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**USAID**

**CENTER OF EXCELLENCE ON DEMOCRACY,  
HUMAN RIGHTS, AND GOVERNANCE  
CIVIL SOCIETY AND MEDIA DIVISION**

**Working in Closing  
Spaces:  
Best Practices**

The trend of restrictions against civil society has been identified and documented by a number of international organizations and think tanks, including the International Center for Not-for-Profit Law (ICNL), the World Movement for Democracy, Article 19, Freedom House, CIVICUS, and the Carnegie Endowment for International Peace, among others; as well as by the United Nations and multilateral organizations, in particular, the U.N. Special Rapporteur on Freedom of Association and Assembly and the Community of Democracies. Strategies to restrict political space for civil society range from restrictions on CSO registration and access to foreign funding, overly burdensome reporting requirements; messages disseminated by government controlled media that de-legitimize CSOs that accept foreign donor funding; requiring that CSOs align their activities with national development plans; and creating government-organized NGOs (GONGOs) to “manage” civil society activity. In some countries, the threats are more dangerous and include attacks on the physical and digital security of CSOs and individual activists.

This paper documents best practices gleaned from USAID’s partnerships with civil society, like-minded governments, and multilateral organizations, highlighting effective tools and strategies for safeguarding and expanding civic space. While the crackdown on civil society is global, responses need to be tailored to the specific country context; what worked in one country may not work in another country, or even in the same country at a different point in time. There is no one-size-fits-all approach and, as in any successful advocacy campaign, tactics need to be flexible to respond to circumstances.

For the purposes of this paper, civil society is defined broadly and includes not only formal CSOs, but also informal groups, the media, bloggers, and citizen activists.

## Overall Framework

As civil society globally has experienced increased closing political space, USAID has collected analysis from our posts around the world and developed a three-prong strategy of Prevention — Adaptation — Continued Support.

- First, we monitor relevant developments closely, particularly the legal enabling environment in the country, to **prevent** attempts to close space. We develop real-time responses to threats to civil society through diplomatic pressure and support local CSO advocacy on these issues. These efforts, when done in a coordinated manner with other donors, like-minded governments and multilateral bodies, the private sector, and CSO partners themselves, have been effective in reshaping, mitigating, and preventing the passage of restrictive laws.

- Second, we **adapt** our assistance and engage creatively with civil society organizations, even as space is closing. These efforts include assisting local CSOs to develop the capacity to manage new regulations and supporting local CSOs across all development sectors, such as women's economic empowerment or health, as well democracy, human rights and governance.
- Finally and most importantly, the USG **continues to support** civil society, even where space has been severely constricted, both through diplomatic and assistance efforts.

## Lessons Learned

### Prevention

#### ***Safeguarding space and building capacity for civil society is a long-term effort***

From over 20 years of engagement on CSO legal reform, we know that the best blueprint for promoting a constructive CSO enabling environment is a combination of long-term support to local CSOs to foster their capacity to lead advocacy efforts, plus diplomatic and multilateral pressure to complement and support local advocacy efforts. Programs may include building the capacity of local CSOs and lawyers to monitor and analyze CSO-related legislation, raising awareness in the CSO community of these issues, and helping CSOs navigate restrictive provisions are critical fundamental building blocks to protect and expand space for civil society.

#### ***Monitor and track the legal enabling environment***

Because any diplomatic or multilateral actions are most effective before passage of a law, continuous monitoring and early identification are key. ICNL's Civic Space Monitor, USAID's Civil Society Sustainability Organization Index (CSOSI), CIVICUS Monitor, and Freedom House's Freedom in the World are all resources for tracking the status of laws affecting civil society in different countries.

#### ***Cultivate domestic philanthropy abroad***

For the civic sector to be viable over the long-term, civil society must also cultivate domestic sources of philanthropy. Hence, our development efforts should include a plan to foster a culture of domestic philanthropy, including community philanthropy, in countries where we are working with civil society.

### ***Early action in transition periods is critical, with local CSOs in lead***

In a political transition, there are many potential issues for a new government to tackle. Past experience has proven that early engagement on improving the CSO enabling environment during these early windows of opportunity can be critical and will lay a long-term foundation for a strong civil society.

