



Testimony of Lisa Davis

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Before the Tom Lantos Human Rights Commission

"Sustained US Global Leadership Needed to Defend Civil Society and Human Rights Defenders in an Era of Activism"

May 17, 2012

Sustained US Global Leadership Needed to Defend Civil Society and Human Rights Defenders in an Era of Activism

Thank you Chairman McGovern and Chairman Wolf and distinguished members of the Tom Lantos Human Rights Commission for holding this important hearing on the global situation of civil society and human rights defenders. A free and robust civil society sector and media are absolutely crucial components of any democracy. These groups act as watchdogs, have direct relationships with people on the ground, and provide knowledge to citizens that might otherwise be inaccessible. Many repressive countries recognize the important role these institutions play and have taken actions to stifle, repress, and outright interfere with civil society and the media.

Freedom House is one of the oldest human rights organizations in the United States and has been promoting democracy and fundamental freedoms worldwide for more than 70 years. In addition to our well-known publications and advocacy work, our programs actively support the work of frontline civic activists and human rights defenders through technical assistance, funding, solidarity, advocacy, and emergency support. A primary tenet of our philosophy is that democracy and freedom cannot exist without free and robust civic institutions.

As recognized in our 2012 *Freedom in the World* report, the political uprisings of the Arab Spring represent the most significant challenge to authoritarian rule since the collapse of Soviet communism. In a region that had seemed immune to democratic change, coalitions of activist reformers and ordinary citizens succeeded in removing dictators who had spent decades entrenching themselves in power. Citizens' demand for a voice and participation in the public affairs of their country is rarely more vivid than at times of mass protests. This made 2011 the year of activism around the world. According to CIVICUS's' recent *State of Civil Society Report*, some 88 countries experienced some form of mass protests in 2011. The internet and social media also served as a unique catalyst for civic action as both a mode of organizing street protests and as civic space in their own right.

The response by governments to civil society varied significantly. Protest and upheaval were followed by the beginnings of democratic institution building in Tunisia, Egypt, and Libya, and changes to the Constitution in Morocco. The overthrow of governments in some countries provoked determined and often violent responses in others, most notably Syria, but also Bahrain and Yemen. Elsewhere around the world, this pattern of protest and repression was repeated. In China, authorities responded to events in Cairo's Tahrir Square with a near-hysterical campaign of arrests, *incommunicado* detention, press censorship, and stepped-up control over the internet, aimed to quash potential pro-democracy protests. In December a number of dissident writers in China were sentenced to long terms in prison. In Russia, the state-controlled media first bombarded domestic audiences with predictions of chaos and instability as a consequence of Arab protests, suggesting similar consequences in Russia should protests start. When demonstrations began in Moscow and elsewhere, peaceful assembly was obstructed and leaders were detained. Following a street march calling for fair elections in Malaysia, the government responded with the enactment of a very restrictive public assembly law. In Kazakhstan, police fired upon crowds in Zhanaozen while oil workers were on strike on December 16, 2011.

Whether the dramatic levels of activism worldwide since 2011 will result in a lasting backlash against civil society by autocratic governments will depend not only on the will of the local people, but also on the fortitude and momentum with which the international community defends civil society and human rights defenders against violent crackdowns and repressive legal reforms aimed at preventing true democratic transitions. A retreat by democratic governments from forthrightly defending the legitimate role and rights of human rights defenders and civil society would have devastating consequences. The international community must push back against autocrats' false assertions that civil society and those who would voice their opinion through protest are 'instigators' of political unrest and international support for civil society constitutes illegitimate interference in the internal affairs of their countries.

It is important to note that for the most part the events of the Arab Spring spread from unorganized, grassroots movements not associated with any particular political, religious, or civic group. Yet, because these organizations are often easy targets for repressive rulers, civil society organizations around the world have become scapegoats for repressive rulers facing unrest. It is incredibly important that the international community not accept these transparent attacks against civil society as legitimate, and work together to vocally and forcefully push back against repression. True democratic transitions in the Middle East and elsewhere will be impossible in the absence of free and unrestricted civil society participation.

Lessons for US global leadership on these issues should be drawn from previous eras in democratic expansion. Following the 'Colored Revolutions' of 2003-2005, authoritarian governments feared for their own survival and initiated a wave of proposed laws seeking to repress civil society and isolate it from the rest of the world. Some proposed laws were defeated; others were not. Authoritarian governments attributed the work of American civil society organizations, including Freedom House, and US support to civil society as a cause for these revolutions. Instead, international focus should have strongly asserted that it was the shortcomings of those failed governments to be accountable to their people and govern justly. In some cases, the USAID Missions acquiesced to authoritarian governments to redirect some of their democracy and governance funds to other areas or to abide by new laws restricting foreign funding without registration. Overall the global state of freedom of association and expression suffered a political regression over the last consecutive six years, as tracked by Freedom House's *Freedom in the World*. Reversing this six year trend should be a US priority.

