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Hearing on

“Threats to Civil Society and Human Rights Defenders Worldwide”

before the

Tom Lantos Human Rights Commission

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To the Honorable James McGovern and Members of the Commission:

Thank you for convening this hearing to examine the difficulties facing human rights defenders worldwide and the strategies and tools that the United States can use to support their courageous and necessary work. We are grateful, Mr. Chairman, for your strong and consistent support, and that of the Commission, for defenders, and specifically for your advocacy of human rights as a core objective of U.S. foreign policy.

Today’s focus on restrictive legislation for NGOs and the criminalization of human rights work in various countries is an important and timely one. The 2012 report from the UN Special Rapporteur on Human Rights Defenders to the General Assembly later this year will also focus on the use of legislation, including criminal legislation, to regulate the activities of human rights defenders.

I appreciate the opportunity to be here this afternoon to share Human Rights First’s experience working with defenders around the world, and to offer recommendations for how the U.S. Government can engage civil society and constructively support the rights of peaceful activists to operate in a safe environment.

I have been fortunate enough to work with human rights defenders from many countries on every continent for more than 20 years. I now direct a program at Human Rights First focused on leveraging U.S. leadership to expand and promote the space for human rights activists to advance their work in their own countries.

My colleagues on this panel will give specific country examples, but I want to affirm that the non-recognition of human rights NGOs, punitive restrictions on their funding and judicial harassment of their staff all continue to hinder and prevent the work of human rights defenders in many countries.

Human Rights First knows from long experience that defenders working at some level of risk look to the U.S. government for protection, support and encouragement in their work, and often find it. The fact that Chen Guangcheng sought out the American embassy earlier this month is a testament to that fact.

Among the most important elements of U.S. support are the statements and speeches – official and unofficial – by U.S. diplomats that identify individual leaders in civil society and describe their objectives and work. Similarly, Secretary Hillary Clinton’s regular visits with civil society in her travels are often significant signals of recognition and support for non-governmental voices in repressive societies. We welcome the important work of Assistant Secretary of State for Democracy, Human Rights, and Labor Michael Posner and his staff; their outreach to human rights defenders and protection of their rights is absolutely critical. DRL program support, and other funds that go to directly to human rights NGO’s in country, are strong pillars of a U.S. strategy that seeks to bolster human rights defenders and other pluralistic voices in civil society.

The U.S. State Department’s Human Rights Defenders Award and the Global Human Rights Defender Fund, also, are well respected, credible initiatives applauded by human rights defenders all over the world.

As valuable as the rhetoric, awards, and funding are, though, U.S. intent and influence are realized in countries around the world through the U.S. missions. For that reason, I want to use this testimony to review what we believe are “best practices” among U.S. missions that are engaging with defenders and their work effectively and impressively.

The example set by Ambassador Robert Ford in Syria last year was an excellent model for how the United States can stand publicly with human rights defenders in difficult and dangerous situations. His visits to Hama and other areas communicated clearly—and literally—that the U.S. Government stands with human rights defenders in Syria.

We know from our work in Uganda that the U.S. embassy has played an important role publicly and behind the scenes in supporting and promoting the work of organizations united in opposition to the anti-homosexuality bill. The engagement ultimately led to a phone call from President Obama to President Museveni that is often cited as one of the factors why the bill was tabled. In Russia and Ukraine, U.S. diplomatic missions have been closely engaged with human rights defenders in the capital cities and in other regions on issues ranging from selective enforcement to environmental protection to LGBT rights, which has elevated these human rights issues to the high-level diplomatic priority needed to advance them. NGOs and human rights defenders in difficult circumstances depend on resources from the international community and they often turn to the U.S. These examples represent the best of what the U.S. can offer.

At other times the picture is more mixed, and some human rights defenders who hope for positive engagement with U.S. embassies and consulates are disappointed by the lack of outreach from the embassy staff. This can often be attributed to an ambiguity about what is appropriate for human rights defenders to expect.

