded the process.

- Read and analyze other laws that relate to your issue.

- Anticipate and know the arguments against your position and develop responses that address those arguments. Use reason and facts to persuade.

- Anticipate and take advantage of situations as they arise by having the information needed to predict potential events.

- Develop a list of how others, including legislators, will benefit from supporting your issue or position.

- Identify those decision makers who will likely support your position or take an interest in the issue.

Before you begin any legislative advocacy, you should know how the legislative process works. How do bills get drafted and introduced? Do bills have to go through committees? How can NGOs
participate? How and when will the budget process influence your efforts? You can learn more about the legislative process in Bosnia and Herzegovina in Section Two of the Guide.

2. COALITION OR ALLIANCE BUILDING WITH OTHER NGOs

Coalitions offer important opportunities to broaden the call for reform of existing legislation or adoption of new legislation. Coalitions demonstrate broad–based support among civil society, strengthen your ability to reach decision makers, and lead to more comprehensive strategies. Coalitions are often a way to economize on resources. Coalitions increase legitimacy, power, efficiency and support.

However, coalitions can be extremely fragile and it is important at the beginning to define the common goals and strategies of an advocacy coalition. Any compromises or agreements should be determined as a group.

- Contact other NGOs in your area, country or region about their priorities. Cooperate with NGOs that are working on similar issues, including those that may not be able to send their representatives to the meeting. Don’t limit yourself to your traditional partners.

- There is strength in numbers—demonstrate that you have broad–based support for your position by courting and securing the buy–in of other civil society organizations. It can be difficult to manage large coalitions but the benefits of demonstrating broad–based support often outweigh the disadvantages.

- Coalitions often work best when one NGO takes the lead and is in charge of coordinating the schedule, notifying the coalition members of meetings and other events, and sharing information. These responsibilities can be rotated, as long as the delineation of responsibilities is clear.

- Determine the structure of the relationship at the beginning. Be specific and clear about how decision-making within the coalition will occur.

- Resource allocation and acquisition can cause conflict. Be upfront with coalition members about how money will be raised for the campaign and how it will be shared. If no money is raised, be honest about what resources you and your organization can realistically contribute.

WORKING WITH OTHER NGOs

Working with other NGOs on legislative advocacy can be an important strategy. Even NGOs that disagree with certain approaches or priorities may find areas of common interest and be able to work together on a specific piece of legislation. The following are suggestions for working with other NGOs:

- Develop a system to share information between interested NGOs. Through clear communication, you can coordinate advocacy efforts and monitor the positions of decision makers.

- Share draft legislation that may be difficult to find and less readily available.

- Circulate your position papers widely to other NGOs.
• Organize informational briefings to integrate more NGOs into your efforts.

3. CONSTITUENCY MOBILIZATION

Legislators and policy makers should be responsible to the people they represent. When you advocate for your position, it can be important to show that you have support from a broad range of individuals. NGO partners can often mobilize their base, but you should consider mobilizing the grassroots population interested in your issue as well. Support from the grassroots community may often prevent attacks on the legitimacy of your concerns.

Additionally, your effort may require a change in societal attitudes within a segment—or in some cases even a majority—of the public. Advocacy, even legislative advocacy, should include an element of educating the public on the importance of your issue or position. Public support makes legislative advocacy easier and also ensures that once a law is adopted it will be accepted and implemented.

• Craft your message to respond to the needs and desires of the community. Create a clear and universal message that the community can identify and support.
• Involve the community in strategic decisions whenever possible.
• Think creatively about simple ways that the community can demonstrate its support.
• Listen to the grassroots organizations and examine your position to ensure that you are not inadvertently excluding the legitimate concerns of the community.
• Develop buy-in by community leaders by keeping them informed of developments and explaining your objective and its impact on their lives.
• Help share and explain the relevant legislative processes or language of a specific bill.

4. USING THE MEDIA

The media can be very influential in setting the government agenda by drawing attention to your issue and raising public awareness. Media, by its nature, reaches audiences that may be difficult or impossible for you to reach on your own. Public officials who are unresponsive to direct pleas may find it necessary to respond to public pressure created by media coverage.

• Provide clear factual evidence to the media in a timely manner.
• The media’s attention span is short. Be quick in responding but also carefully consider your responses.
• Develop good relationships with the reporters responsible for your issue or for covering the legislature.
• Consider using press releases, background briefings, letters to the editors and opinion pieces. Remember that for these efforts to be successful you may need a news hook, such as a timely event, a public policy conflict that is in the news or some other link to a hot media topic or controversy.
TIPS FOR EFFECTIVE MEDIA STRATEGY TO PROMOTE ADVOCACY ACTIVITIES

- You should always think about what information to put in a press release and how to link that information to hot topics in the news.

- You should not send the media too much information and should not send information too often. Do not push the media too much. It is only reasonable to send a press release when there is something important to say.

- You should establish relations and keep in touch with members of the press (phone calls, coffee/lunch meetings, provide tips or exclusive information).

- You must always think about how best to craft the language you use in a press release, recognizing that the language depends on the target group.

- If interviewed, you should stay focused on what you want to say (e.g. "The first thing I would like to say is . . .") otherwise it is easy to be misinterpreted.

- You should consider conducting or participating in appropriate public demonstrations or protests as they usually attract media attention.

- When possible, advocacy activities should include entertainers or other prominent people from public life to attract attention.

- You must always use truthful statements and provide precise information. In this way you will build credibility and trust with the media.

- Although electronic media is very popular, most key officials still read the newspapers every morning.

- You should create and distribute 'open letters', particularly if they address some official from the international community.

- You should try to avoid answering “no comment”. If you do not know how to answer it is better to say “I cannot answer that question now, but I will do my best to find that information and let you know”. In that case, it is important to follow up with the reporter.

- Remember to include your name, contact information and a brief sentence about your organization on all of your press materials.
5. INFLUENCING LEGISLATORS OR OTHER POLICY MAKERS

During your information gathering, you will have identified those individuals who are most influential in achieving your objectives and those who are most likely to support or oppose your position. When you identify a decision-maker who is on your side, you must be willing to work closely with that person to provide the information and support needed to take action on your issue.

Successful lobbying often depends on your credibility within government circles. Are you considered representative and connected to your constituents? Is the information you provide correct and verifiable? Are your means of persuading policy makers uninfluenced by corruption, bribery or threats?

One of the most important moments in any advocacy campaign is the short time you have to interact one-on-one with a policy maker. To make the best use of this time, prepare well in advance and prepare for the worse case scenario.

• Determine what information you want to highlight in your meeting, the purpose of the meeting and what outcomes you hope to achieve.

• Before the meeting, send an advance position paper or information to help present your issue. Keep the information to a manageable length. Send documentation a few days before the meeting so the individual has time to read it, but do not assume that it has been read. Bring extra copies to the meeting.

• If possible, know the position of the policy maker before the meeting. It can be helpful to role play with other activists in preparation for the meeting, and to anticipate questions or concerns that the representative may have.

• Develop a concise and understandable message to be delivered at the meeting. It should be not take you longer than three minutes to deliver your message. Practice delivering your message, include your specific desired action.

• If more than one person attends the meeting, make very short introductions and explain the role of each individual in the meeting (substantive expert, person providing testimonial, constituent).

• Listen to what the policy maker is saying and if possible address any concerns or questions raised.

• Dress professionally. Use an appropriate greeting. Keep positive. Be confident in your position.

• If you do not have the information requested or needed, offer to send it. Make sure you send any information you have offered.

• Be aware that the meeting is not the only opportunity to influence a decision-maker.

• Follow up on all meetings with a letter of thanks that outlines any understandings or commitments that were agreed upon at the meeting and repeats your message.

• Keep in touch with supportive individuals.
MAKING YOUR POINT

When you have the opportunity to present your position make sure you are prepared.

- Keep it brief and to the point—no more than five talking points.
- Avoid general statements.
- Provide concrete proposals for action.
- Speak slowly and clearly.
- Provide more detailed written material to supplement your talking points.
- Rehearse.

Another important way to influence policy makers is to have your message easily available and show that you and your supporters are following the issue. You can do his by providing written material in support of your position, writing letters, by reaching out to the media and by educating the public.

- Prepare position papers that clearly state your organization’s views and proposals for action, including suggested changes to the legislation. Position papers should be brief, well-written and factually correct.
- Circulate your position paper to other NGOs. Post the papers on your website and circulate them by email, if possible.
- When helpful, use the media to publicize your organization’s work and views. Writing press releases, making contacts with journalists and undertaking media and outreach activities can help mobilize public support and government attention to your positions.
- If writing a letter, make sure you clearly state your issue, your objective, explain why they should support your position, acknowledge their ability to influence the issue, tell them how they can support your position and how they will benefit from supporting your position. Address any potential concerns you think the individual may have. Be concise. Be sure to use the individual’s correct title and be respectful.
- If contacting individuals by phone, be prepared. Outline the issues you want to cover and place your priorities at the top of the list. Capture their attention within the first 30 seconds. Be polite. Summarize any outcome of the conversation in a letter and thank the individuals for their time.
- Make sure that your presence is recognized at public fora, public hearings or during voting. Your physical presence demonstrates a sustained interest in the issue.

WORKING WITH GOVERNMENT OFFICIALS

The ability of NGOs to influence the outcome of specific legislation or policy depends on how effectively NGO representatives interact with and lobby decision makers. The following are pointers for working with government officials:

- Identify decision-makers who are sympathetic to your views and issues, and who are willing to work collaboratively. Also be sure to identify and interact with government officials whose views vary from yours—this will help you refine your own arguments and your efforts to educate and persuade may eventually succeed;
- Keep in mind that government officials have varying degrees of
understanding and interest in your issue. The more you know about them, the better you can craft your message;

- You should review enacted legislation to get a sense of the language and format that are commonly used. This will help you in formulating appropriate language for your proposed legislation or for changes to existing legislation;

- Get to know the staff of the decision-maker. This relationship can be critical to increasing your access to the target; and

- Remember the importance of long-term relationships—don’t burn your bridges.

ANECDOTE:

YOU CATCH MORE FLIES WITH HONEY THAN VINEGAR

The approach you use when engaging those you hope will support your position is very important. Be respectful and cordial at all times—even when you disagree. Use the correct titles and addresses when speaking or writing to policy makers. Being argumentative will not win people to your side.

If a lobbying target is becoming hostile, it is best to move on to another issue or simply thank the person for the time. Be an active listener and respond to what you hear. Considering an issue from as many different angles as possible can prepare you for addressing the concerns of the decision-maker. Understand that legitimate differences of opinion can occur. Never threaten a decision-maker. Threats shut doors and for effective advocacy access is crucial. Never insult or criticize other groups or individuals—it undermines your credibility.

Remember that your opponents today may be your allies tomorrow. Always give thanks and credit to those who supported your position—even if you are unsuccessful. Follow protocol unless it is part of your strategy not to follow it. Attack with facts, not rhetoric and always avoid personal attacks.
6. **LONG–TERM PLANNING**

The time schedule for legislative advocacy varies. Even when a bill is scheduled to be on the agenda or addressed by a committee, various political processes can delay or stall the process. Finally, success in the adoption of an acceptable law does not mean that your long–term goal has been met. Legislation, once enacted, requires careful monitoring. For these reasons, it is important to think about a long–term strategy with short–term goals.