Use of New and Old Styles of Repression

When human rights defenders and civil society organizations speak out, they find themselves on the frontlines with those they seek to protect. Many risk life and profession when they investigate and report on human rights abuses. Freedom House's support programs aid defenders working in some of the most dangerous places in the world, such as Pakistan, Mexico, Afghanistan, the Democratic Republic of Congo, Zimbabwe, Somalia, Sudan, and Colombia, to help prevent serious attacks against civil society and human rights defenders by both state and non-state actors. Yet prevention can only go so far and human rights defenders are often rounded up, arrested, and detained, as in recent crackdowns in Belarus, Russia, China, Bahrain, Syria and Iran. Advocates of LGBTI rights are particularly vulnerable in societies that reject them.

Many of the acts of repression faced by human rights defenders and civil society are not extra-judicial, but rather the result of laws that are enacted with the express purpose of restricting civil society activities. According to research by the International Center for Not-for-Profit Law (ICNL), over 50 laws restricting civil society have been proposed or enacted around the world in the past five years alone. When promoting citizen participation in political life, civil society organizations more regularly face restrictive laws -- severely constraining their scope of activity or in some cases their organization's very ability to exist. The tight restrictions of new CSO legislation, as well as overreach of existing laws are being used in Ethiopia, Venezuela, Egypt, and Belarus to force organizations to change focus from critical human rights and civic work to defending themselves from legal investigations and prosecutions, the freezing of funds, or interruptions of activities and independent management of their organizations.

Of course one of the most well-known recent incidents of this type of repression is the case currently facing 43 NGO workers in Egypt, including 17 Americans, who face charges that could lead to prison and hard labor related to legitimate NGO activity. The brazenness of the Egyptian assault on civil society, and the fact that it targeted mostly American-based NGOs, demonstrates the extent to which certain governments feel they have the green light to target these groups.

Another disturbing trend is the revamping of laws on public assembly to further restrict the ability of citizens to meet or protest. In Malaysia, the Peaceful Public Assembly Act was signed into law in 2012 in the lead-up to elections, constraining legal locations where protests may take place, allowing police to impose conditions on protests, and refusing to allow persons under the age of 21 to organize a protest or those under the age of 15 or non-citizens to join a protest. Recently, Russian Prime Minister Putin publicly warned demonstrators, "go [and protest] without permission, and you will be hit in the head with batons." Mexico, Argentina, Colombia, Chile, Peru, and Venezuela are using criminal codes, such as terrorism laws, to prevent or crack down on social protest.

Authoritarian regimes have also become more technologically savvy in their repression. Well beyond the tapping of phone lines, some governments now possess the technology and dedicate enormous resources to infiltrating and monitoring websites and internet and mobile communications. These efforts allow governments to gather information to harass, expose, and even prosecute organizational members and associates on trumped up national security charges. Governments not only block websites, but also social media sites, including Facebook, YouTube videos, and other reporting and communication tools. No more dramatic example exists than that of the Egyptian government cutting off nearly all access to the internet, taking down specific Facebook sites, and shutting down cellphone service during the January 2011 Tahrir Square demonstrations.

Responses that Have Worked and Those That Have Failed

Concerted pushback by a unified domestic civil society matched by pressure from the international and regional community can help defeat or forestall restrictive legislation.

In the lead-up to Kazakhstan's bid for Chairmanship of the Organization of Security and Cooperation in Europe, the government drafted a number of proposed laws restricting the media, political party registration, and civil society organizations. Due to an incredible effort by the civil society sector inside

Kazakhstan, and concerted international attention and pressure, the restrictive CSO law was ultimately struck down by the Constitutional Court before its enactment. The insistence by Organization for Security and Cooperation in Europe (OSCE) member states and their citizens that Kazakhstan commit to OSCE principles, including respect for civil and political rights, as the OSCE Chair, placed the country, its laws and practices under heightened scrutiny, and forestalled a number of regressive laws.

In Venezuela, a restrictive draft law on international cooperation languished for several years in front of the National Assembly due to Venezuelan civil society efforts in the region; President Hugo Chavez only later passed a version of this law by executive decree, in a desperate attempt to hold on to power in the lead-up to elections this year.

