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The development of philanthropic organisations in Switzerland

Prof. Raymond Saner, PhD, University of Basle & Sciences Po, Paris and Director, Diplomacy Dialogue, Geneva

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Abstract

Philanthropic organisations (POs) share similar vision like the NGOs in regard to solving social issues through private initiates, yet typically POs fall into the grant making categories and often focus on critical sectors like health and education. In recent years, POs have emerged as important complement to the UN specialised agencies in regard to development cooperation and broader debate on development effectiveness. (flow chart)

The term philanthropy is generally used to "describe any *private voluntary* action for the *public good.* It can encompass donations and investments of time, money, expertise, connections, and many other types of assets (Foundation 1796, p.9)¹

POs have a greater ability to take on greater risks and to test and introduce innovative approaches to specific challenges that are of public interest. The best known philanthropist in this regard is Bill Gates. The Bill Gates and Malinda Foundation have an endowment of 34 billion USD from Bill Gates' private fortune. One of the key goals of the Bill and Malinda Foundation is to prevent communicable diseases through better immunisation programmes such as polio; or guaranteed availability and access to HIV or Malaria treatment, or improving the education system.

Keywords: Regulatory framework, philanthropy, non-government organisation, code of conduct, knowledge management, learning platform and change theory, philanthropic supply chain, The International Geneva

http://www.rwi.uzh.ch/oe/stiftungsrecht/aktuellesausdemzentrum/EN_Rapport_Philanthropie.pdf

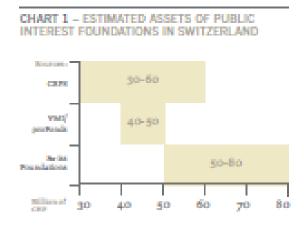
¹ Fondation 1796, 2010, Advancing Philanthropy in Switzerland: A vision for a Cooperative and Recognised Philanthropic sector. Accessed on 16.07.2013 at

1. Introduction

The philanthropic sector in Switzerland is rich and diverse in size and scope of its actors with a tradition dating back hundreds of years. For example, one of the oldest registered foundations, the Inselspital in Bern, was founded in 1354 through the will of Anna Seiler, a wealthy woman from Berne, the capital of Switzerland. The hospital remains functional today ² and is officially known as Berne University Hospital and is operated by the original founding charitable foundation. Today, Switzerland ranks among the most generous nation in Europe. Excluding church taxes, private giving in the Confederation amounts to an estimated 1.2% of annual disposable income, more than either UK or the Netherlands. (McKinsey, 2008).³

In the last decade, efforts to develop the scale and impact of philanthropy in Switzerland has gained momentum due to its humanitarianism tradition and international engagement. Efforts included setting up a Swiss Foundation Code, creation of the Centre for Philanthropy Studies (CEPS) and a series of reforms of foundation law. Efforts were also made to strengthen the philanthropic sectors.

In 2011, there were 12,700 charitable foundations active in Switzerland with a total endowment of approximately CHF 70 billions (equivalent to USD 74,430 million in today's exchange rate)⁴ around half of the federally registered foundations give internationally (Interim Updates of the Promoting Philanthropy in Switzerland Initiative). (Chart 2)



(Source: Advancing Philanthropy in Switzerland, 2010, p. 13)

² Inselspital see reference at http://en.wikipedia.org/wiki/Inselspital

³ Gesellschaftlichen Wandel gestalten: Drei Ansätze für mehr Philanthropie in Deutschland; Mcinsey & Company; 2008

⁴ Von Rechteren, C. 2012, Public Benefit, *Private Client Adviser*, Baer & Karrer. November, accessed at http://www.baerkarrer.ch/upload/publications/13 00 06ArtikelCosimafrWebsite.pdf on 16.07.2013

The Swiss Foundation Code (SFC) is based on three main principles "Effective realisation of the Foundation's purpose", "Checks and balances" and "Transparency". The principles are further explained in 26 recommendations and refer to the following topics: creation of Foundations, organisational structure, management, grant-making, finance and investment policies. Every recommendation is commented in detail and illustrated with case studies that show different options of how to act in specific situations, questions to be asked and the possible problems faced.