- Be persistent in your advocacy. The legislative process can be long and difficult. When developing a strategy, factor in the amount of time and effort needed to sustain your efforts and prepare your supporters. An important part of sustaining interest in your issue is providing supporters with information as it becomes available.

- Share victories with your supporters no matter how small. This builds support and commitment to the issue and can begin developing a culture of legislative accountability.

- Always be willing to reassess your strategy as conditions and positions change. Be prepared to capitalize on changes in the situation. Be flexible.

7. **AFTER THE CAMPAIGN: NOW WHAT?**

Even when you win, the role of the activist is not finished. Monitoring the implementation of the legislation or policy you have successfully advocated for is a crucial element of effective advocacy. Activists, through their monitoring, should ensure that policy–implementers do not simply ignore or misread the legislative intent of the lawmakers. Monitoring implementation of a law may reveal new issues that still need to be addressed or outcomes that were never anticipated. Monitoring may also reveal the need for education of government officials, particularly the police, judiciary, and administrators, on how the law is to be implemented.

- If successful, NGOs can play an important role in disseminating information about the law to the general public.

- Remember to generously share the credit when you are successful.

And if you lost the battle, you haven’t necessarily lost the struggle. Don’t give up too easily. Learn from your losses. Highlighting your defeat might help in the next battle.
PART 2: 
THE LEGISLATIVE STRUCTURE OF BOSNIA AND HERZEGOVINA

There are several levels of legislative bodies in Bosnia and Herzegovina. This Guide discusses the Parliamentary Assembly at the national level of Bosnia and Herzegovina and the two Entity-level legislatures, one representing the Republika Srpska and the other the Federation of BiH. Each of these legislative bodies has its own jurisdiction and its own functions, which are described below. The structures, competencies and legislative procedures are outlined in the country’s three different constitutions, while the election procedures for the Members of Parliament are found in the BiH Election Law.

HOW IS THE PARLIAMENTARY ASSEMBLY OF BOSNIA AND HERZEGOVINA STRUCTURED?

The Parliamentary Assembly of Bosnia and Herzegovina is the national legislative body that is primarily responsible for “enacting legislation as necessary to implement decisions of the Presidency”, overseeing and approving national budgetary issues and carrying out legislative duties assigned by the BiH Entities. It is a bi-cameral parliament that consists of the House of Representatives and the House of Peoples.

House of Representatives

The House of Representatives is comprised of 42 Members of Parliament, 28 of whom are elected directly by voters registered in the territory of the Federation of BiH, and 14 of whom are elected directly by voters registered in the Republika Srpska. The House of Representatives has 8 standing committees.

House of Peoples

The House of Peoples is comprised of 15 Members of Parliament, who are elected indirectly. Article 20.16 of the Election Law refers to Article IV (paragraph 1 a) of the BiH Constitution which provides that “Croat and Bosniak delegates from the Federation are elected by Croat and Bosniak delegates respectively, in the House of Peoples of the Federation. Delegates from Republika Srpska are elected by the National Assembly of RS.” The House of Peoples has three standing committees.

HOW IS THE FEDERATION OF BOSNIA AND HERZEGOVINA PARLIAMENT STRUCTURED?

The Federation of Bosnia and Herzegovina is also a bi-cameral parliament.

House of Representatives

has 98 Members of Parliament elected directly by a secret ballot in the entire territory of the Federation. The House of Representatives has 20 committees.
• House of Peoples\(^9\) consists of 58 Members of Parliament: 17 from each of the three main constituencies (Bosniaks, Croats, and Serbs) and 7 Members of Parliament representing other constituent groups, such as Roma, Italians and Hungarians. The House of Peoples has 19 working bodies whose members are selected from the Members of Parliament of the House.

**HOW IS THE NATIONAL ASSEMBLY OF THE REPUBLIKA SRPSKA STRUCTURED\(^{10}\)?**

The main difference between the National Assembly of Republika Srpska and the two other legislative bodies in Bosnia and Herzegovina is that it meets primarily as a single chamber. Although a second chamber has recently been added, the National Assembly of the Republika Srpska still functions in most respects like a unicameral body.

• The National Assembly of the Republika Srpska consists of 83 Members of Parliament, who are elected directly for four-year terms. Members can be re-elected and are not subject to term limits. Rules of Procedure provide for the establishment and operation of 10 boards and 6 committees. As described below, a Council of Peoples has since been added, although it only meets in limited circumstances.

**HOW DOES THE LEGISLATIVE STRUCTURE ENSURE THAT ALL CONSTITUENT PEOPLE OF BIH ARE REPRESENTED?**

The BiH Constitution, the FBiH Constitution, as well as the Rules of Procedure of both the BiH and the FBiH Parliaments, provide for special mechanisms to protect and ensure the equality of all constituent people of BiH\(^11\). Members of Parliament in both the BiH and FBiH Parliaments are obliged to select the speaker and the first and second deputy speakers from Members of Parliament who are Bosniaks, Croats, Serbs and others. The speaker and the deputies may not be from one and the same constituent people, and the speaker rotates every eight months. Moreover, in addition to their regular legislative functions, BiH and FBiH Parliaments also have requirements for ensuring and protecting the equality of constituent peoples\(^12\). All the parliaments also have caucuses of the peoples, comprising Members of Parliament from the respective constituent people.

Originally, under the National Assembly of the Republika Srpska, mechanisms did not exist to protect and ensure the equality of

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\(^9\) Official Gazette FBiH 27/03.

\(^{10}\) Rules of Procedure of NA RS were adopted in September 2001.

\(^{11}\) Thus, the BiH Constitution provides for a special procedure of protection for vital national interests in the BiH Parliament. Following the changes to the FBiH Constitution, and pursuant to the decision of the High Representative for BiH, this procedure was carefully elaborated by the new Rules of Procedure of the House of Peoples of the FBiH Parliament.

\(^{12}\) E.g. Amendment XXXIII to the FBiH Constitution passed by the High Representative reads: “(1) Composition of the House of Peoples of the Federation of Bosnia and Herzegovina shall be based on parity so that each constituent people shall have the same number of delegates …(3) Others shall have the right to equal participation in the process of majority voting.” – Decision of the High Representative, April 2002; Official Gazette FBiH 16/02.
the constituent peoples, as provided for in the other parliaments. However, following the Decision on the Constituent Status of the Peoples issued by the Constitutional Court, certain changes have been introduced in the structure of the National Assembly. Pursuant to this Decision, the High Representative passed Amendment LXXVI\(^\text{13}\) to the Republika Srpska Constitution, which provides that: “The legislative power in Republika Srpska shall be effected by the National Assembly and the Council of Peoples. Laws and other regulations voted for by the National Assembly which are on matters of vital national interest of any constituent people shall come into force only following their adoption by the Council of Peoples.” Other amendments define the meaning of the term vital national interest and the procedures in such cases\(^\text{14}\).

Although this Decision was passed in April 2002, the Council of Peoples had its first constituting session only a year later. Since its inception, the Council has had one constituting session and seven regular ones, which have so far adopted the Rules of Procedure of the Council of Peoples of NA RS. It is important for NGO advocates to know that they can only target the Council of Peoples for issues that fall within the vital national interest definition.

**HOW LONG IS A MEMBER OF PARLIAMENT IN OFFICE?**

The term of office in all BiH parliaments is four years.

**IS THE PROCESS IDENTICAL IN ALL THREE LEGISLATIVE BODIES?**

The Rules of Procedure of the parliaments provide detailed regulations on the legislative procedure and are, with minor differences, identical in all of the the legislative bodies in BiH. Please see charts that follow.

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\(^{13}\) Decision of the High Representative No. 150/02, April 2002; This and other decisions available at [www.ohr.int](http://www.ohr.int)

\(^{14}\) The Election Law was harmonized with this Decision of the High Representative, so that it provides, inter alia, that: “The composition of the Council of Peoples shall be based on parity, so that there shall be the same number of representatives of each constituent people. Thus, of the total of 28 members, 8 shall be Bosniac, Croat and Serb respectively, and 4 shall be others. Members of the Council of Peoples shall be elected by caucuses of constituent peoples and of others. Members of this Council may not be members of the Assembly or councilors in municipal assemblies. Each political party represented in caucuses of the peoples in the National Assembly shall have the right to nominate one or more members for the Council.” (Art. 14 of the Law on Changes and Amendments to the BiH Election Law, June/July 2002).
Parliamentary Assembly of Bosnia and Herzegovina Legislative Procedure

- Law Initiative
  - MPs, Committees, any House of the PA, BiH Presidency, BiH Council of Ministries

- The Speaker of the House

- Collegium of the House

- Competent Committee/s + Legislative-constitutional Committee
  - Public hearing on proposed law

- Discussion in the House
  - First + second reading

- Reconciliation between the Houses (joint Committee)
  - Amendments

- Both Houses adopt identical text of the law

- LAW

- Proposed law and supporting arguments

☑ Places where civil society groups influence the legislative process are indicated with a check mark
FBiH Parliament
Legislative Procedure

I. Draft Law

MP, Committees, Party Caucuses, Prime Minister of the FBiH Cantonal Assembly, city and municipal councils

Speaker of the House

Competent committee, Legislative Committee, MPs, party caucuses, government if they have not submitted the law

 Houses unified session on draft *but, sessions could be a) general b) discussion in detail

House – possibilities of public hearing on draft

II. Law Proposal – Law

Speaker of the House (proposal of law)

Competent Committee, MPs, party caucus, Government

The Houses deliberate in two phases a) general b) discussion in detail

Reconciliation between the Houses to create identical text that becomes LAW

Cantonal Parliaments, city and municipal councils, companies, chambers of commerce and other general associations, political organizations, citizens associations, citizens

Speaker of the House

Legislation Committee + competent Committee, (report)

House – decision/discussion
NS RS
Legislative Procedure

Initiating a Law

1. Draft Law
   - The proposal of law (draft) by MP, Government, President of the RS, Banking Agency of RS or 3000 voters
     - Speaker of the House
     - MP, competent Committees, Legislative Committee, (report on draft law) *Government – if they have not submitted the draft
     - NA considers the draft at a session
       a) in principle
       b) in detail
     - NA may initiate a public hearing on the draft
   - Propose of law (text of the law proposal) + explanation
     - Speaker of the Assembly
     - Competent Committees, MPs
     - Plenary session discussion in detail and on law as a whole
     - LAW

2. Law Proposal
   - Municipal assemblies, companies, other organizations, political org., associations, and citizens
     - The Speaker of the NA
     - Competent Committee, Legislative Committee, Government (opinions on the initiative)
     - NA decision on the initiative
   - all amendments + explanations

Places where civil society groups influence the legislative process are indicated with a check mark.
WHAT ARE THE STEPS IN THE LEGISLATIVE PROCESS?

The legislative procedure consists of the following phases:

a. Initiating the legislative process (submission of draft laws in the Entity parliaments or proposals of law in the Parliamentary Assembly of BiH⁴⁵);

b. Committee development of the draft law or proposal; and

c. Plenary decision on the draft law.

The Initiation Phase

The legislative process begins, quite simply, when the text of a law is drafted. The proposed text of the law must be accompanied by a written explanation citing the following elements of the draft law as prescribed by the Rules of Procedure:

• Constitutional and legislative grounds for the law;
• Reasons for adoption;
• General principles of law;
• Financial and other resources for implementation;
• Comments and opinions of institutions and organizations that have been consulted by a proponent of a law during drafting process; and
• Any other reasons that support adoption of the law.

