



WORLD MOVEMENT *for* DEMOCRACY
Confronting the Challenges to Democracy in the 21st Century

Defending Civil Society

A Report of the World Movement for Democracy

Co-authored by

International Center for Not-for-Profit Law (ICNL)

and

*World Movement for Democracy Secretariat at the
National Endowment for Democracy (NED)*

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The World Movement for Democracy is a global network

of democrats, including activists, practitioners, academics, policy makers, and funders, who have come together to cooperate in the promotion of democracy. The Washington, DC-based National Endowment for Democracy (NED) initiated this nongovernmental effort in February 1999 with a global Assembly in New Delhi, India, to strengthen democracy where it is weak, to reform and invigorate democracy even where it is longstanding, and to bolster pro-democracy groups in countries that have not yet entered into a process of democratic transition. At the conclusion of that Inaugural Assembly, participants adopted, by consensus, a Founding Statement creating the World Movement for Democracy as a “pro-active network of democrats.” Emphasizing that the World Movement is not a new centralized organization, the statement declares that the resulting network “will meet periodically to exchange ideas and experiences and to foster collaboration among democratic forces around the world.”

The World Movement offers new ways to give practical help to democrats who are struggling to open closed societies, challenge dictatorships, democratize semi-authoritarian systems, consolidate emerging democracies, and strengthen established democracies. It has the potential to do so in several ways...

- as an **ally** of democrats in dangerous situations who need political solidarity and moral support;
- as a **lobby** for the cause of democracy in international bodies and in countries where democracy is under siege;
- as a **facilitator** that can help link democrats from different countries and regions to exchange information more efficiently, work together, and help one another;
- as an **innovator** that can encourage the development of new ideas and effective approaches for overcoming obstacles to democracy;
- as a **big tent** that can provide a meeting place for democrats who are active in different professional areas, such as human rights, media, law, political party development, workers’ rights, economic reform, research, and education;
- as a **resource center** that can make basic materials on democracy available to groups around the world;
- as a **monitor** that can convey the views of democratic activists on the efficacy of different forms of democracy support; and
- as a **catalyst** to stimulate new initiatives and help shape the priorities of the broader community of institutions concerned with the promotion of democracy.

Networks

The World Movement Web site (www.wmd.org) provides links to various regional and functional networks focused on advancing democracy.

DemocracyNews

As the electronic newsletter of the World Movement, *DemocracyNews* enables participants to share information with their colleagues, announce events and publications, and request assistance or collaboration in their work. To subscribe, send an e-mail message to subscribe-democracynews@lyris.ned.org.

World Movement Assemblies

Global assemblies offer World Movement participants the opportunity to take stock of the accomplishments they have achieved and the challenges they confront, and to build networks of mutual solidarity and support.

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Executive Summary

Civil Society is facing serious threats today across the globe. An offensive against the spread of democracy has spread and intensified. This ongoing backlash against democracy has been characterized by a pronounced shift from outright repression of democracy, human rights and civil society activists and groups to more subtle governmental efforts to restrict the space in which civil society organizations (“CSOs”) - especially democracy assistance groups - operate. Too many regimes still employ standard forms of repression, from activists’ imprisonment and organizational harassment to disappearances and executions. But in other states - principally, but not exclusively authoritarian or hybrid regimes - these standard techniques are often complemented or pre-empted by more sophisticated measures, including legal or quasi-legal obstacles such as **barriers to entry** to discourage or prevent the formation of organizations, and **barriers to resources** to restrict organizations’ ability to secure the resources required to carry out their activities.

Governments have tried to justify and legitimize such obstacles as necessary to enhance accountability and transparency of non-governmental organizations (“NGOs”); to harmonize or coordinate NGO activities; to meet national security interests by countering terrorism or extremism; and/or in defense of national sovereignty against foreign influence in domestic affairs. This report exposes such justifications as rationalizations for repression, and, furthermore, as violations of international laws and conventions to which the states concerned are signatories.