The very positive response to the code by a great majority of governance instruments in recent years is a clear indication for the growing importance of Foundation Governance as a discipline on its own right. Foundations and their executive bodies find themselves in a situation where the absence of control through the market or an owner and a liberal Swiss Foundation law, offer a considerable amount of room for manoeuvre (Centre for Philanthropy Studies)⁵

Over two thirds of Swiss households give regularly (Spendenmonitor 2008; gfs-zürich; 2009) while a typical German Swiss citizens donates twice as much per year than does a Romand (French Swiss) amounting to 400-500 CHF vs 200 CHF per year (Spendenmonitor 2008). Both figures, however, are four times higher than those of their nearest neighbours (Germany and France, respectively) according to a FSG interviews published in Bilan on 4 Nov 2009.⁶

The international philanthropic response to the tsunami of December 2004 underlines this point: the Swiss gave around 45 CHF per head, the most of any nation.⁷ In particular, Switzerland donated twice as much per capita from private funds as second ranked Norway, nearly four times as much as France and Germany, and more than twelve times as much as the US (Fondation 1796, 2010)⁸.

. "International Geneva"

"International Geneva" is a unique feature of Switzerland which lends itself well for the development of the NGO and philanthropic sector. Due to its location advantage, i.e., UN Office at Geneva (UNOG), and long humanitarianism tradition, Geneva and indirectly Switzerland has formed a strong international community, known as "International Geneva".

⁵ Accessed at http://ceps.unibas.ch/en/research/swiss-foundation-code/ on 17.07.2013

⁶ Parmary Vakaridis; Les 20 philanthropes qui font la Suisse; Bilan; 4 Nov 2009. FSG interviews.

⁷ International Committee on Fundraising Organizations; Tsunami Donations: An International Comparison; 2005.

⁸ Advancing Philanthropy in Switzerland: A vision for a cooperative and recognised philanthropic sector, 2010, Fondation 1796. Accessed at http://www.rwi.uzh.ch/oe/stiftungsrecht/aktuellesausdemzentrum/EN_Rapport_Philanthropie.pdf

International Geneva is made up of international organisations (governmental and non-governmental), foreign missions, headquarters of NGOs, think tanks and representations of diverse organisations and groups.⁹ In addition, universities and specialised higher learning institutions complete this unique constellation creating a global commons where global public interests are debated and negotiated. Various forms of NGOs contributed to the vibrancy and productivity of this community.

2. Terminology and Legal Definitions

2.2 Foundation

A foundation is a legal entity responsible for managing an asset (money, buildings, etc.) for a given purpose. A foundation can be founded by family members in memory of deceased loved ones, such as the Fondation Pierre Gianadda in Martigny and the Fondation Prix Henry Dunant in Geneva; or for a public cause, such as the Foundation Franz Weber in Montreux and International Foundation for Population and Development in Lausanne; or for assistance to victims of diseases, maltreatment and environmental degradation, such as International AIDS Society in Geneva and the Baiji.org Foundation in Zurich (research oriented).

Since many of the Swiss foundations are privately "owned" and richly endowed, their engagement capabilities are significant covering a broad spectrum of issues from being patrons of arts and humanities to sponsoring scientific inquiries. Increasingly, Swiss foundations are taking up the issues of international development and social-environmental impact in addition to the more traditional community services oriented charities.

2.3. Foundation with international organisation status (IGO)

It is not uncommon that international funding and coordination bodies are set up as a legal "person" and registered in Switzerland, mostly in Geneva, as a non-profit "foundation". They are recognised by various national governments including Switzerland as international organisations.