*In Burma, ICNL, supported by USAID, provided training and legal analysis that empowered CSOs to lead an unprecedented consultation process to draft a new CSO law with Parliamentarians receptive to civil society input. Over 275 CSOs and Parliamentarians were involved.*

### ***Find champions in government and legislature***

Support of enabling civil society laws is crucial, but CSOs also require the partnership of government and the legislature if a progressive law is to be enacted. For example, in Brazil, the government recognized that its cumbersome civil code, combined with overburdened courts, translates into risk that has a clear negative impact on foreign investment, and pushed the Congress to reform the country's core legislation.

### ***Empower local voices***

Before passage of a restrictive law, technical assistance can empower reformers to respond to restrictive regulatory proposals by pushing for enabling changes that are consistent with international standards and supportive of a vibrant civil society. Strong statements by respected CSOs in the country both assist diplomatic efforts and help gain popular support.

*In Cambodia in 2011, local CSOs played a leading role in opposing the controversial draft NGO law. CSOs formed a united front to oppose the draft, and constructively engaged the media, local and international organizations, and the government to highlight the impact of the law on civil society and Cambodia's development process; donor assistance supported their efforts. Technical assistance that compared provisions of the law against international standards complemented strong locally-produced analysis and helped CSOs shape their arguments against passage. This CSO advocacy generated broad domestic and international support for the movement to influence changes to the draft law and likely influenced the Prime Minister's decision to delay passage of the draft law.*

## ***Build a “Big Tent”***

Broad CSO coalitions that include both “development” and “democracy and human rights” CSOs, journalists, the private sector, and chambers of commerce project the strongest messages and achieve the most significant successes in protecting space for the sector. Engaging youth (the next generation of civil society leaders) and women, who have the most to gain from improvements in democracy and human rights, is important. On the diplomatic side, including international corporations operating in the countries and the domestic private sector in the advocacy strategy can effectively convey the link between a vibrant civil society and private sector investment, economic development, and a reduction in government corruption.

## ***Use data to build a broad CSO coalition***

Advocacy built on data tells a more effective story, particularly when combined with smart use of social media to tell a story. Sometimes this data (such as the amount that CSOs contribute to the economy of a country) exists, but more often it must be generated. Curating data to tell a compelling story (and increasing data literacy of citizens) is a capacity-development skill that donors can support.

*In Kenya in 2013 when amendments to the Public Benefit Organization (PBO) Act were proposed which would have unduly restricted foreign funding to PBOs, civil society launched a multi-faceted advocacy campaign against the amendments, including issuing press statements and legal analysis, social media campaigns, and organizing public rallies. One successful campaign emphasized that civil society contributes over \$1.2 billion to the Kenyan economy, employs more people than the manufacturing sector, and benefits millions of Kenyans throughout the country, especially the vulnerable and the marginalized. This data-driven campaign also helpfully linked all CSOs – “development” CSOs including faith-based and service providers and democracy/human rights-related CSOs – together into a broad coalition to build popular, grass roots support. Due in part to this campaign, Kenya’s Parliament deferred passage of the proposed PBO amendments to allow time for consultation with the civil society sector.*

## ***Connect civil society to development outcomes***

The degree to which a country depends on outside foreign assistance or recognition plays a role in the success of diplomatic efforts to advocate against a restrictive law. In newly transitioning countries seeking international recognition or those more reliant on foreign funding, a strong message expressing concern over a restrictive civil society draft law can be strengthened when

coupled with the message that it can jeopardize all development efforts, given the centrality of civil society to improving health outcomes, economic growth, and climate change.

### ***Engage at multiple levels with key officials***

Coordinated diplomatic engagement at multiple levels with key MPs (speaker, committee chairs, whips, majority and minority leaders), select ministers (political, development, tax, finance, foreign and security ministries), and senior government leaders should encourage intensive consultation with civil society before any restrictive action is taken.