The report articulates well-defined **international principles protecting civil society** (see box below), already embedded in international law, including norms and conventions that regulate and protect civil society from government intrusion. These principles include: the right of NGOs to entry (that is, the right of individuals to form and join NGOs); the right to operate to fulfill their legal purposes without state interference; the rights to free expression and to communication with domestic and international partners; the right to seek and secure resources, including the cross-border transfer of funds; and the state’s positive obligation to protect NGO rights.

The report concludes by calling upon:

- international organizations to endorse the report and the principles it identifies;
- civil society organizations to conduct national and regional discussions to mobilize support for the reform of legal frameworks governing them; and
- democracy assistance organizations to distribute and promote the report and its recommendations to its partners and grantees.

International Principles Protecting Civil Society

To protect civil society organizations from the application of the legal barriers described in this paper, this section seeks to articulate principles that govern and protect CSOs from repressive intrusions on the part of governments.

Principle 1: The Right to Entry (Freedom of Association)

(1) International law protects the right of individuals to form, join and participate in civil society organizations.

(a) Broad scope of right. Freedom of association protects individuals in their right to establish a wide range of civil society forms, including trade unions, associations, and other types of NGOs.

(b) Broadly permissible purposes. International law recognizes the right of individuals, through NGOs, to pursue a broad range of objectives. Permissible purposes generally embrace all 'legal' or 'lawful' purposes and specifically includes the promotion and protection of human rights and fundamental freedoms.

(c) Potential founders. The architecture of international human rights is built on the premise that all persons, including non-citizens, enjoy certain rights, including freedom of association.

(2) Individuals are not required to form a legal entity in order to enjoy the freedom of association.

(3) International law protects the right of individuals to form an NGO as a legal entity.

(a) The system of recognition of legal entity status, whether a "declaration" or

"registration/incorporation" system, must ensure that the process is truly accessible, with clear, speedy, apolitical, and inexpensive procedures in place.

(b) In the case of a registration/incorporation system, the designated authority must be guided by objective standards and restricted from arbitrary decision-making.

Principle 2: The Right to Operate Free from Unwarranted State Interference

(1) Once established, NGOs have the right to operate free from unwarranted state intrusion or interference in their affairs. International law creates a presumption against any state regulation that would amount to a restriction of recognized rights.

(a) Interference can only be justified where it is prescribed by law, to further a legitimate government interest, and necessary in a democratic society. States must refrain from restricting freedom of association through vague, imprecise, and overly broad regulatory language.

(b) It is incumbent upon the state to ensure that applicable laws and regulations are implemented and enforced in a fair, apolitical, objective, transparent and consistent manner.

(c) Involuntary termination or dissolution must meet the standards of international law; the relevant government authority should be guided by objective standards and restricted from arbitrary decision-making.

(2) NGOs are protected against unwarranted governmental intrusion in their internal governance and affairs. Freedom of association

embraces the freedom of the founders and/or members to regulate the organization's internal governance.

(3) Civil society representatives, individually and through their organizations, are protected against unwarranted interference with their privacy.

Principle 3: The Right to Free Expression

Civil society representatives, individually and through their organizations, enjoy the right to freedom of expression.

(a) Freedom of expression protects not only ideas regarded as inoffensive or a matter of indifference but also those that offend, shock or disturb, since pluralism is essential in a democratic society. NGOs are therefore protected in their ability to speak critically against government law or policy, and to speak favorably for human rights and fundamental freedoms.

(b) Interference with freedom of expression can only be justified where it is prescribed by law, in the interests of a legitimate government interest, and necessary in a democratic society. States must refrain from restricting freedom of expression through vague, imprecise, and overly broad regulatory language.

(c) Stemming from the well-recognized protection of individuals to freedom of assembly, NGO representatives have the right to plan and/or engage in the advocacy of legal aims, including human rights and fundamental freedoms.

Principle 4: The Right to Communication and Cooperation

(1) Civil society representatives, individually

and through their organizations, have the right to communicate and seek cooperation with other elements of civil society, the business community, international organizations and governments, both within and outside their home countries.

(2) Individuals and NGOs have the right to form and participate in networks and coalitions in order to enhance communication and cooperation, and to pursue legitimate aims.

(3) Individuals and NGOs have the right to use the Internet and web-based technologies to communicate more effectively.