In Geneva, thirty-five INGOs have been registered and have signed headquarters agreement, fiscal agreements or agreements on privileges and immunities with the Swiss Federal

⁹ Ministry of Foreign Affairs, Swiss Confederation, International Geneva. Accessed at http://www.eda.admin.ch/eda/en/home/topics/intorg/un/unge/geint.html on 16/08/2013.

Council.¹⁰ Such INGOs and their employees are granted the same status as the UN organisations and diplomatic establishments. Example of such organisations are the Global Fund for Malaria, Tuberculosis and AIDS (Global Fund), WWF International (World Wide Fund for Nature) and IUCN (the International Union for Conservation of Nature), just to name a few.

Despite special privileges, these INGOs remain accountable to and are subject to supervision of the Federal Supervisory Board for Foundations. However, not all International NGOs (INGOs), such as Caritas, Doctors without Borders (MSF), Oxfam, Amnesty International, Geneva Call, etc. enjoy similar diplomatic privileges as the Global Fund, or WWF.

3. Diverse Landscape of Philanthropy Foundations in Switzerland

3.1. Funding Types by Sources

Philanthropic foundations may receive funding through different sources and channels. The founding sources can be classified as follows:

- 3.2.1 Private endowment -- financed by larger personal or family endowments, such as Stiftung Edith Maryon (Basle), Aga Khan Foundation (Geneva), Bill and Malinda Gates Foundation (Seattle);
- 3.2.2 Corporate financing-- financed by large corporate endowments, such as Novartis Foundation (Basle), UBS Foundation (Zurich). The UN Global Impact initiative encouraged multinational companies to become active as development partners;
- 3.2.3 Community-based -- financed through community fund raising, such as Enfance Et Vie Fondation Dominique Rogeau (St. Gallen), Help2kids (a Swiss based organisation located in Dar es Salaam, Tanzania).
- 3.2.4 Mixed-funding-- financed by multiple sources including individuals, corporations, other private foundations and government agencies, such as Antinea Foundation, Alliance Sud, CO-OPERAID Charity.

3.3 Types by task roles within the "Gift Economy" or "philanthropic supply chain"

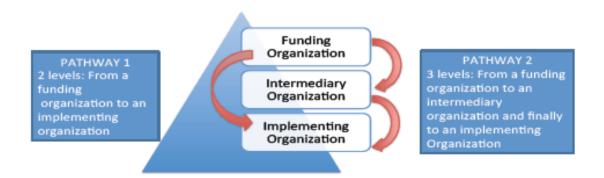
"Gift Economy", according to the definition in Business Dictionary¹¹ is an economy based on giving and relationships rather than as a form of transactions for profit or for personal material gain. In contrast to barter or commercial economies, a gift economy does not rely on a notion of exchange of goods or labour against monetary payment.

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¹⁰ Ministry of Foreign Affairs, Swiss Confederation, http://www.eda.admin.ch/eda/en/home/topics/intorg/un/unge/geint.html (accessed 17/08/2013).

¹¹ http://www.businessdictionary.com/definition/gift-economy.html

In this context, philanthropic foundations tend to engage in multiple task roles within the philanthropic supply chain. According to Nam et. al. (2013), there is two configurations of the philanthropic supply chain and respective task roles: philanthropic organizations that serve as a funding entity to intermediate organisations that in turn contract local organisations to implement project in the field. Other foundations work directly with local organisations to execute various projects. Specifically, there are three distinctive roles, namely, funding, Intermediary and implementing agencies (see Figure 1).



(Source: Nam, S; Obeng Ampofo, F.; Sosa Altamirano, E. and Toure, M.S., 2013, p. 11)¹²

3.3.1 Funding organizations – "The Money"

Funding organizations provide funds either to local execution organizations or to intermediary organizations that could be international, e.g., International Labour Organisation, World Health Organisation; or national, e.g., Rotary Club.

3.3.2 Intermediary organizations – "The Aggregators"

Intermediary organizations pool funds from official, development, and voluntary Sources. The Global Environment Facility, The Green Fund, the Global Fund for Malaria, Tuberculosis and AIDS, and the World Bank are examples of intermediary organizations. These intermediary organisations tend to be non-profit foundations, such as the Global Fund or an inter-governmental entity, such as The World Bank.

