



Threats to Civil Society Around the World
Tom Lantos Human Rights Commission

Testimony by
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Chairman McGovern, Chairman Hultgren, members of the Tom Lantos Human Rights Commission. Thank you for inviting me to testify and for your interest in the legal space for civil society around the world.

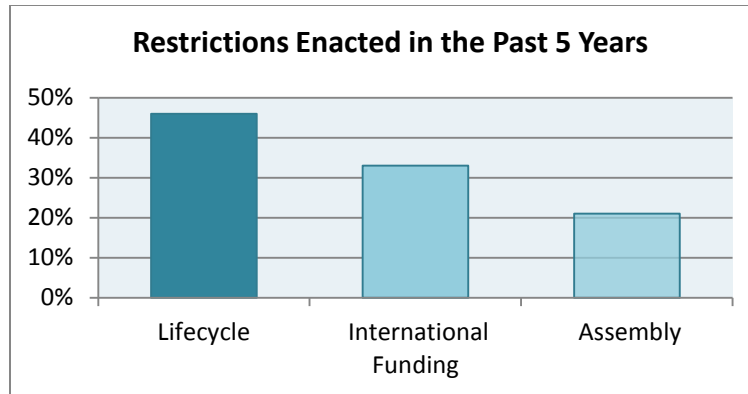
In 1989, I traveled to Prague and met two student leaders of the Velvet Revolution. They were elected to Parliament and invited me to serve as a Legal Advisor in the Czechoslovak Parliament. My first task was to write the nonprofit laws for the country along with a nuclear physicist turned dissident.

Our motto was “*všechno je možné*” - anything is possible - and so it seemed. Civil society was associated with the People Power movement in the Philippines, the Solidarity movement in Poland, the political transition in Chile, and the struggle against apartheid in South Africa. We were riding a wave of democratization. But we forgot an essential fact – waves eventually break and then recede. And now, nearly thirty years later, we see a democratic recession around the world, with civil society caught in a current of constraint.

Global Trends

Since 2012, 70 governments have enacted over 120 legal initiatives restricting civil society and targeting the freedoms of association and assembly. Disaggregating the data:

- Approximately 45% of the initiatives restricted the ability of people to form or operate a civil society organization (so-called “lifecycle legislation”);
- Approximately 33% of the initiatives restricted the ability of organizations to access funding from the United States and other international sources; and
- The remaining initiatives targeted the freedom of assembly.



These constraints are affecting all regions and all kinds of organizations. A survey was recently sent to international organizations working on a number of issues, including job creation, infrastructure, food security, humanitarian assistance, human rights, and sustainable development. Ninety-seven percent of the respondents reported that civic space is under threat. Unfortunately, the contagion of constraints is expected to continue: 42 countries are currently considering new laws to restrict civil society.

Governments have converted the rule of law into the rule by law.

We are not talking about mild bureaucratic burdens on civil society organizations or “CSOs.” Governments are using the law to restrict the right of people to work together to make the world a better place. For example:

- In Eritrea, a citizen seeking to establish a relief organization must have access to \$1 million. This is the amount the average Eritrean would earn in 750 years.
- In Bahrain, an association can be denied registration (i.e., incorporation) if the government decides that society does not “need” the association. The government has arrested human rights activists who continue with human rights activities without being registered.
- In Cuba, the Criminal Code establishes penalties of one to three months in jail for membership in an unauthorized association, and the penalty is tripled for association leaders.
- In Equatorial Guinea, CSOs are prohibited from undertaking human rights activities and must obtain government approval before joining international networks.
- In Russia, a CSO that receives international funding and engages in broadly defined “political activities” has to publicly identify itself as a “foreign agent,” a term which is synonymous with “foreign spy” in Russian.
- In Bangladesh and many other countries, a CSO requires the government’s approval to receive funding from a donor in another country.
- In Saudi Arabia, a CSO needs the government’s permission to organize domestic fundraising events, even a gala dinner.
- In Belarus, it is a crime to disseminate information “discrediting Belarus.”

- In Kosovo, the law requires all CSOs to have a specially trained compliance officer responsible for countering terrorist financing and money laundering, even if the CSO has no budget and otherwise has no staff.