WHO CAN SUBMIT A DRAFT LAW PURSUANT TO THE RULES OF PROCEDURE? CAN NGOS PROPOSE NEW LEGISLATION?

While almost anyone can draft the text of a proposed law, the Rules of Procedure of the BiH Parliamentary Assembly and Entity-level Parliaments mandate that only the following actors have the power to introduce new legislation for official consideration:

• Individual MPs;
• Party caucuses or caucuses of peoples in the House of Peoples;
• Working bodies of the parliament (committees and/or boards);
• A House of the parliament;
• BiH Presidency and President and Vice-president of the Entities;
• Council of Ministers/Entity prime ministers (a competent ministry usually works on the drafting of the proposal);
• In FBiH, cantonal assemblies;
• City and municipal councils; and
• According to the Rules of Procedure of NA RS, a group of 3000 voters (in such case, a list of signatories must be submitted, with a personal identification number and an ID card number for each person).

This means that members of civil society must find allies from this list who are willing to propose and champion new initiatives before the parliament.

¹⁵ A draft law is submitted to Entity parliaments, and a proposal is submitted to the BiH Parliament. This is only a matter of the use of different terms for an identical document that initiates the procedure. For easier understanding, the rest of the text will use the term draft.
Specific features of entity parliaments – legislative initiatives

An initiative to adopt a law is not the same as the submission of a draft law. It is important to note that at the Entity levels, there are possibilities for:

- Municipal assemblies, city or municipal councils;
- Firms;
- Political organizations;
- Civic associations or individual citizens;
- Companies, chambers of commerce; or
- Other associations and legal persons within their respective constitutional powers, or cantonal assemblies in FbIHi.

to submit to the Speakers of Entity parliaments an initiative which represents their written opinion on the need for regulating a particular issue. The Speaker forwards this initiative to the relevant committees, or working bodies of parliament, for their consideration. A decision to accept the initiative also determines the method of drafting and submitting the draft law.

**TIP:** Civil society organizations must make every effort to become involved in the drafting of legislative texts as early as possible. Experience has shown that it is far more difficult to change the language of a draft law once it has entered the formal parliamentary process. It is much easier to influence the language of a text while it is still being discussed through a more informal process within a relevant ministry. However, NGOs often face significant obstacles in learning when a ministry intends to draft a particular piece of legislation. Information related to a ministry's plan of work on a given text may even be guarded as an internal secret. But with constant monitoring and lots of pressure, NGOs can learn about new legislative initiatives at the ministry level, and most ministries can be persuaded to include civil society representatives, experts, or practitioners in working groups they set up to draft new laws.

**WHAT FORM SHOULD THE DRAFT LAW TAKE?**

The draft law must be submitted in a prescribed form. According to most rules of procedure, it must contain the text of the law and an explanation of the provisions proposed, and any necessary accompanying documents.

**WHAT HAPPENS ONCE THE DRAFT LAW IS SUBMITTED?**

The draft law is submitted to the speaker of one of the houses, who then forwards it to the appropriate legislative or constitutional committee and to any other relevant committees or boards whose competence includes the subject of the law under consideration.
The draft is then initially discussed in a session of the house, which is, as a rule, a single session. The house may decide that the examination of the draft should include a more detailed review. Following the discussion, the house will issue a conclusion expressing its position on the draft.

Following the first discussion in entity parliaments, a draft law becomes a PROPOSAL of law, comprising the discussed text, the required supplemental material, the positions and observations of the working bodies (committees/boards) and Members of Parliament who have reviewed the law.

The Committee Phase

Once the proposed legislation has been examined by the house, the speaker of that house assigns the draft law to both the constitutional - legislative committee and the appropriate competent committee for its consideration. The relevant committees are responsible for discussing and voting on the principles contained in the draft law. During review of the draft, committees may choose to evaluate the law's individual provisions as well as propose and adopt amendments to the original text. If the draft law is accepted by a committee, the proponent who initiated the law revises the text and is asked to incorporate any changes suggested by the committee's working bodies or the full house.

HOW DO PARLIAMENTARY COMMITTEES FUNCTION?

The rules of procedure for legislative working bodies at the State and Entity levels provide for the appointment of standing committees. There is also a possibility of establishing interim (ad hoc) and investigative committees. Among other actions, committees give opinions, submit proposals and report to the full house or parliament. They also decide on matters referred to them by the full house or under specific rules of procedure. Committees may also conduct investigations on specific issues, and they may even be specifically established for the purpose of analyzing the situation in a particular area or finding facts on certain phenomena or events.

According to most rules, it is also possible to establish joint committees of both houses of parliament, which may be interim or standing bodies, to consider specific issues or to prepare and submit proposals for the adoption of laws and other acts.

It is also important to remember that rules of procedure generally allow committees to submit their own proposals for a law or a draft law based on their own initiative, as they are independently authorized to propose laws, amendments to laws or draft laws.

In the National Assembly of the Republika Srpska, boards, which play a similar role to the role played by committees in the other parliaments, may discuss issues at their own initiative and, if needed, may report directly to the National Assembly. Boards may hold joint sessions to discuss matters of common interest.

Committees differ in the number of members, depending on the house and the parliament. An important provision of the rules of procedure also provides committees with the possibility of including or involving in their work, or appointing as members, experts from different fields who have no right of vote. Additionally, a committee may request temporary assistance from consultative representatives of relevant bodies and organizations, as
well as experts, professionals and scientists. This is an option, not a rule, and the appointment of experts depends on the willingness of the committees or the house to consult with such outside experts. In practice, this consultation option is rarely used. Nonetheless, NGOs should consider advocating for the use of such experts and then working with them when they are appointed or consulted.

**TIP:** It is important to note that while a draft law is being reviewed by its competent committees, any Member or Parliament, caucus or committee may also propose amendments to the draft. Therefore, in addition to lobbying Members of Parliament on those competent committees, NGOs should also consider approaching other allied Members of Parliament who are not on key committees to ask them to submit amendments.

### The Plenary Phase

Once the committee completes its revised version of the draft law, it submits its proposal and conclusions to the house. The proposal is now ready to be discussed by the full parliament and is forwarded to the speaker, or the Collegium of the House, who then calls a session.

This phase of the legislative procedure has two parts:

1) The **first reading** allows for a discussion of the need to adopt the law and the general principles of the law. The house may, but is not obliged, to discuss individual provisions or articles of the draft at this phase. It may decide to send the draft law to the second reading, or reject the proposal.

2) During the **second reading**, specific discussions on individual articles, proposed amendments and other details related to the proposal are held. At the end of the discussion, a vote is taken on the proposed amendments and the proposed law as a whole.

Amendments to the proposal may be submitted up until the end of the two readings. If further clarification is needed or information is missing, the house may request a committee to prepare a new report based on the discussions.

**TIP:** Irrespective of the stage of process, it is never too early or too late for NGOs to get involved in the legislative process. NGOs have a role to play at every stage.

### WHEN IS A PROPOSAL CONSIDERED ADOPTED?

A proposal is considered adopted only after it has been adopted by both houses, in identical text.

### WHAT HAPPENS IF THERE IS A CONFLICT BETWEEN THE TEXTS PRESENTED IN THE TWO HOUSES?

If the houses have not adopted identical texts, a joint committee of the two houses of the parliament may be established to reach an agreement on a single text. If the joint committee fails to reach an agreement, and the text is not adopted by both houses, the proposal is rejected.

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16 We use the terms first and second reading for considering a draft law, to facilitate the use of this Guide. However, note that entity parliaments use the term discussion of a draft as the first phase, and discussion of a proposal as the second phase. The state level uses the term first and second reading.
Note that since the National Assembly of the Republika Srpska functions as a single-chamber body, it does not have procedures for reconciling conflicting texts, as described above. But the Council of Peoples in the Republika Srpska does not have the same status as the House of Peoples in the other parliaments, so this is not likely to create an impasse.

**WHEN DOES AN ADOPTED PROPOSAL BECOME LAW?**

Any law adopted by the parliament usually comes into force 15 days following publication in the official Gazette.

**ARE THERE ANY SHORTER WAYS FOR A DRAFT LAW TO BECOME A LAW?**

There are two acceptable methods to shorten the amount of time needed to pass a law. These involve an emergency procedure and, in some parliaments, a summary procedure.

**HOW DOES THE EMERGENCY PROCEDURE WORK?**

A proponent may request that a proposal be considered in an emergency procedure. In principle, the emergency procedure is almost the same as the regular procedure, but all deadlines are cut to half the length of time. The procedure for submitting amendments to the draft law is also different, as it provides MPs with the option of submitting amendments to the draft up until the very end of the process, which is not the case in the regular procedure. It is also important to remember that if the parliament decides to consider the law under an emergency procedure, the draft will then be discussed on the same day and decided during that session.

**WHAT SHOULD NGOS KNOW ABOUT THE USE OF THE EMERGENCY PROCEDURE?**

NGOs should be aware that frequent use of this procedure may create problems since the shortened time frame tends to make procedural transparency even more unlikely. Recently, many laws in Bosnia and Herzegovina have been adopted through this procedure\(^{17}\). For instance, to qualify for EU accession, Bosnia and Herzegovina must urgently adopt a large number of laws to meet its obligations. Due to the short time frame and the large number of laws that must be considered, this emergency procedure has been used often. In these situations, Members of Parliament know very little about the law they are adopting. In some cases they may not be aware of any of the details, and they will not have enough time to request expert opinions or to seek any other additional information on the proposed law.

**WHAT IS THE SUMMARY PROCEDURE?**

Some parliaments have the option of a summary procedure. If the plan of activities of the house provides for that, or if the law in question is not complex or extensive, instead of submitting a draft, the proponent may submit a proposal and suggest that it should be examined in a summary procedure.

The proposal is then forwarded to Members of Parliament and to relevant bodies. If summary adoption is not provided for in the plan of activities, the

\(^{17}\) This has been observed not only by NGOs, but by Members of Parliament themselves. See more in the report from the NDI conference held in November 2001, ‘Possible Forms of Improving Cooperation between Parliamentary Committees and NGOs in B&H’.
House of Peoples must adopt a decision to consider the proposal using the summary procedure. Such a decision eliminates several steps in the normal legislative process.

**WHAT HAPPENS IF THE SUMMARY PROCEDURE IS DENIED?**

If a parliament fails to approve a summary procedure, the proposed law will be treated as a draft and will be considered at the same session.

**WHAT IS THE ROLE OF GOVERNMENT IN THE LEGISLATIVE PROCESS AND HOW CAN NGOs INFLUENCE ITS DECISIONS?**

The executive plays a particularly important role in the legislative process in Bosnia and Herzegovina since government ministries, which function on behalf of the executive, are the primary proponents of almost all draft legislation, with the exception of laws that are recommended or imposed by the Office of the High Representative. The real work of drafting laws is usually done by ministry staff, many of whom may have no substantive understanding of the issue covered by the law. Moreover, the drafters rarely solicit guidance or input from outside sources, such as civil society experts or other specialists. Ministry staff members typically work in isolation and behind closed doors.