3.3.3 Implementing organizations - "The Doers"

Implementing organizations are local organizations in low-income countries that execute health projects. Implementers take a variety of forms and can be government agencies (Often units within a government responsible for implementing a particular project) or NGOs. The organizations often receive funding from a variety of sources, including

¹² Enhancing Learning in Monitoring and Evaluation: Six Cases from Philanthropic Organisations Working in the Health Sector. Centre for Socio-Eco-Nomic Development and Sciences Po Master of Public Affairs. Accessed at http://www.csend.org/site-1.5/images/files/20130623-Health%20M%20E%20Report%20v9%20%20FINAL.pdf on 22.08.2013.

Intermediary and funding organizations, as well as money from national governments (Nam, et.al. 2013, p.12).

3.3.4 Mission or Impact Investors – "The Change Angels"

In addition to the archetype of task roles identified before, philanthropic foundations are increasingly becoming major "actors" regarding poverty eradication and other development issues. This category of foundations could be considered as part of the Money category, however, this new breed of foundations takes an active stance in their development interventions through substantial investment in either a specific development programme or through market oriented financial investments. This trend has been propelled forward by Ted Turner's generous gift to the UN in 1997¹³ which created the UN Foundation, a public charity to broaden support for the UN and its development agenda.

Within the context of the Millennium Development Goals and specifically tied to the MDG 8: Develop a Global Partnership for Development,¹⁴ a facility was made available which provides an entry point for non-state actors to be engaged in the global development agenda.

Many other wealthy individuals followed suite, such as Bill and Melinda Gates and the Hewett family representing a new generation of philanthropists in addition to the Ford, Rockefeller, Carnegie etc. The new philanthropists introduced private sector management tools into the philanthropic sector for instance by setting performance standards and performance contract, sunset clauses and longer term commitments in comparison with the traditional donors. They also pursue a clearly defined mission and agenda to "get the job done." Results and impact are expected of their funding activities!

The spill over effect of their activist's agenda and private sector mindset has influenced many Swiss foundations who took a similar approach with their grants and financial investments on both domestic and international issues. In light of the growing collective financial resources of the private philanthropic foundations for development and change, banks and other financial advisers also got involved by promoting value oriented investment products and by gradually moving into "impact or mission" oriented investment grade. Mission investing differs from "negative screening", i.e., avoiding potentialinvestments that could damage the reputational capital or that contradict with goals of a foundation; but actively seek out "programme-related"

¹³ http://edition.cnn.com/US/9709/18/turner.gift/

¹⁴ MDG 8 ues 6 indicators to measure success: 1) Development further an open, rule-based, predictable, non-discriminatory trading and financial system, 2) Address the special needs of least developed countries, 3) Address the special needs of landlocked developing countries and small island developing states, 4) Deal comprehensively with the debt problems of developing countries, 5) In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries, 6) In cooperation with the private sector, make available benefits of new technologies, especially information and communications. For the full set of MDGs, see http://www.un.org/millenniumgoals/global.shtml

investment" opportunities, i.e, the use of investment tools to support specific projects linked to a foundation's purpose (Knoepfel & Imbert, 2012).¹⁵

Engagement by philanthropic foundations in the development agenda through direct or indirect avenues has dynamised the development field and spurred innovations on many fronts.

4. Regulatory Framework and Governance Infrastructure for Foundations

a. <u>Legal bases</u>

4.1.1 Regarding foundations

The Swiss regulatory framework and infrastructure concerning governance of foundations is based on the Swiss Civil Code. Articles 80 to 89 cover the constitution, organisation, supervision, modification and dissolution of a philanthropic foundation.