Principle 5: The Right to Seek and Secure Resources

Within broad parameters, NGOs have the right to seek and secure funding from legal sources. Legal sources must include individuals and businesses, other civil society actors and international organizations, inter-governmental organizations, as well as local, national, and foreign governments.

Principle 6: State Duty to Protect

(1) The State has a duty to promote respect for human rights and fundamental freedoms, and the obligation to protect the rights of civil society. The State's duty is both negative (i.e., to refrain from interference with human rights and fundamental freedoms), and positive (i.e., to ensure respect for human rights and fundamental freedoms).

(2) The State duty includes an accompanying obligation to ensure that the legislative framework relating to freedom of association and civil society is appropriately enabling, and that the necessary institutional mechanisms are in place to ensure the recognized rights to all individuals.

Introduction

Recent years have witnessed proliferating efforts by various governments to restrict the space in which civil society organizations in general and democracy assistance groups in particular operate. In response, the World Movement for Democracy, under the leadership of its International Steering Committee and in partnership with the International Center for Not-for-Profit Law (ICNL), is undertaking a project to identify and promulgate a set of international principles, already rooted in international law, that should inform government-civil society relations.

Adherence to these principles—which include the rights of citizens to associate in nongovernmental organizations (NGOs), to advocate, and to receive assistance from within and beyond national borders—is indispensable for advancing, consolidating, and strengthening democracy. However, these are precisely the principles that an increasing number of governments, including signatories to the appropriate international laws and conventions in which the principles are enshrined, are violating in the ongoing backlash against democracy.

With this report, the first phase of the Defending Civil Society project, in partnership with the ICNL, the World Movement for Democracy begins an international campaign to promote the adoption of the principles the report articulates. Through this campaign, the World Movement - a global network of democracy and human rights activists, practitioners, scholars, donors, and others engaged in democracy promotion - also seeks to strengthen international solidarity among

democracy-assistance, human rights and related NGOs at a precarious moment for the work they undertake.

To help advance the promotion and adoption of these internationally-recognized principles that protect civil society (hereafter ‘international principles’: see box), the World Movement has assembled an Eminent Persons Group that includes former Canadian Prime Minister Kim Campbell, former Brazilian President Fernando Henrique Cardoso, His Holiness the Dalai Lama, former Czech President Vaclav Havel, former Malaysian Deputy Prime Minister Anwar Ibrahim, and Egyptian scholar and activist Saad Eddin Ibrahim, and Archbishop Desmond Tutu.

Following the initial drafting of this report, the World Movement secretariat organized five regional consultations during May-August 2007. These consultations—held in Casablanca, Morocco; Lima, Peru; Kyiv, Ukraine; Bangkok, Thailand; and Johannesburg, South Africa—enabled grassroots activists, independent journalists, democracy assistance practitioners, scholars, and others to review interim drafts of the report, offer their comments and recommendations for the final version, and suggest strategies for advancing the international principles. Many of the recommended changes and suggested strategies have been incorporated into the report. In addition, as a result of the regional consultation in Casablanca, a specific Middle East/North Africa report on the regional environment for civil society work will be issued, featuring ten country reports prepared by local civil society leaders. This regional report will be available in Arabic and English

for distribution and posting on Web sites throughout the region.

Rationale for the Defending Civil Society Project

We have recently witnessed a backlash against democracy on the part of regimes that seek to frustrate, undermine, or prohibit the activities of democratic and civil society groups and individual activists. In some post-Soviet states, for instance, authoritarian tendencies have revived, fueled by nationalism, a cold war legacy of fear of and hostility to “foreign enemies,” populist exploitation of social inequalities, and the imposition of non-democratic measures by democratically elected leaders.

Outside the post-Communist sphere, “semi-authoritarian” or “hybrid” regimes have stepped up measures to curb democratic activities they consider threatening. As examples in the following pages reveal, democratic space has been eroded by curtailing fundamental freedoms, disregarding the rule of law, suppressing civil society organizations and stifling independence of the media. Such regimes tend to adopt relatively sophisticated measures to constrain independent NGOs, using ostensibly technical or administrative regulations to restrict civil society groups. Of course, in regimes like Cuba, Turkmenistan or North Korea, more crudely familiar repressive techniques are also deployed.