**TIP:** Civil society representatives should consider opportunities to influence their issue as early as possible in the legislative process. NGOs can serve as an invaluable resource to ministry staff who are responsible for drafting new legislation, since ministry drafters may often be hindered by limited time or knowledge of the issue. Civil society representatives should meet with ministry representatives periodically to brief them on their issues and update them on new developments or priorities. These meetings will help NGOs learn about new legislative initiatives. They will also allow NGOs to emphasize to ministers and their staff that advocacy NGOs have specific competencies and should be given a more public role in the drafting of legislation.

**WHAT IS THE ROLE OF NGOS WITHIN THE PARLIAMENTS?**

The role of NGOs within the parliaments is still developing. Historically, there has been very little room for action or cooperation between NGOs and legislators in the process. Forums that do exist for use by citizens and NGOs are usually related to indirect action. There are no permanent mechanisms of cooperation between civil society and parliaments in Bosnia and Herzegovina.

The fact that legislative sessions are open to the media and that laws are eventually published in the official Gazette are not sufficient in themselves to guarantee a competent, effective and transparent legislative process. Transparency requires a functional and effective system of civic access and participation in the legislative process. The dialogue between citizens and parliamentarians must be continuous and open. Members of Parliament and voters...
must cooperate and communicate daily. Parliament should serve as a bridge between the citizens and the State.

**HOW CAN NGOs ACCESS PARLIAMENT?**

NGOs can use public hearings or discussions to access parliament. The present rules of procedure of most parliaments contain provisions for public hearings or discussions. But while public hearings and discussions are possible, few Members of Parliament understand the importance of opening the legislative process to the public.

**WHAT IS THE DIFFERENCE BETWEEN A PUBLIC HEARING, PUBLIC DISCUSSION AND A PUBLIC FORUM?**

Public hearings are a regular form of work of parliamentary committees in most modern democracies. Unfortunately, only the Houses of the Parliamentary Assembly of BiH allow committees to hold public hearings on proposed laws, or to include the views of other public bodies, professional institutions or concerned individuals. Those who are invited may present their opinions on matters discussed by the committee, but “only if requested to do so by the committee.” With the approval of the committee, persons and institutions taking part in the hearing may submit written papers and other documents related to the proposal discussed.

Most rules of procedure also provide for the possibility of calling a public discussion. This is used as a means of opening the legislative process to the public. According to official rules, a public discussion may be called only on the basis of a decision by one of the houses in the Federation of BiH or by the National Assembly in the Republika Srpska. The decision will normally determine the method of publication of the draft law as well as the committee that is competent to conduct the discussion, and inform the rest of the parliament of the details of the discussion.

In addition to public hearings and public discussions, rules of procedure also provide that “for the purpose of detailed examination of specific issues, representatives of relevant bodies or organizations, as well as individual professionals, scientists or public figures may be invited to a session of the working body.” These rules provide that committees in their work may cooperate with a group of citizens, although the use of this mechanism depends solely on the good will of the committee, and in some cases on the chairperson or the secretary of the committee. Please see charts that follow.

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18 Article 47 of the Rules of Procedure of the House of Representatives, FBiH Parliament
### Public Hearings

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<tr>
<th>Parliamentary Assembly BiH</th>
<th>Federation of BiH Parliament</th>
<th>National Assembly RS</th>
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<tr>
<td><strong>House of Peoples</strong></td>
<td>Article 85 (committee option)</td>
<td>No</td>
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<tr>
<td><strong>House of Representatives</strong></td>
<td>Article 90. (committee option)</td>
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### Public Discussions

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<td><strong>House of Peoples</strong></td>
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<td><strong>House of Representatives</strong></td>
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### Other Options for Public Participation: Invitation of Experts

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<th>Parliamentary Assembly of BiH</th>
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<tr>
<td><strong>House of Peoples</strong></td>
<td>Articles 28, 30, 34.</td>
<td>Article 49, para. 3.</td>
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<td><strong>House of Representatives</strong></td>
<td>Articles 22, para. 3 and 32, para.2</td>
<td>Article 47</td>
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Article 40
WHY SHOULD YOU ADVOCATE FOR A PUBLIC HEARING?

Public hearings provide an opportunity to open a dialogue between citizens and legislators on drafts or proposals of laws. This is also an opportunity to include experts and other parties in a process that will allow them to voice their opinions on a given issue. Public hearings that are fully accessible to citizens and to all parties concerned should become a more common practice, and in some cases even an obligation. Accessibility of parliamentary work is an important element of transparency within a democratic government.

In Bosnia and Herzegovina, public hearings would ensure that draft laws are presented to the public prior to adoption. They would also open citizen discussion by allowing common citizens, experts, scientist, NGOs and other civil society representatives to present their opinions and offer legislators information and analyses of the law, all with the aim of ensuring the adoption of a law that is well suited to the prevailing environment. This should also allow greater public insight into the work of the parliaments, and it would allow politicians to act more responsibly by listening to the electorate. In some pressing cases, public hearings, public discussions or investigations should be prescribed as an obligation of parliamentary working bodies.

Parliamentary working bodies could also be given an opportunity to open parliamentary investigations in relation to issues of particular public or social interest, including issues that touch on corruption or serious breaches of human rights. While not turning a committee into a court, investigative bodies could, on behalf of the parliament, conduct a public inquiry into pressing issues and present their findings to the public or the judiciary.

Why Public Hearings are Important?

- Transparency of parliamentary work would be improved significantly if public hearings with full access became more frequent and in some cases obligatory. Parliaments at all levels in BiH should be encouraged to adopt more frequent use of public hearings.
- Hearings are a way of opening up dialogue between parliamentarians, experts and all concerned on important matters discussed by the committee. This would also allow professionals, academics, NGOs and civil society representatives to offer their opinions on proposed laws.
- Accessibility of parliamentary work is safeguarded through public hearings and through regular participation by citizens in the work of committees. Accessibility and citizen participation are important elements of transparency.
- Public hearings allow legislators to access information from independent and professional sources, thereby contributing to the adoption of more adequate laws. They also allow public insight into the work of the Parliament, making politicians more accountable to their constituents.
WHAT ARE THE RELATIVE ADVANTAGES AND DISADVANTAGES OF PUBLIC HEARINGS, PUBLIC DISCUSSIONS AND PUBLIC FORA?

Advantages of Public Hearings – Public hearings provide a more formal way of working with the legislature. Witnesses have 5 to 15 minutes for presentations, following which committee members may ask questions. Committees may have rules about the selection of witnesses. Public hearings allow all participants time and space for discussion. Committees often use public hearings to examine issues requiring a higher level of expertise.

Obstacles to Holding Public Hearings – It can be very difficult for NGOs or other civic organizations to advocate for public hearings. There are no guarantees that a committee will convene a public hearing since they are never obliged to hold them. Moreover, rules of procedures at the Entity levels do not contain any stipulations for public hearings. Public hearings primarily depend on the initiative of individual Members of Parliament, the good will of committees or their chairpersons, or the particular interests of a committee in fostering more transparent communication.

Advantages of Public Discussions – Public discussions provide a more informal method of work. They allow broader discussions with the public, not just with experts. More people have an opportunity to participate in this type of discussion. Public discussions can be organized outside the parliament, even in geographically isolated regions of the country. Parliaments or governments often use public discussions as an opportunity to publicize a draft law. Because they are governed by rules of procedure, and are subject to the fulfillment of a series of formal conditions, advocating for a public discussion is often very time-consuming, even more time consuming than advocating for a public hearing. A public discussion may become more politicized than a public hearing.

Disadvantages of Public Discussions – Because of time limitations, not all interested participants may be able to take part in the discussion, and often just a few people dominate the discussion. A parliament may ask the government (or the responsible ministry) to carry out a public discussion and then inform the parliament of its conclusions and the most interesting points of discussion. In that case, the public discussion may become a formal consultation with experts, civil society and citizens, but without Members of Parliament who may be reluctant to take part in such meetings. Since either a committee member or government representative generally decides on the participant list for any discussion, they tend to be exclusive functions and may be biased in favor of the views of the organizer.

Advantages of a Public Forum – A public forum represents the easiest way for NGOs and civil society representatives to jump into the legislative process. Public fora are easier to organize because they are not dependant on the decision of a committee or parliament. NGOs can often arrange a public forum quickly and shape the agenda in the way that best suits their interests. NGOs may also decide who will participate, which allows the NGO to invite friendly Members of Parliament, but also to create a broad list of stakeholders who may be important to the advocacy goal.
Disadvantages of a Public Forum – There is no guarantee that Members of Parliament or government representatives will take part in a public forum. Without government or parliamentary participation, the impact of the forum on government policy, or on any proposed legislative effort, may be minimal. NGOs must take a strong leadership role to ensure the process runs smoothly and is well attended.

WHAT CAN CIVIL SOCIETY GROUPS DO TO PROMOTE PUBLIC PARTICIPATION?

Civil society should press Members of Parliament to encourage the use of public hearings and public discussions, and to attend public fora. Since there is no obligation for parliamentary committees at any level in BiH to hold public hearings or discussions, or to attend public fora, civil society must also advocate directly before the chairpersons and secretaries of parliamentary committees. Of course, the method, time and focus of activities will depend on the goals of any advocacy activity. However, in almost all instances, the goal of civil society is to initiate discussions on draft laws within parliaments to make certain that Members of Parliament are familiar with various proposals, or to propose relevant amendments to such drafts.

Naturally, these efforts would be considerably easier if the legislative process included an obligation to hold public hearings. But given the absence of required mechanisms, NGOs are generally forced to organize public fora or round tables as the easiest means of presenting the views of civil society.

HOW CIVIL SOCIETY CAN INFLUENCE HOW PUBLIC HEARINGS ARE HELD?

NGOs may invite the parliamentary committee responsible for a draft law to open its doors to civil society representatives to hold an official public hearing. Such a request may encounter a total lack of interest from the committee members. You may be left, then, with no other option but to organize an unofficial forum. You will need to consider whether you should host a public forum, a round table or use another format, depending on the significance and the nature of the subject you wish to discuss, or on the effect you wish to create in the public and in the media. It is useful to have as much support as possible from different civil society groups, the public and the media for any action you choose. When conducting such activities you must combine all of our supporters and use all the avenues that are available to you.

You can exert pressure on Members of Parliament by:

• Writing letters to chairpersons and secretaries of relevant parliamentary committees, as well as to all other Members of Parliament, inviting them to hold a public hearing on a draft law and explaining the reasons and the need for the hearing.

• Scheduling meetings with Members of Parliament who have opened offices in their constituencies or municipalities. These offices are established to provide citizens with an opportunity to present initiatives and indicate problems to their Members of Parliament. At the moment, such offices are being established in large numbers across the country.
• Sending letters inviting as many Members of Parliament as possible to take part in a public discussion, forum or round table that will present and discuss your proposals.

• Reminding Members of Parliament of their accountability to the citizens and their obligation to listen to the voice of the public when adopting laws.

• Using all personal contacts with Members of Parliament, particularly with chairpersons and secretaries of the committees, but also with all other Members of Parliament who may be supportive of your idea, and inviting them to take part in discussions as keynote speakers.

• Inviting key media representatives, speaking to them personally, and providing them with a written explanation of your ideas.

• Making your story interesting for the media, generally by using real-life examples related to your advocacy goal.

• Inviting relevant representatives of the international community, whose presence may contribute to the promotion of your views, to discussions or events.

WHAT SHOULD NGOs CONSIDER WHEN HOSTING A PUBLIC FORUM OR ROUND TABLE?