To register under the Articles 80 to 89 of the Swiss Civil Code which define and regulate "public utility" foundations, a minimal starting capital and public oriented purpose have to be fulfilled.¹⁶ In order to establish a foundation, a minimum starting capital of CHF 50,000 is required if the foundation is to operate nationally or internationally. A minimum capital of CHF 10,000. - is required if its activities are exclusively cantonal.

Swiss Foundation Law also distinguishs 4 different types of foundations, namely family foundation, corporate foundations, depended foundations and trusts and public law foundations.¹⁷ Foundations are subjected to an annual audit by an organ of federal or cantonal surveillance to ensure that the foundation's resources are used in accordance with its goals. A foundation is a relatively rigid legal structure: once the aims are adopted when initially created, they cannot, as a rule, be changed.

¹⁵ Knoepfel I. & Imbert, D. 2012. Putting Mission Investing to Work: Outcomes of the 2nd European Foundations Meeting on Mission Investing. Accessed on 17/08/2013 at

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¹⁶ For the details of these articles within the Swiss Civil Code, reference http://www.admin.ch/opc/fr/classified-compilation/19070042/index.html

¹⁷ Jakob, D. & Studen, G., Foundation Law in Switzerland – Overview and Current Developments in civil and tax Law (paper to be published) accessed on 08/08/2013 at

http://www.rwi.uzh.ch/lehreforschung/alphabetisch/jakob/lehre/unterlagenfs12/artmarketstudies12/EMAMS Foundation Law Reader.pdf

As of January 2011, there were 17,897 foundations registered in Switzerland consisting of both non-profit foundations and for-profit entities (Grüninger, 2011)¹⁸ of which 12,000 are structured as genuine non-profit foundations (Wagner, 2007).¹⁹

4.1.2 Regarding not-for-profit associations

In Switzerland, the legal framework governing the establishment and functioning of these not-for-profit associations are based on Articles 60 to 79 of the Swiss Civil Code,²⁰ which deal with the constitution, organisation, status and rights and obligations of members and dissolution.

In addition, chapter 10 of the Swiss Private International Law Act applies to foundations and associations in an international context. However, the tax legislation does not provide for an actual non-profit status, or a separate legal form.²¹

4.2 Supervisory authorities

To ensure compliance with these relevant Articles to the civil society sector, the Federal Supervisory Board for Foundations²² - a department of the Swiss Federal Ministry of Interior and of the respective Cantonal Supervisory Board for Foundations - monitor, audit and inspect all not-for-profit associations and philanthropic foundations registered in Switzerland and regulated by the Swiss law.

4.3 <u>Mandatory Measures</u>

4.3.1 Annual reporting

The monitoring activity by the supervisory authorities are based primarily on the jurisprudence of the Federal Court on art. 84, para. 2 CC, which states: "The supervisory authority provides that the property of foundations is used for their intended purpose." In this context, anyone who wants to create a foundation or questions about the activities of a foundation may apply to the supervisory authority. It also has jurisdiction to hear appeals related to surveillance processes.

Responsibilities of The Swiss Federal Supervisory Board for Foundations include:

¹⁸ Grüninger, 2011, Aktuelles aus dem Stiftungs- und Gemeinnützigkeit sbereich, in: successio, p. 112.

¹⁹ Wagner, 2007, Der Nonprofit Sektor in der Schweiz, in: Badelt, Meyer, Simsa (eds.), Handbuch der Nonprofit Or-ganisation: Strukturen und Management, 2007, p. 43 et seqq

²⁰ Ditto

²¹ Merkt, B. & Brunschwig, S. 2012. Switzerland, in Anne-Marie Piper, Farrer & Co (ed.)Charity Law, published by European Lawyer, European Lawyer Reference Series, First Edition. P.230.

²² Information concerning the functions of Federal Supervisory Board for Foundations is available at www.edi.admin.ch

- a. the screening (optional) of activities of foundation projects;
- b. assessment of the foundations:
- c.reviewing the annual audit reports;
- d. the amendment of the statutes and regulation
- e. the dissolution of foundations;
- f. mergers and asset transfer,
- g. to review the exemption from the obligation; and
- h. to advice on the design of foundations and respective organs of the foundation.