Many regimes are imposing controls on civil society under the pretexts of ensuring security, political stability, and non-interference in the country’s internal affairs. Governments place restrictions on NGO activities, constrain their work, and harass and intimidate civil society activists in violation of internationally accepted principles of freedom. NGOs that

advocate for human rights and democracy, including many that work in conflict zones, are particularly targeted. Regimes justify such actions by accusing independent NGOs of treason, espionage, subversion, foreign interference, or terrorism. These are but rationalizations, however; the real motivation is almost always political. These actions are not about defending citizens from harm but rather protecting those in power from scrutiny and accountability.

Semi-authoritarian governments are developing tools to suppress and silence independent groups, from manifestly restrictive laws and regulations to quietly burdensome registration and tax requirements. Charges leveled against NGOs are usually vague, such as “disturbing social order” or “undermining security,” and, to make matters worse, implementation and enforcement of such charges are arbitrary, fostering a climate of self-censorship and fear.

While authoritarian, hybrid or semi-authoritarian regimes pose growing challenges to democracy advocates and their international supporters, the international community cannot ignore those authoritarian regimes that were largely unaffected by the Third Wave of democracy and continue to repress all forms of independent political activity. Many of the examples in this report, provided in the context of the recent backlash, reflect measures that some governments have imposed for decades. Recent events in Burma, for instance, remind us of the closed societies in East Asia and elsewhere where people are denied the most basic human rights. Other governments, at least temporarily, have married economic progress with strict political control, serving as models for rulers who want both the benefits

of economic openness and a monopoly of political power. Whether that combination is sustainable is an open question, but in an age of global communications and transparency, such situations offer both challenges and opportunities.

Outline of the report

This report is divided into four sections: Legal Barriers to Civil Society Organizations; Government Justifications for Legal Barriers; International Principles Protecting Civil Society; and Next Steps: Building Solidarity and Promoting the Principles. In the first section, the legal barriers are discussed within several categories:

- **barriers to entry**, particularly the use of law to discourage, burden, or prevent the formation of organizations;
- **barriers to operational activity**, or the use of law to prevent organizations from carrying out their legitimate activities;
- **barriers to speech and advocacy**, or the use of law to restrict NGOs from engaging in the full range of free expression and public policy engagement; and
- **barriers to resources** or the use of law to restrict the ability of organizations to secure the financial resources necessary to carry out their work.

Examples are provided to elucidate each category in a nuanced way. We have not sought to provide a comprehensive account of regimes taking measures to implement such restrictions. The examples provided are intended to be illustrative of the challenges NGOs face in a wide—and widening—range of countries. In addition, the authors of the report fully recognize that there are significant variations in the challenges civil society

confronts within regions and from one region to another. The Middle East/North Africa regional report mentioned above, for example, aims to describe the differences among the countries in that region regarding the legal environments for civil society activity. We encourage efforts in other regions to conduct similar surveys.

The second section of the report briefly surveys governments' justifications for establishing legal barriers. Again, the examples are not meant to be comprehensive but to illustrate the ways in which such justifications serve to deflect criticism by obscuring governments' intentions. This section of the report is instructive in the ways in which such proffered justifications can be analyzed and, for the most part, rejected.

The third and fundamental section of the report, on the international principles protecting civil society, articulates the rights of civil society organizations that are being systematically violated. Not surprisingly, these principles and rights correspond to the legal barriers discussed in the first section of the report. They include:

- the right to entry (or freedom of association);
- the right to operate free from government interference;
- the right to free expression;
- the right to communication and cooperation;
- the right to seek and secure resources; and,
- the state's duty to protect or promote respect for human rights and fundamental freedoms and its obligation to protect the rights of NGOs.

To ensure a full understanding of these principles and rights in order to have the best chance for promoting adherence to them, this section provides specific citations of documents and other references reflecting their roots in international law and longstanding international acceptance. The articulation of these principles and rights is meant to augment other efforts to delineate such principles.