Timing is most important when holding a public forum, round table or other event. You will need to monitor the work of the parliament and schedule the event according to when you will have the most impact on the law. A poorly selected date may prevent Members of Parliament or the media from participating, or may come after an opportunity for influencing a draft law has already passed. Whenever possible, monitor the general climate in the community or in the parliament and link the messages you want to send to key events or shifts in public opinion.

WHAT IS THE ROLE OF NGOs WITH MEMBERS OF PARLIAMENT?

Because there is limited expertise and information available to Members of Parliament and a lack of supporting professional staff, NGOs should concentrate on becoming resources for Members of Parliament. Currently, the lack of expertise among Members of Parliament causes dependence on the expertise or information provided by the government, which is usually the proponent of a law. Civil society can fill this resource gap. One of the problems is that parliaments are overburdened with drafts they simply ‘must’ adopt quickly, under pressure from the international community, including those laws that are pre-conditions for EU accession talks. Members of Parliament themselves often use this as an excuse when they receive objections from experts or civil society about the laws they adopt.

TIP: NGOs should continue pressuring Members of Parliament to review draft laws more carefully and effectively. Civil society should highlight the need for laws that are important both for EU accession and for the citizens of the country. When possible, NGOs should consider using EU accession as a tool to leverage support for an issue, particularly when the EU has adopted a similar position or view. Knowing the EU position on your area of focus will help you become a valuable resource to Members of Parliament.
Continuing to work with Members of Parliament will help ensure that they are accountable to the citizens they represent. This work is critical. Supplemental public education on the accountability of the Members of Parliament is also important since most BiH citizens do not fully understand how their elected parliamentary representatives are accountable to them.

**HOW DO POLITICAL PARTIES IMPACT THE LEGISLATIVE PROCESS?**

Once a law has reached parliament, it is discussed only within the interests of individual political parties. Voting is also usually on the basis of party instructions. Party discipline is very strict and rarely leaves room for any outcome different from what the party caucuses have agreed upon. This helps explain the limited role of different parliamentary bodies, as Members of Parliament themselves see no purpose in discussing draft laws, even if their views are, in fact, different from those of their party. This is yet another reason why most committee sessions take place only to satisfy formalities. If civil society representatives intend to have any influence over a proposal, they should focus on individual connections with Members of Parliament in party leadership roles. Committee sessions or hearings must be accompanied by NGO advocacy at these parallel levels.

**WHAT IS THE ROLE OF THE INTERNATIONAL COMMUNITY IN THE LEGISLATIVE PROCESS?**

The international community plays a unique and powerful role in the legislative processes in Bosnia and Herzegovina. The key international player is the Office of the High Representative (OHR), which has wide-ranging legislative powers. OHR can initiate laws, lobby the legislatures, or directly impose laws. There are numerous examples of laws imposed by OHR to ensure the country meets its commitments to the Council of Europe or the World Bank, or simply to ensure proper functioning at the local community level. Other international organizations, including the Council of Europe, the World Bank, the UN agencies and some international NGOs also play important initiating, advisory and lobbying roles.

It is frequently noted that there is a general lack of transparency or outside consultation with non-governmental actors in the development of laws initiated or imposed by the international community. This does not provide a good example to national legislators. Moreover, such substitution of roles by international organizations creates a suspicion as to whether domestic authorities are prepared to act autonomously, and whether they can respond to the obligations presented to them.

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19 In accordance with the ‘Bonn Powers’ (see Bosnia and Herzegovina 1998: Self-Sustaining Structures, Bonn Peace Implementation Conference, 10 December 1997).
Civil society's right of access to information is very narrowly interpreted by the BiH government. What constitutes 'information' is not clearly defined in the country’s Constitution or in other rules of procedure. The government often argues that the right of its citizens to information is fulfilled through regular media coverage of parliamentary sessions and the publication of laws in the official Gazette.

However, from the point of view of civil society, a citizen's right to information on the work of the parliament must not be limited to media coverage of parliamentary work or the publication of laws. Civil society must demand timely and straightforward access to draft laws and basic work plans, as well as other critical legislative information, including the voting patterns of individual Members of Parliament, which the government does not currently collect. Additionally, civil society encounters burdensome obstacles in directly contacting Members of Parliament. In order to communicate with a Member of Parliament, an individual must typically first contact the secretaries of the committees on which the Member serves, the secretariat of the parliament, the party caucuses or, as is often done in practice, the seat of the Member’s party.

IS THERE INFORMATION ON THE PARLIAMENTS ON THE INTERNET?

At the moment, the three parliaments have their own web pages:

- Parliamentary Assembly of BiH [www.psbih.org](http://www.psbih.org)
- Parliament of the Federation BiH [www.parlamentfbih.gov.ba](http://www.parlamentfbih.gov.ba)
- National Assembly RS [www.narodnaskupstinars.net](http://www.narodnaskupstinars.net)
However, since some of these pages are not regularly updated, the information they contain does not always reflect what is currently happening. And because the web pages lack good search engines, they may be difficult to navigate. Parliaments must be forced to make information available more quickly and easily for those who want to follow the work of the countries parliaments. NGOs should be advocates for such information sharing.

**HOW CAN CIVIL SOCIETY USE THE LAW ON FREEDOM OF ACCESS TO INFORMATION?**

One of the options for accessing information is the Law on Freedom of Access to Information. Pursuant to this Law, “any natural or legal person shall have the right of access to information under the control of public authorities, and each public authority shall have a corresponding duty to publish such information.” This means that any citizen or organization has the right to file a request for information, and that a State body has the duty to process such a request and provide the requested information within 15 days. Only exceptional circumstances, as provided for in the Law, allow the authority to deny access to the requested information.

Guides for applicants containing sample requests for access to information advise that there should first be an attempt to obtain information informally, by contacting the information officer of a given parliament or state authority. It should be noted that the Law may also be invoked in requests for information or working drafts of laws from relevant ministries.

Still, experience has shown that the Law is rarely used and that organizations invoke it only after failing to obtain information through all other means. It should also be noted that the response requires time, and advocates often work with very short deadlines.

There is a Center for Freedom of Access to Information in BiH, acting as a local NGO. This organization provides legal aid to clients to exercise their rights pursuant to the Law on Freedom of Access to Information. It also monitors the application of the Law and provides training for civil society groups and civil servants on how the Law works.

**ARE THERE OTHER OPTIONS FOR OBTAINING INFORMATION?**

In addition to the Law on Freedom of Access to Information, there are additional options for accessing important information. For example, the Public Relations Office of the BiH Parliament organizes a daily e-mail delivery of agendas for sessions. Although originally intended as an office to facilitate media reporting on the work of the Parliament, over time a considerable number of organizations have come to rely on this email.

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20 Official Gazette BiH 28/00, identical texts adopted in both Entities. Text of the law available at [www.cspl.ba](http://www.cspl.ba)
21 Article 4 of the Law.
22 More on the Law and the Center for Freedom of Access to Information to be found at: [www.cspl.ba](http://www.cspl.ba)
23 More on this can be obtained from the Public Relations Office of the BiH Parliament, at: [press@psbih.org](mailto:press@psbih.org)
**TIP:** Although the web pages of most parliaments include drafts or proposals of laws under formal consideration, practice shows that the easiest and quickest way to obtain information is still through personal contacts in the relevant ministries or through individual Members of Parliament or staff in the professional services of the parliaments. Personal contacts allow fast access to information on changing drafts, along with additional information that can be of great help in planning further advocacy activities.

For example, when Global Rights attempted to obtain a copy of a draft law that would impact the work of the Persons with Disabilities Coalition (PWDC) from a relevant ministry, the ministry refused to provide the requested information. Global Rights was then forced to file a request with the Ministry, invoking the Law on Freedom of Access to Information, and following that, the draft law was provided. This process took some time, and it shows why it is important for advocates to develop parallel contacts and maintain good relations with individuals in the professional services of the parliaments.

In order to foster true democratic transparency and participation, the BiH government must commit to opening the legislative process to its citizens. A citizen's right to access information must include public access to:

- The notes and minutes from sessions of houses and committees;
- The basic work plans of the committees and the parliaments;
- All drafts and proposals of laws;
- Information on individual voting patterns of Members of Parliament;
- Committee sessions; and
- Contact information for all Members of Parliament.

*Find an example of an NGO success story in the Annex.*
PART 3: OTHER OPTIONS
INTERNATIONAL LAW AND MECHANISMS TO SUPPORT LEGISLATIVE ADVOCACY

When conducting domestic legislative advocacy on human rights issues, it is useful to determine if there is any applicable international human rights law that addresses the topic. This means that you should conduct a comparative analysis to see if domestic law is in compliance with international standards. In Bosnia and Herzegovina, since most international human rights treaties are directly applied through the BiH Constitution, advocacy efforts that are backed by international law arguments are particularly useful. Moreover, since BiH accession to the European Union is an even more important incentive, this provides an added hook that NGOs can use to advocate for human rights protective legislation. As outlined in this section, always determine if any obligations under international law—from incorporated or ratified international treaties—might bolster your domestic legislative arguments.

If international law is helpful, there may also be an additional option of advancing your domestic legislative strategy by extending your advocacy efforts to relevant treaty monitoring bodies. This section of the Guide will focus on using advocacy before international treaty bodies as a supplement to domestic advocacy strategies. This Guide highlights the use of the treaty bodies for three reasons:

- Bosnia and Herzegovina has ratified all seven of the major international human rights treaties and they are applicable through the BiH Constitution;
- BiH NGOs are particularly adept at documenting human rights abuses but do not yet know how to present this information in a format that can be easily used by human rights monitoring bodies; and
- The BiH Government continues to place importance on its position within the international community as it strives to obtain membership in the European Union.

While this section focuses on the UN treaty bodies, they are only one of several international targets that NGOs can use to encourage the adoption or amendment of domestic legislation. Other important efforts, particularly in the BiH context, might direct pressure toward donor countries or institutions to seek their backing for specific legislative proposals. Efforts aimed at using international pressure for legislative reform all generally benefit from being part of a larger coordinated domestic campaign. However, these efforts also require specific skills and knowledge that are beyond the scope of this Guide. Although we do hope the information contained in this Guide will be of use for NGOs developing international advocacy campaigns, we recommend consulting other sources for more extensive advice and specific information.

SHADOW REPORTING

Under most international human rights treaties, ratifying States are required to submit periodic reports to the UN committees that monitor the
implementation of the treaties. The purpose of States submitting these reports is to document steps taken to comply with specific treaty obligations. To supplement the official reports from States, nongovernmental organizations often submit separate “shadow reports”.

The term “shadow reports” refers to documents created by NGOs. These reports help to supplement official government reports. They also contribute in concrete and strategic ways to the capacity of the UN expert committees to more accurately assess the steps taken by governments to comply with international human rights standards. Shadow reports are important tools that allow NGOs to participate in the international treaty monitoring process by providing or highlighting important information. And it is obviously crucial to the effective implementation of UN treaties and to the full protection of human rights that the UN should have access to accurate and appropriate information documenting a government’s record both from a governmental and nongovernmental perspective.

UN Human rights treaties such as the International Convention on the Elimination of All Forms of Discrimination (ICERD), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) all obligate ratifying States to submit reports to the UN bodies that monitor implementation of the treaties. Not surprisingly, States tend not to be forthcoming with details of possible violations of their treaty obligations. While shadow reports provide additional, and often vital, information for the treaty experts as they assess a State’s steps toward compliance with its international obligations, they can also be used by NGOs in their domestic advocacy efforts to raise awareness and influence policymakers.

