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USAID

CENTER OF EXCELLENCE ON DEMOCRACY, HUMAN RIGHTS, AND GOVERNANCE

CIVIL SOCIETY AND MEDIA DIVISION

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Stand with Civil Society:

Best Practices

Best Practices for Stand With Civil Society

In September 2013, President Barack Obama, together with heads of state, civil society leaders, the philanthropic community, multilateral organizations, and the United Nations, launched the Stand with Civil Society agenda to galvanize international attention and spur coordinated action to support and defend civil society in the face of an ongoing assault to freedom of association, assembly, and expression around the world. As part of Stand with Civil Society, the U.S. Government (USG) has improved internal coordination efforts to prevent and protect Civil Society Organizations (CSOs) from restrictions on freedom of association and assembly, and, together with other likeminded partners, have held both public and private consultations to discuss best practices to support and protect space for civil society. These efforts included: a meeting hosted by the Ford Foundation in January; USAID's Democracy, Human Rights, and Governance (DRG) Center's Partners' Forum in June; several meetings of the Governing Council of the Community of Democracies; the Civil Society Forum of the African Leaders Summit in August; USAID's Asia Civil Society Experience Summit in September; and numerous town halls and meetings with civil society and USG representatives around the world.

At the Clinton Global Initiative (CGI) in September 2014, President Obama instructed all US diplomats and development professionals to make supporting civil society an integral part of American foreign policy – to support the change-makers who are on the front lines of the struggle for universal rights. He asked posts around the world to ramp up their efforts to engage with civil society and report back on their efforts. And in fact, every day, American diplomats around the world stand up for the right of people to organize peacefully for change, explain to host governments how restrictive CSO legislation, regulations, and practices harm wider interests, and are inconsistent with the fundamental freedoms of peaceful assembly, association, and expression enshrined in the UN Universal Declaration of Human Rights. Coincident with the CGI speech, the White House issued a Presidential Memorandum institutionalizing the expectation that all US foreign affairs agencies will take affirmative actions to

stand with civil society regardless of the country context. In addition, as part of Stand with Civil Society, USAID will join with civil society leaders and other private and public donors to create Civil Society İnnovation Hubs worldwide to bridge the divide between open and closed societies.

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, overly burdensome reporting and access to foreign funding; de-legitimizing CSOs that accept foreign donor funding as "traitors" or "puppets through messages disseminated by government-controlled media;" requiring that CSOs align their activities with national development plans; and creating government-organized NGOs (GONGOs). 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, likeminded 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, likeminded 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 NGO Law Monitor, USAID's Civil Society Sustainability Organization Index (CSOSI), the new CIVICUS Enabling Environment Index, 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 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 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 recognizes that its outdated

and cumbersome civil code, combined with overburdened and inefficient courts translates into risk that has a clear negative impact on foreign investment, and is pushing 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 local citizens/voters 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; USG 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

During 2013-14, UNSR for Freedom of Association and Assembly Maina Kiai has been an outspoken advocate for freedom of expression, and has directed attention at those governments considering restrictive laws. His office 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.   Over the past year, the Working Group expanded its core membership, monitored restrictive laws or regulations in 18 countries, spurred coordinated diplomatic action to counter adoption of draft laws, and pushed for open consultations in 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 is now considered a model for the region; the new Libyan draft CSO law is 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.

Consider Work-Arounds

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 Network, can provide rapid-response assistance to CSOs facing harassment.