The recent episode with Chinese human rights defender Chen Guangcheng illustrates the lack of predictability for activists engaging with U.S. missions. Quite apart from the confusion

surrounding who told Chen what and when, and the reversal of his initial decision to stay in China, senior U.S. administration officials were repeatedly quoted describing the incident in terms such as, “This was an extraordinary case involving exceptional circumstances.” This characterization sends a confusing signal to other defenders in China who are contemplating approaching the embassy for help, whether it is with the intention of exploring asylum or asking for a more routine expression of solidarity. That support may take many different forms, depending on the situation, but it should always include the embassy staff and premises being accessible to vulnerable human rights defenders who wish to discuss their concerns with U.S. diplomats.

Similar confusion arises for our colleagues in Bahrain and Egypt, who tell us they are often disappointed by the action or inaction of U.S. embassies. In Egypt, the defenders’ questions reflect the ambiguity around the goal of U.S. policy. That is to say, in the Mubarak era, the U.S. embassy in Cairo was seen as close to the repressive regime, and so, in the new period, it needs to take visible actions affirming its commitment to human rights and its defenders. For example, U.S. officials should be visiting the workplaces of Egyptian defenders, as appropriate, to show support for their work, and inquire how to best help them; or calling the families of activists unjustly held in military detention to remind them they do not stand alone against the Egyptian army.

While U.S. leaders have now acknowledged the false choice between stability and human rights, they have yet to match policies to rhetoric. Of course, the administration’s recent decision in issuing a waiver to deliver unconditionally \$1.3 billion of assistance to the Egyptian military despite ongoing human rights violations, including the prosecution of Egyptian human rights activists working alongside American NGO personnel who were subsequently able to leave Egypt with U.S. government assistance, has left many human rights defenders doubting the U.S. government’s stated support for human rights and consequently feeling isolated.

As one Egyptian activist put it in a recent article on the Fikra Forum website: “The U.S. has lost much of its credibility due to its two-faced discourse witnessed over the past decades, chanting slogans in support of democracy and human rights, while simultaneously supporting non-democratic regimes on the ground.”

The U.S. government has work to do to gain the confidence of human rights activists and democracy advocates in Egypt.

The question is also acute in Bahrain. The U.S. embassy is picking the defenders with whom it engages rather narrowly. Unfortunately, it is reluctant to engage publicly with one of the main human rights organizations, the Bahrain Center for Human Rights (BCHR).

The BCHR is one of the civil society organizations targeted by the Bahrain regime. It was outlawed by the Bahraini government in 2004, after its then-president Abdulhadi Al Khawaja was arrested for criticizing the Prime Minister of Bahrain. Al Khawaja was arrested again last year and sentenced to life in prison in an unfair military trial for his part in the pro-democracy protests last year. He has been on a hunger strike since February 8, 2012. Despite not being formally recognized by the government, BCHR continues to advocate for basic freedoms and

rights, combat discrimination, and provide support and protection for victims of government repression.

The BCHR won several international awards over the last year, including the 2012 Roger N. Baldwin Medal of Liberty. BCHR's President, Nabeel Rajab, is one of the most prominent human rights defenders in the Middle East, and the winner of the 2011 Ion Ratiu Democracy Award given by the Woodrow Wilson Center. He remains in detention since his arrest on May 5 this year but there has been no public statement about his case from the U.S. government. It is curious why the Embassy would draw this line.

Last Friday's news that the U.S. is to resume large-scale weapons sales to Bahrain is another damaging blow to human rights defenders there who are trying to argue that peaceful protest, supported by influential international players, will pressure the regime into reform. Despite the statement coming out of the State Department that the arms sale is going forward because of U.S. "national security interests," and not as a reward for progress on human rights, human rights defenders tell us that the resumption of arms sales will be seen by the Bahraini dictatorship as a green light by the US to continue its abuses. It would have been useful, if not consequential, if the embassy had sought out the views of Bahraini defenders of how a resumption of US-Bahraini military cooperation would affect their work and safety.