**Under the different treaties, States are required to submit periodic reports**

States parties also send representatives to treaty body meetings where the Committee asks questions and makes comments on the sufficiency of the steps the government has taken to implement the treaty. The Committee will generally make recommendations for areas of improvement and ask the government to focus on certain issues or to adopt new laws or policies. These recommendations can be very valuable to any domestic advocacy campaign, particularly if the Committee specifically recommends legislative action to protect the rights identified in the treaty.

**Objectives of State Reporting**

Reporting is premised on two assumptions. First, every State, no matter how well intentioned, is an actual or potential violator of human rights. As a result, regular international accountability is in the best interests of the State itself, of its citizens, its residents and of the international community. Second, some States have implemented successful programs-best practices-that should be shared with the global community. Among the objectives of reporting are:

- Achieving a comprehensive review of local and national legislation, administrative rules, procedures, and practices;
Ensuring that States regularly monitor the actual situation with respect to each provision of the Convention, so that they are aware of the extent to which all citizens enjoy all rights guaranteed by the treaty;

Highlighting the best practices in various jurisdictions, so that others may learn from and implement similar programs;

Providing states with the basis on which to further develop clearly stated and targeted policies, which incorporate priorities consistent with the provisions of the Convention;

Permitting local agencies and the public to scrutinize national government policies and encouraging the involvement of various sectors of society in the formulation and review of these policies;

Providing a benchmark against which States and the treaty body can evaluate the extent to which progress has been made towards the realization of the obligations established under the treaty;

Enabling States to develop a better understanding of the problems and shortcomings encountered in the progressive realization of the aims of a human rights treaty; and

Enabling the treaty body and the States to exchange information, develop a better understanding of common problems, and a fuller appreciation of the types of measures that might be taken to promote effective realization of treaty obligations. This also enables the Committee to identify the most appropriate means by which the international community might assist the State.

THE SHADOW REPORT

Treaty committees need independent information from which to formulate their questions and identify the areas where state parties are not meeting them. They have called on NGOs to help supply that information. Many NGOs have found that creating alternative or shadow reports concerning particular issues or human rights violations on which they work, and which fall within the scope of the treaty, are also useful tools for educating the public, building coalitions, strengthening their own methods for holding the government accountable for rights violations, and influencing policy or law reform.

THE MAKING OF A SHADOW REPORT

Preliminary Issues to Consider

1. USEFULNESS

You should begin by considering both the domestic and international usefulness of creating a shadow report as it relates to their agenda, mandates, and resources. For example, you should evaluate the strategic uses of such a report in: (1) identifying sources of information; (2) coalition building; and (3) working with the national government. The usefulness of creating a shadow report can be evaluated by its function in providing the treat body with additional information that is absent from the national government’s report. It is also useful in an ongoing way to monitor national responses, to conduct domestic media and education campaigns, and to critique the national government.
2. FOCUS

The shadow report might address a range of issues and perspectives. The main options for such reports are:

1) A federal report that looks at a range of issues or focuses on one issue (i.e. education), concentrating on federal law and policy;

2) A single-issue, federal and Entity report that aims to address an issue at both federal and entity level; and

3) A report that looks at one issue or a range of issues focusing on one Entity.

There is no right or wrong approach to a shadow report. It is important to keep in mind, however, that the targeted UN Committee has limited time and ability to read the information it receives. Reports should not exceed 10–15 pages in length, although appendices may be used if copies of laws or additional documentation are useful to support the information. The time and resources available to an NGO will also play a decisive role in deciding which approach to take.

It will also be very useful for the UN Committee to have your recommendation on steps the government should take to improve its record of treaty compliance. You should make appropriate and highly specific recommendations regarding State action that could be taken to implement the treaty.

3. ALLIANCES

Like-minded NGOs might consider preparing a joint shadow report. Choosing themes or issues in common with other NGOs (social justice organizations, human rights groups, civil rights groups, and community organizations) will facilitate the creation of information-gathering alliances and enhance solidarity among existing coalitions. Working together with other NGOs will also advance the production and distribution of the shadow report. Given the diversity among various kinds of NGOs their mandates, and activities, entities preparing joint or collaborative reports should anticipate discussions concerning divisions of labor, editorial decision-making, and resource-sharing.

4. METHODOLOGY

You should focus on one or two primary areas of concern, fully develop an analyses under the relevant provisions of the treaty, identify key actors at all levels, and provide clear examples of successful strategies involving local participation of NGOs and affected communities. Presentation and analysis are critical aspects of the shadow reporting process, statistical data and case studies greatly enhance the report. The UN refers to such information as “indicators” and they are helpful in assessing and formulating a response to the human rights situations being presented in the report. Some basic principles for developing indicators include:

- Break down and categorize (disaggregate) data by variables such as ethnicity, gender, age, region (especially urban/rural), language,
religion, or other minority factors, including refugee and internal displacement, as well as by relevant sectors.

- Include case studies, generally testimonies and narratives that “tell the story” in its most human terms.

The importance of accessible, objective, and comprehensive sources for this information should be clear. You must investigate a range of sources of information, including academic or independent institutions, as well as other local agencies, national and international NGOs.

**Shadow Reporting Step-by-Step**

Using the information gathered on your issue during your domestic advocacy campaign, compile key statistics and choose two or three case studies from your work to illustrate the human rights aspect of your issue. Case studies should be brief. A paragraph or two is enough. And it should be clear that the story is representative of an entire constituency’s experience, rather than an isolated incident.

**STEP ONE**

**Identify the Key Article(s) of the treaty**

The rights aspect of the report is highlighted by linking the right with specific articles of in the treaty. Emphasize the relevant provisions and describe the rights affected. Note also the nature of the obligations in the identified provisions. Do the obligations require the county to adopt new legislation? Improve education? Ensure that non-state actors do not violate the rights outlined in the treaty?

**STEP TWO**

**Identify Existing Laws and the National Government’s Implementation Record**

In this section, the report will highlight legislative activity, including the country’s failure to adopt laws relevant to the issue. This is a critical piece of the report if you plan to use the Shadow Report as part of a domestic legislative advocacy campaign.

First, you must examine what the legal status of the treaty is in domestic law. Describe any discrepancy between the international obligations and the implementation of domestic law. This will help to highlight the need for legislative reform. Be sure to include information on laws that may apply, even if they are inadequate. Address difficulties in implementing the treaty provisions, such as any lack of clarity on which government body or agency is actually responsible for its implementation. This may be particularly useful if new legislation is needed but there is little political will to begin the legislative process. You should also identify who needs to be trained or
made aware of these laws: judges, police, prosecutors, advocates, school administrators, teachers, or others. Show how these laws would apply to the case studies in your report. Explain the extent the communities you work with, and who are represented in the case studies, have benefited from laws at the national or local levels. Best practices should also be highlighted here.

**STEP THREE**
Identify Existing Obstacles

In reference to the issues or themes you have chosen to focus on, discuss the obstacles that communities face in achieving the rights or protections at the local, national and international level. Include obstacles faced in the private sphere—within the family, the workplace, or in private schools or churches. Examine the entire range of factors affecting people’s lives, including such things as lack of access to education, information, or resources. Note specific obstacles to claiming rights, such as not being able to afford a lawyer, or having little access to power brokers. Discuss whether existing legislation and policy address the situation described in your report.

**STEP FOUR**
Recommendations: Identify Steps to Be Taken

Identify what steps should be taken by the government to address the obstacles and to redress the situation presented in your report. Since the shadow report is part of a more comprehensive strategy for domestic legislative reform, be sure to include the fact that new or amended legislation is required in order to comply fully with specific treaty obligations. But since legislative reform is not always successful, be sure to include other activities that could improve the situation, such as education or public awareness campaigns, funding for new programs, or other types of affirmative steps. For example, if your issue or theme is environmental justice, you might recommend training programs and the involvement of community groups in that training. Draft specific actions to be taken by the government that will address the obstacles identified.

Make concrete recommendations and link them to a time line. For example, “government should improve services for refugees of all ethnic groups,” would not be concrete. A better way to formulate this would be, “government should: (a) collect accurate data on the needs of people of color in (the specific report area); (b) coordinate with local groups on an assessment of needs for different ethnic groups; (c) review current laws to ensure that they address the needs of refugees of all ethnic groups (in the specific report area); (d) train relevant personnel to ensure that policies and laws are implemented fairly; and (e) provide grants to groups that provide services to refugees without discrimination.”

Identify some key indicators for holding your national government accountable and explain how you would want the treaty body to measure their success over time.
Information Checklist

Check to make sure that the main body of your shadow report contains the following features:

1. A reference to the appropriate article(s) of the treaty (this could be a numerical and abbreviated reference in the main body of the text, with a full copy of the primary articles of the Convention in an appendix);
2. National, constitutional, and entity laws relevant to the report;
3. Indicators such as statistical data and case studies;
4. Key actors—government and private (where applicable)—responsible for implementing (or failing to implement) the laws and/or responsible for violating the right;
5. Supporting documentation for allegations of human rights violations;
6. Strategies for change;
7. Information about your organization.

Shadow Report Outline

The following is a possible organizational structure for the information for a “state” report:

- Table of Contents
- Executive Summary (one page)
- Welcome the government report.
- Issue you are addressing
- Political/social context for submission. This section sets the mood of communities (usually in contrast to the Government’s analysis).
- Outline key issues/areas of concern raised in the submission (without providing detail)
- List recommendations

TIPS ON SHADOW REPORTS

- Write in easily accessible language, bearing in mind that submissions provide information to experts but they are also for policy makers and activists. Remember that Committee members suffer from information overload. So the easier a document is to read, both in terms of content and format, the more effective it is.
- Terminology should always be consistent and, where necessary, explained early in the text.
- Paragraphs should be numbered for easy reference.
- Information should, where appropriate and possible, cut across gender, different “racial/ethnic minority groups” and, if possible, age or disability categories.
- Brief is better. If you think the point can be made and the recommendation which follows supported in a very short space, then keep it short. Just because an issue only takes one page to explain it will not be considered any less important than a lengthy one.
RELEASING THE SHADOW REPORT

A. SENDING THE SHADOW REPORT

The shadow report should be sent to the Committee for distribution. Typically, the Secretariat of the Committee distributes the report. If you know that certain members of the Committee are favorably disposed to NGOs, you may want to send them a copy of the report directly. Although, there is no official deadline for the report, the more time members have to review the report, the more effective it may be.

B. ATTENDING THE COMMITTEE MEETING

In addition to submitting the shadow report, NGOs should consider sending one or more representatives to the Committee session when your country is scheduled for review. NGOs will have the opportunity to observe the work of the Committee, and monitor the presentation and responses of the national government representative. NGOs may even lobby the Committee members prior to the session to help shape the questions posed to the national government representative. For participating NGOs, this reporting process can be very useful for domestic advocacy, particularly in challenging the national government to uphold promises and to explain statements made to the Committee. NGOs also have the opportunity to provide the international community with more precise information, while highlighting best practices in their country.

As far in advance as possible, NGOs should consult international experts or UN staff to find out how to obtain UN passes for the session. International NGOs may provide guidance on how to approach the Committee’s international experts for complete participation in the session.