Several years ago civil society in Zimbabwe defeated a restrictive draft CSO law by appealing to the African Commission on Human and Peoples Rights and asserting its contravention of regional and international norms. Most recently, sustained efforts by domestic civil society organizations and international attention to a repressive draft law in Cambodia caused the government to present several redrafts and, finally, to shelve the legislative reform attempt, at least for the time being.

In contrast, a strong resistance put forth by domestic civil society in Ethiopia matched by quiet diplomacy from the donor community failed to stop the passage of the Charities and Societies Act in 2009. This law prevents organizations from working on human rights and other critical issues if they receive more than 10% of their funds from foreign sources. It essentially eviscerated the work of the most prominent human rights, women's rights, and legal rights organizations which had been serving as watchdogs and advocates.

Algeria recently passed more restrictive legislation on civil society, virtually unnoticed by the international community. And holdovers from the past government of Egypt forced criminal prosecutions of staff of foreign NGOs, including Freedom House, and opened investigations over 400 domestic organizations to in an attempt to stem international support for its democratic transition. As we strongly feared might happen, the U.S. government's decision to waive restrictions on military aid, despite the recent crackdown, has only emboldened the campaign against civil society.

If authoritarian regimes are not confronted with sustained international attention and consequences for attacks against freedom of association and assembly in their countries, they will simply continue to repress the voices and activities of civil society.

Transnational human rights defender networks and initiatives have dramatically increased the solidarity, advocacy, capacity, and impact of defenders and civil society to address the global pushback and advance worldwide civic activism. Networks including CIVICUS, the East and Horn of Africa Human Rights Defender Project, the Central African and the Western African Human Rights Defender Networks, Forum-Asia, and the Regional Alliance for Freedom of Expression in Latin America, to name a few have heightened attention to and response for defenders at risk. They lead joint advocacy efforts at regional and international forums to address the regressive trends and defend their political space. These transnational networks have few donors and struggle to find resources to match the power of cooperation among authoritarian governments at the international forums.

Encouraging initiatives at the international level have begun to enhance the protection and recognition of the role and rights of human rights defenders and civil society. The bold work of the UN Special Rapporteur on the situation of Human Rights Defenders, including the advancement of human rights guidelines for states, and the recent creation of a Special Rapporteur on the rights to freedom of peaceful assembly and of association has served as watchdogs and expert voices to states on their bad behavior. The EU Guidelines on Human Rights Defenders have become a tool to engage the diplomatic support of European governments for at-risk human rights defenders.

Recommendations for Strong US Global Leadership

The US should exercise its global leadership by mobilizing joint interventions and coordinated efforts by governments to advance existing international norms and head off restrictive trends. Additionally, the protection of human rights defenders, civil society, and the media should be at the core of U.S. bilateral relationships with certain governments. This will require the U.S. Government to:

- Pass US Guidelines for Human Rights Defenders and Civil Society Organizations, similar to those of the European Union, that go beyond the new initiative to create working groups within Embassies to more formally requiring US Embassies to intervene in human rights emergencies .
- Operationalize the urgent appeal system within the Lifeline Embattled Civil Society Organizations Fund to mobilize coordinated multilateral and bilateral responses to support civil society.
- Support the UN special mandates to increase their resources (staff, travel, and advanced tools for documentation and reporting).
- Provide dedicated and robust multi-year funding for bilateral aid to support civil society.
- Strategically address the opportunities and challenges in the Middle East and North Africa so that civil society and human rights defenders attain true enabling environments, access policy makers, and freely inform public opinion. The government of Tunisia should be commended for creating an enabling environment in which civil society organizations may register and work on the many critical elements of democratic reform, including transitional justice.
- Direct technical support to civil society and reform-minded political actors in Libya, Egypt, and other countries in the region to remove constraints on the ability of civil society to work across the region and with international partners.
- Elevate the issue of protection of civil society and a free media to the top of the relationship with Egypt and reevaluate the entire bilateral relationship, including the aid package, to ensure a successful transition to a civilian government.

- Worldwide, provide sustained funding and diplomatic support to transnational human rights networks that monitor and advocate for peaceful assembly laws, internet freedom, free expression, women's empowerment, and public participation in policy and law reform so that these universal norms are safeguarded and regional and global progress is made in this time of activism and of global pushback.

I wish to again thank the Commission for receiving Freedom House's written testimony and your invaluable support of civil society and human rights defenders worldwide.

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