4.3.2 Fiduciary Duty

The fiduciary duty of the foundations and non-profit associations is to carry out proper bookkeeping in accordance to acceptable accounting rules and principles e.g., Swiss GAAP FER accounting standards. These organisations are subject to annual audits by a recognised and qualified third party.

Together with the Management Report or annual report, the financial audit report is submitted to the relevant supervisory authority for review and taxation.

4.4 Voluntary or self-regulating measures

Foundations and non-profit organisations alike also practice self-regulation. In this context, governance code, labelling and benchmarking certification have been developed.

4.4.1 Swiss Foundation Code (SFC) for grant making foundations

Swiss Foundation Code (SFC), a landmark standard and first of its kind was developed in 2005. This Swiss Code adopted and completed the first European Good Governance Code for grant-making foundations. This is a voluntary code for good practices.

SFC is based on three main principles "Effective realisation of the Foundation's purpose", "Checks and balances" and "Transparency". The principles are further explained in 26 recommendations and refer to the following topics: creation of Foundations, organisational structure, management, grant-making, finance and investment policies. Every recommendation is commented in detail and illustrated with case studies that show different options of how to act in specific situations, questions to be asked and the possible problems faced.

The very positive response by the foundations to the codes in recent years is a clear indication of the growing importance of Foundation Governance as a discipline in its own right.

Foundations and their executive bodies find themselves in a situation where the absence of

control through the market or by an owner, combined with a liberal Swiss Foundation law, offers a considerable amount of room for manoeuvre (Centre for Philanthropy Studies)²³. Three years later, in October 2008, a second revised and annotated edition was published. The French version was published in March 2009 (Volume Six) and the English version was released in 2011 (Volume Nine).

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5. Major challenges and future development

Over the last decade, efforts to develop the scale and impact of philanthropy in Switzerland have gathered momentum according to a 2010 report on Advancing Philanthropy in Switzerland prepared by Fondation 1796. ²⁴

However, challenges and gaps remain concerning the upstream development of the infrastructure as well as enhancing the sector's capability in contributing effectively complex issues such as climate change, peace and security, equity and sustainability are some of the major challenges on the agenda of Swiss NGOs and Philanthropic organisations. This requires collaborative effort and partnerships, established shared vision and coordinated actions to effect scalable impact. Managing partnerships and cooperation is easier said than done. Here lays the biggest challenge for the POs to develop both their competences and governance instruments.

5.1. More robust and granular database for more accurate analyses

As development is not a linear process. Only handful countries have been able to achieve a level of advanced development since the end of WWII. It took 30 years for the East Asian economies (Hong Kong, Singapore, South Korean and Taiwan) to industrialise while most of the low-income developing countries and transitional economies either continue to languish in poverty trap or fall into middle income trap.²⁵

Many of these countries do not have reliable statistics for better planning and monitoring.

Nationally aggregated data disguise the internal disparities and hinder more effective allocation of resources. While foundations are assuming more and more the role of "change angels" and adopt managerial approaches, it would be critical to have more timely, accurate

http://www.rwi.uzh.ch/oe/stiftungsrecht/aktuellesausdemzentrum/EN Rapport Philanthropie.pdf

²³ Accessed at http://ceps.unibas.ch/en/research/swiss-foundation-code/ on 17.07.2013

²⁴ Accessible at

²⁵ Saner, R.; Yiu, L.: "Learning from the Asian NICs: Policy Options for Central and Eastern European Republics", <u>Advances in International Comparative Management</u>, vol. 9, 1994. Accessible at http://www.csend.org/images/articles/files/20081121-Learning%20from%20the%20Asian%20NICs.pdf

and sub-national data for diagnosis and programming. Otherwise, the danger of unintended and informal "neo-colonization" might occur, disenpowering the developing countries, especially the least developed countries of their own agency and opportunity to determine their own future.