C. RELEASING THE SHADOW REPORT TO THE PUBLIC

The shadow report may be used to:

- Highlight best practices;
- Lobby for domestic legislation or policy reform at state and federal levels;
- Educate domestic media and the public;
- Contribute to political platforms;
- Promote dialogue with political candidates or national government representatives; and
- Clarify local agencies and NGO priorities for rights enforcement and social change in general.

Among the strategies to consider in releasing the shadow report is the timing—how and where the report should be released to maximize its exposure is critical. For example, an excellent time to release the report would be simultaneous with the occurrence of any national, regional, or international conferences or meetings (attended by national government and/or NGOs representatives) at which the report could be presented. Also, NGOs should investigate what networks or sources can be tapped for publication and distribution of the report. There is also the question of who should receive the report first the national government, the press and the public, or specific individuals, organizations, or agencies. All these possibilities merit consideration.
USING THE SHADOW REPORT FOR DOMESTIC LEGISLATIVE REFORM

Shadow reports can be a useful addition to a legislative advocacy campaign. To be most effective, NGOs will want to consider possible follow-up activities once the report has been developed, submitted, and released to the public. You should be prepared to capitalize on the review process.

There are several important things that might happen before the UN Committee that could add to your domestic advocacy campaign. The Committee will make concluding observations and might recommend specific state action or legislation. The Committee might also interpret specific obligations in a way that favors your domestic efforts. Important information that can persuade policy makers, raise awareness among the general public or generate media interest might also be contained in the Committee’s findings. And since States often fail to disseminate the findings of the Committees, NGOs can play an important role by sharing the Committee’s response by incorporating it into their advocacy campaigns.

In addition to reviewing the official government report, you should review the government’s response to questions the UN Committee may pose. The government may make a positive response before the Committee. For instance, occasionally when pressed by the Committee, government representatives will promise to consider amending or adopting legislation or to review the need for legislation. If the government makes such statements, you should use them in letters to legislators to cite government support for your position, or with the general public to encourage accountability, and with other NGOs to build support for joint efforts.

The overall goal of the shadow report is to achieve greater government accountability for and protection of all people’s human rights under domestic and treaty laws. The process of preparing the report should contribute to and strengthen existing initiatives and coalitions and strengthen the domestic legislative advocacy campaign. The information needed to make an effective shadow report can also be used to support your position when advocating domestically. It provides an important opportunity to make your position heard at the international level and to influence the decisions taken by your government. The preparation and submission of NGO shadow reports require considerable time, planning, effort, and resources. However, the impact they can have in creating change domestically often outweighs the costs.

TIP: Some of the questions to consider when devising your overall strategy include: Will the national government make an official report on the Committee’s findings to the public? Do you want to make a calendar to monitor the national government’s progress? Should you plan a debate with the national, state, or local government about the differences in the official and Shadow reports? Would a public evaluation be more fruitful if presentations were limited to NGOs and other actors in civil society?
ANNEX I

An Example from NGO experiences in BiH

GENDER EQUALITY COALITION

Background

In 1998, Global Rights spearheaded a collaboration with 16 women’s groups from Bosnia and Herzegovina to prepare a first-ever National NGO Report on the Status of Women in Bosnia and Herzegovina. The NGO report was published to: (1) Inform the public on fundamental women’s rights issues and offer a scrutiny based on international human rights standards of how these issues were being addressed by the government; (2) Create a tool to confront the government over its failure to uphold its basic responsibilities and duties; (3) Highlight the complete indifference by the government to the status of women in Bosnia and Herzegovina, since no documentation or information was available on the status of women in Bosnia and Herzegovina prior to the publication of this report; and (4) Increase knowledge and build capacity of local women’s groups though the dissemination of information on applicable laws and mechanisms of redress.

The production of the NGO report was a significant step in empowering local civil society groups in their effort to protect the legal rights of women in Bosnia and Herzegovina. Through periodic strategic training sessions, Global Rights worked with a core group of women’s organizations on issues such as employment, discrimination of women and trafficking in persons. The group worked together in documenting and analyzing violations of women’s human rights and publicized these findings by incorporating them into a variety of national initiatives.

THE GENDER EQUALITY COALITION

The Gender Equality Coalition provides a good example of how NGOs can successfully take part in all phases of the legislative process in Bosnia and Herzegovina (from ministry to parliament) and how NGOs can impact the text and adoption of a law, in this case the BiH Gender Equality Law.

The Gender Equality Coalition (GEC) grew out of an initiative led by Global Rights and the UN Office of the High Commissioner for Human Rights (OHCHR) in Bosnia and Herzegovina to prepare comments on the draft Gender Equality Law as released by the Ministry. The BiH Gender Equality Law was first drafted under pressure from the international community. The entire process represented a useful collaboration between the Ministry for Human Rights and the FBiH and RS Gender Centers, and it was supported by the Finnish Government. A public presentation of this draft law was organized with active participation of Finnish Government representatives. The draft law was also presented to a select group of NGOs in July 2001 at a conference held in Sarajevo. That draft received extensive criticism from NGOs.

In the second public discussion organized by the Ministry of Human Rights in Mostar in September 2001, Global Rights, in cooperation with OHCHR, insisted that additional NGOs should be invited to participate. At that point, it became clear that the Ministry’s draft law did not mirror the expectations and aspirations of civil society groups. Civil society generally
considered discrimination against women in Bosnia and Herzegovina to be a more formidable problem, requiring both legislative and practical responses.

ADVOCACY ACTIVITIES OF THE COALITION WITH THE MINISTRY

At that time, representatives of numerous domestic NGOs realized that they could have an impact on this process only if they acted together as a coalition. As the discussion progressed, it became clear that this was the only way for civil society to take positions that would be considered by the authorities. This coalition was eventually joined by numerous organizations, including groups whose mission was broader than the protection of women’s human rights.

This new coalition asked that the Ministry include civil society representatives in its legislative Working Group. Following difficult negotiations, NGOs succeeded in nominating two civil society representatives to the Intra-Ministry’s Working Group drafting the law.

A majority of the amendments and additions proposed by Global Rights and its legislative coalition were adopted by the Intra-Ministry’s Working Group, including stronger definitions of discrimination, sexual harassment, gender based violence, government obligations, judicial protections and monitoring mechanisms. The presence of coalition representatives in the Working Group assured more careful consideration and reflected the broader needs of society. Overall, this was an excellent learning experience for domestic NGOs, demonstrating just how powerful coalitions can be when they work together, and how NGOs can play an important role in the development of laws that protect and promote human rights.

The work did not end there. Although the Working Group accepted the input of NGOs on the draft law, the Ministry Collegium still needed to endorse the text and propose it to the Government, so coalition activities continued.

HOW DID THE COALITION BUILD SUPPORT?

It was important that the Ministry understood that the coalition, the international community, a large segment of civil society and the general public all supported the draft law. In order to gain more support for the Draft Gender Equality Law, Global Rights and the coalition wrote letters in November 2001 to major international actors in BiH requesting more public support.

Additionally, Global Rights and the coalition organized a public forum on Gender Equality in January 2002, with coalition NGOs and other NGOs, as well as parliamentarians, women politicians, and the media. The forum demonstrated broad-based support for the Gender Equality Law and presented arguments and testimonials in its favor. The objectives of this Public Forum were to:

- Increase public awareness and understanding of the process of passing the Gender Equality Law, as well as its contents and implications;
- Promote dialogue among civil society in Bosnia and Herzegovina on human rights issues of common concern, as well as dialogue with the government;
- Establish a partnership and gain support from the media on an issue
identified by civil society as crucial to the democratic processes; and

• Build a public constituency for more transparent, accessible and inclusive legislative processes.

HOW DID THIS COALITION ADVOCATE FOR A DRAFT LAW WITHIN THE PARLIAMENT?

In addition to the Public Forum, once the BiH Council of Ministers adopted the draft and sent it forward, Global Rights helped arrange and facilitate a meeting between 20 coalition representatives and the Speaker of the House of Peoples in May 2002. Mr. Sejfundin Tokic, then Speaker of the House of Peoples of the BiH Parliamentary Assembly, was pleased with this civil society initiative and expressed his willingness to support the Gender Equality Law.

WHY HOLD A PUBLIC HEARING ON THE PROPOSED GENDER EQUALITY LAW AT THE BIH PARLIAMENTARY ASSEMBLY?

Global Rights and the coalition continuously monitored the progress of the draft Law in the Parliamentary Assembly. Parallel to this, communication was established with the Chairwoman of the Parliamentary Committee on Gender Equality in the BiH Parliamentary Assembly. This Committee was very important to the coalition, as its specific mandate focused on gender equality. Following negotiations with Global Rights, the coalition and the Committee Chairwoman, the group succeeded in ensuring that coalition representatives and gender equality experts would be invited to the following round of discussions on the draft law in the summer of 2002.

NGO representatives who were given the opportunity to speak at the next discussion were not taken seriously, and some of them were bluntly ridiculed by the legislators. The experience demonstrated the biases of many of the legislators, confirming that many of them were not convinced that civil society groups or independent experts had any role to play in the legislative process. Nonetheless, this process helped set a precedent for the work of the Committee, and for the legislature as a whole. Before this, the notion of parliamentary access for NGOs had never been accepted by Members of Parliament.

TIP: Given the hostility that often exists to NGO participation in the legislative process, when NGOs do have an opportunity to participate in the process, they must take care to be well prepared and able to defend positions with valid facts. They must also be ready to respond diplomatically to difficult situations or questions.

FINAL NGO ACTIVITIES

In the period that followed, which included elections and the establishment of new authorities, the draft law had to go through the remaining parliamentary procedures. During this period, in collaboration with Global Rights, there was a continuous, discreet coalition campaign for the adoption of the law. Various media opportunities were developed and used for advocacy by coalition members. The coalition kept in touch by email. Different NGOs from across BiH demonstrated impressive mutual support and cooperation, which created focused pressure on public opinion, and after almost two years, the result was the adoption of the law in May 2003. This
marked a significant success for the NGO coalition and for NGO advocacy in Bosnia and Herzegovina.

**HOW DID THE COALITION FUNCTION?**

The main feature characterizing the coalition was reflected in its informal status. The majority of correspondence within the coalition was via e-mail. However, when possible, organizations met and discussed activities in other ways, particularly at conferences that brought them together on different issues. The advantages of this informal status was the ability:

- To easily expand the size of the group to anyone who was interested, thus allowing the coalition to be joined by numerous organizations and individuals;
- To participate in the process regardless of the geographic location of each organization;
- To have a single focus on the promotion of the idea that brought the NGOs together; and
- To easily facilitate simple communication within the coalition.

The coalition was coordinated by Global Rights with strong and committed support from local groups. As an international organization staffed by well-respected nationals, Global Rights enjoyed access to individuals in the government and the international community, while also enjoying support from local groups. This allowed the coalition to have broad reach and influence a wide audience. Strong public support was also essential.

The coalition also had a clear focus and mandate. This was perhaps the first time that there was such a clear consensus among NGOs from across BiH on a single issue. Women’s rights as an issue had never before received so much political, media, or public attention in Bosnia and Herzegovina, but working together, members of the coalition were able to publicize the issue effectively and gather support for the law.

The informal nature of the coalition also provided:

- An opportunity for domestic NGOs to overcome the problem of competition or dominance by “leading organizations”; and
- The possibility for diverse NGOs to work in a similar coalition in the future.

But at the same time, the informal status of coalition limited some strategic or comprehensive planning of different activities.