Progress is Possible

As these examples illustrate, the legal framework for civil society is complicated. Incorporation laws, criminal laws, tax laws, “foreign agent” laws, fundraising laws, defamation laws, and counter-terrorism laws all affect the space for civil society. A successful, holistic response requires deep local expertise because, as we all know, sustainable reform must come from the people of each country. The international community can play a supportive role by helping to develop the expertise of local CSOs, lawyers, legislators and government officials. Moreover, many countries are grappling with similar issues at the same time, and the international community can support reform by facilitating information-sharing across countries.

Fortunately, there are thoughtful and strategic partners, including USAID, the Mott Foundation, the Ford Foundation, and the Government of Sweden, that understand this recipe for success. They recognize that civic space is not about the passage of a particular law or a single moment in time. Protecting civic space is not a transactional challenge, it is a transformational challenge. We see the results in a variety of areas: preventing the passage of restrictive legislation, advancing progressive legislation, and providing space for CSOs to operate around the world.

Case Study: Legislation

In-country experts are sometimes able to prevent passage of restrictive laws. For example, Kyrgyzstan was considering a restrictive “foreign agents” law similar to the Russian model. The law passed two readings in the Parliament. Before the third reading, our Kyrgyz staff and other members of civil society met with Parliamentarians and government officials to explain why the law would undermine Kyrgyz national interests and would undermine the stability of the country. The Parliament then voted down the bill. In terms of more progressive legislation, no law is perfect, but legislation loosening restrictions on civil society have been enacted in countries as diverse as Afghanistan, Tunisia, Honduras, Bulgaria, Ukraine, and Myanmar.

Case Study: Navigating Restricting Legislation

Azerbaijan enacted a law that imposed burdensome reporting requirements on CSOs, with fines for noncompliance that could have bankrupted many organizations. Thanks to USAID and our local partners, in 2012, we helped 185 organizations meet the requirements of the new law, and all avoided fines. We then worked with other organizations that were found noncompliant by the Ministry of Finance and subject to fines, and all of the organizations that accepted our partners’ advice were able to avoid fines. Enormous challenges remain in Azerbaijan, but I mention this case since we are often asked if anything can be done once restrictive laws are passed. Depending on the country, helping CSOs navigate restrictive legislation can have real impact.

Case Study: Protecting Embattled Civil Society

In some countries, bad things will happen, and civil society will need emergency support. Toward that end, eighteen governments and two foundations support the *Lifeline Embattled CSO Assistance Fund*. Implemented by Freedom House and a consortium of CSOs, Lifeline has helped 1059 organizations in 99 countries and territories. In a recent survey, 95% of the respondents said this assistance allowed them to return to their human rights work.

Recommendations

- *Appropriations and Funding.* 42 countries are currently considering laws to restrict civil society. As stated in a recent Congressional Research Service Report, very little funding is invested in advancing civil society legal reform. Congress should address this issue through the appropriations process, and the starting point is to preserve the budgets of USAID and the State Department.
- *Oversight of Agencies and Departments.* Congress should conduct oversight of federal agencies and departments, including those involved with counter-terrorism, national security, defense, and international trade, to assess the extent to which different parts of the government are supporting – or undermining – the legal space for civil society.
- *Legislation and Resolutions.* Congress should continue to include language supporting independent civil society in legislation and resolutions. An example is the “Brownback amendment,” stating that democracy and governance activities shall not be subject to the prior approval by the government of any foreign country.
- *Fact Finding and Dialogue.* Members and staff should continue to meet with civil society representatives in the United States and internationally. Congress might also consider a fact-finding mission to gather information on this issue, similar to the fact finding mission undertaken by staff of the Senate Committee on Foreign Relations in 2006.
- *Engagement with Legislative Counterparts.* Members should engage with legislators on civic space issues bilaterally and through multilateral inter-parliamentary groups such as the Inter-Parliamentary Union and the Community of Democracies’ Parliamentary Forum.
- *Multilateral Engagement.* Congress should exercise oversight to ensure that the Administration continues to work multilaterally on civic space issues, including through the Community of Democracies, Open Government Partnership, Extractive Industries Transparency Initiative, United Nations, and the Lifeline Initiative.
- *Leading by Example.* Congress should ensure that laws and policies support civil society and philanthropy both in the United States as well as internationally.

Influencing History

Every generation has its struggle to advance human rights. The legal space for civil society is not simply about the right of citizens to work together to make the world a better place. Fundamentally, this is about freedom and the relationship between states and their citizens.

Thank you for inviting me to testify and for your work to help safeguard civic freedom around the world.