We commend your leadership during the human rights crackdown in Bahrain, Mr. Chairman; unfortunately you are one of the few U.S. officials whose name is still spoken by human rights defenders in the country in a positive way.

Many U.S. diplomats are actively and effectively promoting human rights in their everyday work; many understand and use the tools of the U.S. Government to great effect. However, what we often hear from human rights defenders in different countries is they experience a lack of clarity about what to expect from U.S. embassies, partly because a rotation in personnel at an embassy can result in a very different approach to engaging with civil society. For example, in 2008 and 2009 the U.S. embassy in Riga refused to send a representative to the Pride March, even though most European missions did so; much to the frustration of local LGBTI human rights defenders. But with a change of policy and personnel, I am delighted to see that Deputy Assistant Secretary Tom Melia has agreed to join this year's Baltic pride events at the end of the month.

Some human rights defenders also have unrealistic expectations about what they should expect from U.S. diplomatic missions, and this can also lead to confusion and frustration on both sides.

It would be in the interests of the human rights defenders and the U.S. government to clarify these expectations and identify a standard human rights procedure for the United States. This would also demonstrate to other governments that engagement with human rights defenders is not "special interference" in their country's affairs, but part of a global standard used by U.S. embassies all over the world.

We believe the best way to set those expectations is to publicly issue a set of guidelines for embassy engagement with human rights defenders. In February 2010, Human Rights First,

Freedom House, and human rights activists from 27 countries joined together in recommending to President Obama that his administration issue such guidelines.

The guidelines should be as specific as possible, and something that human rights defenders can refer to and use. The Guiding Principles on Non-Governmental Organizations produced by the Bureau of Democracy, Human Rights and Labor in 2006, and aimed at civil society organizations is a strong starting point. As the 2010 document recommended, “Strengthen the U.S. Guiding Principles on Non-Governmental Organizations (issued in 2006) by developing them into action guidelines for embassies, missions and other U.S. diplomatic representatives around the world.”

It is also worth recognizing that the European Union and Norwegian governments have produced useful sets of guidelines, and defenders in various parts of the world say they have worked beneficially, if imperfectly in some cases, for some years.

Today, the Council for Global Equality, a U.S.-based NGO with 21 partner organizations (including Human Rights First) dedicated to advancing U.S. leadership on LGBT rights throughout the world, released a new guide for LGBT human rights defenders abroad to help them understand the ways in which U.S. embassies can support their work. It highlights the various diplomatic tools that U.S. embassies use to advance a range of human rights and development objectives, from diplomatic “*démarches*,” to support for LGBT refugees to the drafting of the annual human rights report that is required of every embassy. The guide also looks at various opportunities that exist for U.S. embassies to support, both technically and financially, LGBT advocates in host countries, including opportunities for “in-kind” support through technical or legal advisers, as well as program funding opportunities that exist in some countries and regions. These guidelines hopefully will soon be accompanied by a “toolkit”, or a set of directives to Embassy staff from the State Department headquarters, making embassy staff aware of what it can and should do to protect LGBT activists in country.

Human rights defenders need the same to ensure some level of consistency and clarity to the work of embassies around the world. Human Rights First would be happy to work with DRL to craft this language to serve as a directive or “toolkit” for defenders. Such a document would have several purposes, including clarity of expectations and tools for embassy staff; clear instructions to defenders about what is acceptable to ask or expect of U.S. embassy staff; and an explanation of the role of U.S. missions in protecting human rights.

A set of guidelines, while desirable in themselves, could be part of a wider human rights strategy in some U.S. diplomatic missions, which might include human rights objectives in key countries setting out what individual embassies want to achieve in the coming year(s). Some U.S. embassy websites, for example, have areas dedicated to Business, or Trade and Commerce, listing resources for local and U.S. companies. But too often human rights seem to be a poorly resourced, unfashionable and neglected part of an embassy’s work.