**LESSONS LEARNED**

The work of the coalition contributed to the creation of a platform to develop a wide consensus among NGOs from across BiH on a single issue.

It also helped raise the profile of human rights, particularly around women’s rights issues that were often neglected.

More attention to the media strategy would have been even more effective at ensuring the passage of the law and the incorporation of the important provisions.

Irrespective of all the difficulties that the coalition experienced in its work, domestic NGOs took an important step toward bringing the legislative process and civil society closer.
ANNEX II

PUBLIC FORUM AGENDA
International Human Rights Law Group and Gender Equality Coalition

BIH NGO FORUM ON DRAFT LAW ON GENDER EQUALITY IN BOSNIA AND HERZEGOVINA
Thursday, 24 January 2002
Sarajevo, Hotel Grand

Agenda

12:15–12:30
What was the procedure for drafting this Law; issues covering by this Law;
Diana Sehic, IHRLG Senior Staff Attorney

12:30–12:45
Women in post Dayton BIH / social–cultural environment, (with reference to the draft law);
Dr. Nada Ler–Sofronic, Open Society Foundation

12:45–13:00
Importance of the Law for the protection of human rights and elimination discrimination against women in BIH society;
Jasna Baksic–Muftic, LLD, Professor, Law Faculty

13:00–13:15
Importance of the Law for the prevention and elimination of gender based violence, harassment, and sexual harassment
Duska Andricic–Ruzicic, Infoteka Medica, Zenica Executive Director

13:15–13:30
Gender equality as a civilization issue–importance of the Law for democratic development of BiH society:
Jasminka Babic–Avdispahic, Ph.D. Professor, Faculty of Philosophy;

13:30–13:45
Human rights protection mechanisms through sanctions in the Law–importance of penal provisions for the implementation of GEL;
Natalija Petric, Udruzene zene, Banja Luka

13:45–15:00
Comments and discussion
ANNEX III

GLOSSARY

**Advocacy** is the act of giving support to a cause and persuading those with power to act in support of your cause.

**Advocacy Campaign** is a set of actions that are targeted to create support for a cause or proposal.

**Boards**, which are bodies within the National Assembly of the Republika Srpska, play a similar role to that of committees in other parliaments. They may discuss issues at their own initiative and, if needed, may report directly to the National Assembly. Boards may hold joint sessions to discuss matters of common interest.

**Center for Freedom of Access to Information**, acting as a local NGO, provides legal aid to clients to exercise their rights pursuant to the Law on Freedom of Access to Information. It also monitors the application of the Law and provides training for civil society groups and civil servants on how the Law works.

**Coalitions** are formal or informal, temporary or permanent relationships among NGOs with similar agendas and working toward an agreed goal. By broadening the base of support for a cause they often bring legitimacy to an issue.

**Committee** is a sub-group of legislators tasked with review of specific issues, including recommending action on proposed legislation related to that issue. A committee may itself submit a proposal for a law or a draft law. Committees may be standing (or permanent), interim (ad hoc) or investigative. Committees generally give opinions, submit proposals and regularly report to the full house or parliament. They also decide on matters referred to them at the discretion of the full house or as required under standing rules of procedure. Committees have the option of consulting experts from different fields and including them in the work of the committee.

**Committee on the Elimination of Discrimination Against Women (CEDAW)** is the body of independent experts that monitors the implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women by State parties. NGOs often submit shadow reports to the Committee.

**Committee on the Elimination of Racial Discrimination (CERD)** is the body of independent experts that monitors the implementation of the UN International Convention on the Elimination of all forms of Racial Discrimination by State parties. NGOs may submit shadow reports to the Committee.

**Constituencies** are the individuals who are represented by or supportive of an NGO effort. Constituencies may also refer to the voters who elected and are specifically represented by a legislator.

**Constitution** defines the form, function, activity and fundamental principles of the government and the rights of citizens.

**Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT)** is a UN treaty that obligates State parties to prevent acts of torture in any territory under its jurisdiction.

**Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**
is a UN treaty that defines discrimination against women and sets an agenda for national action to end such discrimination.

**Convention on the Rights of the Child (CRC)** is a UN treaty that obligates State parties to protect and promote the expanding rights of children as they mature.

**Customary International Law** refers to those legal norms that have been established by the consistent practice of States when they are specifically following that practice as if it is law.

**Draft Law** is the formal text of a proposed law, an explanation of the provisions proposed and accompanying documents.

**Emergency Procedure** cuts the deadlines for the legislative process in half by ensuring a draft law is introduced on the day the emergency procedure is requested and by ensuring the draft will be considered during that session.

**European Convention for the Protection of Human Rights and Fundamental Freedoms** is a regional treaty that outlines substantive and procedural rights and requires State parties to secure those rights and freedoms.

**Federation of Bosnia and Herzegovina Parliament** is a bi-cameral parliament made up of the House of Representatives and the House of Peoples.

**Gender Equality Coalition (GEC)** is a group of NGOs advocating for the adoption and implementation of a Gender Equality Law. The GEC was successful in their efforts and this Guide draws extensively from their experience.

**House of Peoples of the Federation of Bosnia and Herzegovina** consists of 58 Members of Parliament: 17 from each of the three main constituencies (Bosniaks, Croats, and Serbs) and 7 Members of Parliament representing other constituent groups, such as Roma, Italians and Hungarians. The House of Peoples has 19 working bodies whose members are selected from the Members of Parliament of the House.

**House of Peoples of the Parliamentary Assembly** is comprised of 15 Members of Parliament, who are elected indirectly. The BiH Constitution provides that Croat and Bosniak delegates from the Federation are elected by Croat and Bosniak delegates in the House of Peoples of the Federation. Delegates from Republika Srpska are elected by the National Assembly of Republika Srpska. The House of Peoples has three standing committees.

**House of Representatives of the Federation of Bosnia and Herzegovina Parliament** has 98 Members of Parliament elected directly by a secret ballot in the entire territory of the Federation. The House of Representatives has 20 committees.

**House of Representatives of the Parliamentary Assembly** is comprised of 42 Members of Parliament (MPs), 28 of whom are elected directly by voters registered in the territory of the Federation of BiH, and 14 of whom are elected directly by voters registered in the Republika Srpska. The House of Representatives has eight standing committees.

**Human Rights Advocacy** aims to transform formal rights into actual changes in how a State treats individuals or communities.
International Convention on the Elimination of all forms of Racial Discrimination (ICERD) is a UN treaty that requires countries to condemn all forms of racial discrimination, whether based on race, color, descent, or national or ethnic origin, and to pursue a policy of eliminating racial discrimination.

International Covenant on Civil and Political Rights (ICCPR) is a UN treaty that requires State parties to promote and observe civil and political rights.

International Covenant on Economic, Social and Cultural Rights (ICESCR) is a UN treaty that requires State parties to progressively realize the economic, social and cultural rights outlined in the document.

Joint Committees are generally comprised of members of both houses in a bicameral legislature. Joint committees may be interim or standing bodies and may consider specific issues or prepare and submit proposals for the adoption of laws or other acts.

Law on Freedom of Access to Information provides a right of access to information under the control of public authorities, while also requiring public authorities to publish such information. Any citizen or organization has the right to file a request for information, and the State must generally respond to such requests within 15 days. Only limited and exceptional circumstances, as provided for in the Law, allow an authority to deny access to requested information.

Legislative Objectives are the specific changes in legislation that you hope to achieve through your advocacy.

Media is the term to describe a range of public communication venues, including newspapers, radio, television, and magazines.

Members of Parliament (MPs) are the elected representative who act on behalf of their constituents and are tasked with developing and approving legislation.

Message explains an issue or a campaign in general terms and gives the reason that others should support that same agenda.

National Assembly of the Republika Srpska meets primarily as a single chamber body, although a second chamber has recently been added. The National Assembly consists of 83 Members of Parliament, who are elected directly for four-year terms. Members can be re-elected and are not subject to term limits. Rules of Procedure provide for the establishment and operation of 10 boards and 6 committees.

NGO is the acronym for non-governmental organizations, which are typically non-profit groups furthering the political or social goals of their members or constituents. By definition they are meant to be independent of the government.

Office of the High Representative (OHR), selected by the European Parliament, exercises some administrative powers in Bosnia and Herzegovina, as established under the Dayton Accords. The OHR also has wide-ranging legislative powers, including the power to initiate laws, lobby the legislatures and impose laws.

Official Gazette is a government publication where adopted laws are printed. An adopted text will generally become law fifteen days after publication in the Official Gazette.
Optional Protocol is a complementary document to a treaty that establishes additional rights, obligations or procedures.

The Parliamentary Assembly of Bosnia and Herzegovina is the national legislative body that is primarily responsible for enacting legislation to implement decisions of the Presidency, overseeing and approving national budgetary issues and carrying out legislative duties assigned by the BiH Entities. It is a bi-cameral parliament that consists of the House of Representatives and the House of Peoples.

Persons with Disabilities Coalition (PWDC) is a network of NGOs working to promote the rights of persons with disabilities in Bosnia and Herzegovina.

Plenary Phase refers to the legislative period during which a draft law is presented and discussed before the entire legislative body.

Press Release is a statement prepared for distribution to the media which provides accurate and useful information about your issue.

Public Discussion, a less formal setting than a public hearing, is used as a means of opening the legislative process to the public. According to the Rules of Procedure, a public discussion may be called only on the basis of a formal legislative decision that will also generally determine the methods and venue of discussion.

Public Hearings are a regular feature of parliamentary committees in most modern democracies. The Houses of the Parliamentary Assembly of BiH allow committees to hold public hearings on proposed laws, or to include the views of other public bodies, professional institutions or individuals.

Public Relations Office of the BiH Parliament organizes a daily e-mail delivery of agendas for sessions of Parliament. The office was originally intended to provide information to media outlets to facilitate reporting in the Parliament, but it is now consulted by a number of organizations monitoring the legislative process.

Rules of Procedure are the set of regulations that govern how the legislative body functions.

Shadow Reports are documents created by NGOs that supplement official government reports. They also contribute in concrete and strategic ways to the capacity of the UN expert committees to more accurately assess the steps taken by governments to comply with international human rights standards.

Special Rapporteur is an independent expert appointed by the UN Commission on Human Rights with a mandate to consider specific rights. The Special Rapporteur undertakes country visits, communicates with states about alleged violations and submits annual reports on the thematic or country specific issues addressed under the mandate. Special Rapporteurs often rely on NGOs to provide them with information.

Strategy is a well thought out plan of action with concrete steps and activities. It takes into account the nature of any advocacy campaign, including the political context and the general social environment. Legislative advocacy often has an inside strategy that focuses on
directly influencing decision makers and an outside strategy that focuses on creating public awareness and mobilizing those outside the legislature who can influence decision makers.

**Summary Procedure** is a shortened legislative process that eliminates several steps in the normal process of adopting a law. A summary procedure may be used when the proposed law is not complex or extensive, or when summary adoption is provided for in the Plan of Activities of the House.

**Transparency** means that information about how laws are drafted and adopted is available to citizens.

A **Treaty** is a binding agreement under international law that creates obligations or restrictions on a State once the treaty is ratified and fully in force.

**Universal Declaration of Human Rights** sets common standards by which the human rights activities of all nations are to be measured. While the Declaration is a non-binding document, the rights outlined are generally binding under other treaties or as customary international law.