### ***Engage UN Special Rapporteurs and High Commissioners***

In 2011, the UN for the first time appointed an individual as Special Rapporteur for the Rights of Freedom of Peaceful Assembly and Association to try to hold governments accountable. Who currently fills this position? The current Special Rapporteur, Ms. Annalisa Ciamp, as well as the prior one, Maina Kiai, have been outspoken advocates for freedom of expression, and directing attention at those governments considering restrictive laws. The office of the Special Rapporteur has also developed tools that CSOs are using for their own advocacy to safeguard civic space. The UNSRs for Freedom of Expression and for Human Rights Defenders are also excellent resources for both local CSOs and diplomats. The Community of Democracies Working Group on Enabling and Protecting Civil Society, is another critical mechanism to coordinate diplomatic action. The Working Group has expanded its core membership, monitored restrictive laws or regulations, spurred coordinated diplomatic action to counter adoption of draft laws, and pushed for open consultations in countries such as Cambodia, South Sudan, and Bangladesh.

### ***Consultative processes with both CSOs and government are a best practice***

In cases where there is political will to work collaboratively on improvement of the legal enabling environment for civil society, consultative processes are the international best practice; however, the consultation will only be credible if independent CSOs are invited to attend. In Tunisia, civil society leaders and legislators engaged in a robust consultative process to replace the existing, restrictive law governing associations with a new legal framework. The new law passed as result of these consultations and is now considered a model for the region; the new Libyan draft CSO law was based on peer consultations with Tunisians on their law.

## Adaptation – When facing proposed restrictions

### ***Provide assistance for implementation***

Once a restrictive law is passed, there is still often opportunity to influence its effects on the civil society sector through implementation. Continued legal technical assistance and support to CSOs to engage in dialogue with government to influence implementing regulations can soften a laws' effects and help ensure that a law is not applied regressively.

### ***Be flexible***

Many governments impose restrictions on CSOs that they don't impose on businesses. In these countries, there are often opportunities for civil society organizations to establish for-profit enterprises (such as consulting firms) to carry out their activities.

### ***Lessen the compliance burden for CSOs***

Sometimes the law will require all CSOs to register, or in others there will be a new requirement that all grant agreements be registered. Assistance programs can help lessen the compliance burden for CSOs by providing them with support in how to meet new requirements and avoid getting shut down.

## Continued Support

### ***Keep diplomatic pressure sustained***

Continued diplomatic and assistance support to CSOs post-adoption of a restrictive law is critical to keep their voices heard; opportunities should be sought to facilitate CSO advocacy in regional forums or in the U.S. Particular attention should be directed to politically tense periods, such as prior to elections, when there is a tendency for governments' to act more aggressively in restricting civil society.

### ***Include civil society in the conversation with high-level visitors***

Ensuring that civil society has the opportunity to meet with high-level visitors sends an important signal. Public diplomacy resources, including speaker programs and International Visitor programs, are helpful tools.

### ***Support CSO self-regulation efforts***

To blunt the tactic of discrediting CSOs by questioning their legitimacy, support civil society-led efforts to counter these messages. For example, the Pakistan Center for Philanthropy's CSO

certification program, which is entirely voluntary, demonstrates organization's commitment to best practices in governance and management, and heightens the credibility of CSOs in general and has improved the reputation of the sector.

### ***Ensure CSO security online***

In many countries, CSOs face a high vulnerability to cyber-attacks and monitoring. Programs should assess digital security risks and include training and mentoring components to assist groups to adopt digital security protocols to protect sensitive information (such as documentation of human rights abuses) and protect them from cyber-attacks during key periods, such as elections.

### ***Strengthen networks and peer connections***

Building on existing CSO networks and supporting the creation of new ones (both domestically and internationally) are important to enhancing capacity, increasing exposure to best practices, and improving the effectiveness of advocacy. CSO networks enable organizations to share best practices and lessons learned for better program impact, peer-to-peer. Networked CSOs may also serve as a platform to raise advocacy initiatives to the regional or international levels.

### ***Extend the umbrella of protection***

In some countries, when activists are targeted for harassment, having a high-level diplomatic official meet with the activist can be protective. Programs like the Lifeline Embattled CSO Assistance Fund can provide emergency financial assistance to CSOs under threat or attack and advocacy support to respond to broader threats to civil society.