We understand that DRL has staff in some countries (including Egypt, Pakistan, Iraq and China) aimed at providing a more dedicated voice for human rights issues in embassy discussions on national and regional policy. This seems like a sensible move, to focus high level attention on

human rights advocacy, by ensuring that human rights are not left to a junior member of the embassy staff who is likely to have other portfolios to administer.

With new challenges to their work from governments restricting funding and criminalizing their work, human rights defenders are increasingly uncertain about the environment in which they operate. Now would be an ideal time for the U.S. to lay out publicly what human rights defenders can expect from it and its embassies, what it will and will not commit to do, and what sort of engagement it is prepared to conduct with them.

Some ideas for what the State Department could include in guidelines for engagement with human rights defenders by U.S. Embassies, Consulates, and other U.S. Government representatives might include:

- Establish and maintain regular contact with human rights defenders - including inviting them to the U.S. Embassy and visiting them at their offices;
- Appoint liaison officers to develop and maintain relationships with human rights defenders in local communities;
- Observe trials of human rights defenders, where appropriate;
- Coordinate with other like-minded governments on their analysis and monitoring of the situation of human rights defenders, especially those at risk;
- Assist in establishing networks of human rights defenders at an international level – including facilitating meetings;
- Use the media to increase public visibility and support for human rights defenders highlighting specific cases;
- Continue to address the situation of human rights defenders in their reporting to the U.S. Department of State and other parts of the U.S. Government, particularly any threats or attacks against human rights defenders;
- Inform human rights defenders of available U.S. Government programs, grants, and resources for which they can apply, and assist in the application process, as appropriate;
- Monitor/ask about technological tools used by human rights defenders, ensuring their rights to free expression and association are not violated.

More broadly, the U.S. Government's overall foreign policy objective should include the promotion of an environment where human rights defenders can operate openly and freely, and include a consistent, transparent approach to human rights defenders and their work. Secretary Clinton said in her remarks in Krakow in July 2010 that:

“When NGOs come under threat, we should provide protection where we can, and amplify the voices of activists by meeting with them publicly at home and abroad, and citing their work in what we say and do;”

A public description of how the U.S. Government could operationalize these practices might include:

- ❖ A public recognition that the U.S. Government supports human rights defenders and their work;
- ❖ A public recognition that by challenging injustice and raising awareness about human rights, human rights defenders are essential to bringing about positive, lasting change within a society;
- ❖ A stated commitment to protect human rights defenders against attacks and threats from government and non-state actors;
- ❖ A stated commitment that when senior U.S. Government officials make country visits they should, as a matter of course, meet with human rights defenders;
- ❖ A stated commitment that political dialogues between the U.S. Government and foreign governments should cover the situation of human rights defenders;
- ❖ A stated commitment that the U.S. Government should publicly raise individual human rights defender cases of concern whenever necessary;
- ❖ Encouragement for the establishment and support of national (and regional) bodies for the promotion and protection of human rights, in accordance with the Paris Principles. Nationally, these may include national human rights institutions, ombudsman’s offices, and human rights commissions;
- ❖ A stated commitment to the principle that human rights defenders should have access to resources and support, including financial, from abroad;
- ❖ Public actions showing the U.S. Government to be working closely with other like-minded countries on human rights defenders issues in the Human Rights Council, the UN General Assembly, and elsewhere.

As the Arab Spring and the bold escape of Chen Guangcheng prove, human rights is an enduring goal of people everywhere, and the United States wants to support those daring activists who will promote them. Human rights defenders looking to the United States for moral and material support are entitled to a clear and consistent message from the U.S. government, just as the U.S. diplomats working to advance human rights overseas deserve guidance on what is expected of them and what tools they can use to achieve it. These are some of the policy steps and operational improvements the U.S. Government should make as it seizes on the opportunities of the day to realize a world with more human rights and fewer human rights defenders.

Thank you, Mr. Chairman, for your leadership, and for this opportunity. I look forward to your questions.