Transparency and good governance of the NGOs and philanthropic sector remains a major challenge, especially in view of legitimacy and financial accountability for the former and the integrity for the latter. Common concern for both categories of social actors is their capability in achieving desired impact and related measurements. Management of philanthropic organisations and NGOs arises as a related and pressing issue.

A brief description was made of the Swiss philanthropic infrastructure.²⁶ The final section discussed ways to strengthen the philanthropic infrastructure of Switzerland and including recommendations for setting up a learning platform for knowledge sharing and further professionalization of this field. One scenario for the future development of Swiss philanthropic foundations is to leverage the resources available for impact investing and mission driven programming. In this context philanthropic foundations become more of a "change angel" rather than an "operational doer". Moreover, targeted theoretical developments are needed to ensure sustainability of the foundation's activities and results.

6. Conclusion

An overview of the Swiss philanthropic infrastructure and regulators was presented to complete the picture of Swiss POs²⁷ .Complex issues, such as climate change, peace and security, equity and sustainability are some of the major challenges on the agenda of Swiss NGOs and Philanthropic organisations. This requires collaborative effort and partnerships, established shared vision and coordinated actions to effect scalable impact. Managing partnerships and cooperation is easier said than done. Here lays the biggest challenge for the POs to develop both their competences and partnerships with a multitude of social partners.

This paper offers a summary overview of the governance structure and regulatory instruments governing the philanthropic sector of Switzerland. Attempts were also made to provide an analytic framework for future study of the not-for-profit and philanthropic sector.

²⁶ Von Schnurbein, G. & Bethmann, S. 2010, *The Swiss Philanthropic Infrastructure, CEPS, Basle University. Accessed on 17.07.2013,*

http://ceps.unibas.ch/fileadmin/ceps/redaktion/Downloads/Forschung/The_Swiss_Philanthropic_Infrastructure 02.pdf

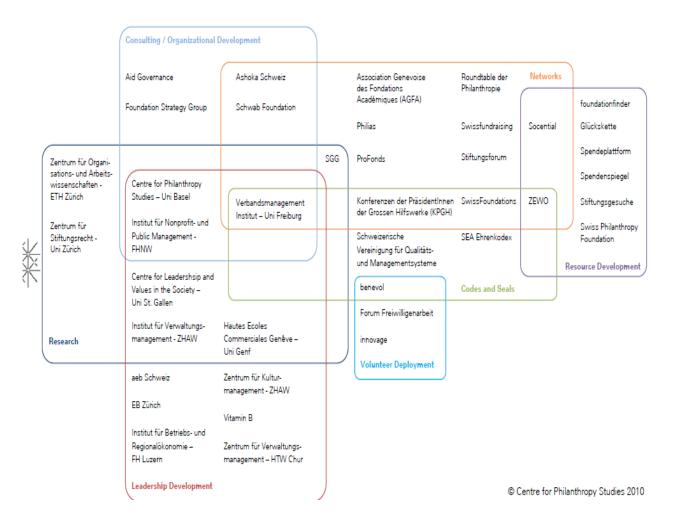
²⁷ Von Schnurbein, G. & Bethmann, S. 2010, *The Swiss Philanthropic Infrastructure, CEPS, Basle University. Accessed on 17.07.2013,*

http://ceps.unibas.ch/fileadmin/ceps/redaktion/Downloads/Forschung/The_Swiss_Philanthropic_Infrastructure _02.pdf

The paper ends with recommendations in how the philanthropic infrastructure in Switzerland could be further enhanced so as to help the Swiss NGO actors move upstream of the supply chain and achieve more efficient and effective use of their substantial resources devoted to the giving economy and to their international development partnerships.

Annex 1

The Swiss Philanthropic Infrastructure



(Source: von Schnurbein, G. & Bethmann, S. 2002, The Swiss Philanthropic Infrastructure. Centre for Philanthropic Studies (CEPS), Basle University. P. 4)