For instance, the International Labor Organization (ILO) long ago issued its Declaration on Fundamental Principles and Rights at Work. More recently, the European Parliament's Foreign Affairs Committee expressed its concern about attacks on human rights defenders, insisting that the European Council and European Commission raise the situation of human rights defenders systematically in all political dialogues, while the U.S. State Department formulated ten principles for informing government treatment of NGOs, including the right to function in an environment free from harassment, intimidation and discrimination; to receive financial support from domestic, foreign, and international entities; and suggesting that laws regulating NGOs be applied apolitically and equitably.

The final section, on ways to use the report to advance the principles it articulates provides a short list of recommended actions that civil society organizations and others can take, including actions to enlist the help of the international community, actions that civil society organizations can implement cooperatively, and actions specifically aimed at democracy assistance organizations. The World Movement will be facilitating a number of opportunities for discussing these and other suggested actions in greater detail.

About the authors

The International Center for Not-for-Profit Law (ICNL) is the leading source of information on the legal environment for civil society and public participation. Since 1992, ICNL has served as a resource to civil society leaders, government officials, and the donor community in over 90 countries. More information about ICNL can be found at: www.icnl.org. The National Endowment for Democracy (NED) initiated the World Movement for Democracy in 1999 and currently serves as its secretariat. More information about NED can be found at: www.ned.org. Information about the World Movement for Democracy can be found at www.wmd.org. The World Movement for Democracy expresses its deep appreciation to ICNL for its gracious and expert cooperation in the production of this report.

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Legal Barriers to Civil Society Organizations

A disturbingly large number of governments – principally, but not exclusively authoritarian or hybrid regimes – are using legal and regulatory measures to undermine and constrain civil society. Legal constraints fall broadly into five categories:

- barriers to entry;
- barriers to operational activity;
- barriers to speech and advocacy;
- barriers to contact and communication; and
- barriers to resources.

Legal impediments affect a broad range of civil society organizations, regardless of their mission, but in many countries organizations pursuing human rights and democracy are disproportionately affected, if not deliberately targeted.

Legal barriers arise from a variety of sources, including constitutions, legislation, regulations, decrees, court decisions, and other legally binding measures. Moreover, legislation impacting NGOs extends beyond laws specifically designed to govern civil society organizations. Such legislation includes, for example, anti-terrorism or anti-extremism legislation, state security or state secrets legislation, and even regulations affecting Internet use, and access to information and assembly.

Country-specific examples are drawn from testimony given by civil society activists during a series of consultations and discussions, as well as publicly available media sources. The consultations convened NGOs and activists from various regions, identifying barriers to civil society organizations in the Middle

East and North Africa (consultation held in Casablanca), Latin America (Lima), Asia (Bangkok), the former Soviet Union (Kyiv) and sub-Saharan Africa (Johannesburg). No citations are provided in order to protect the identity of sources, especially those working in politically hostile environments.

This paper considers not only the law as written but also as applied in practice. Moreover, rather than provide an exhaustive list of offending countries, our aim is to root the legal barriers in real circumstances. We recognize, of course, that summary statements of legal barriers lack the background and context necessary for a fully nuanced understanding of a specific situation. However, the country examples are intended not to provide a detailed understanding of any single barrier or specific country, but rather to illustrate the wide range of barriers being used in countries around the world and to demonstrate, succinctly, how legal barriers constrain civil society.

I. Barriers to Entry

Restrictive legal provisions are increasingly used to discourage, burden and, at times, prevent the formation of civil society organizations. Barriers to entry include:

(1) Limited right to associate. Most directly, the law may limit the right to associate at all, whether in informal groups or as registered legal entities.

- In **Libya**, there is no legally-recognized right to associate.
- In **Saudi Arabia**, only organizations established by royal decree are allowed.

- In **North Korea**, any unauthorized assembly or association is regarded as a collective disturbance, and liable to punishment.

(2) Prohibitions against unregistered groups. In a clear infringement of freedom of association, some governments require groups of individuals to register, and prohibit informal, unregistered organizations from conducting activities. They often impose penalties on persons engaging with unregistered organizations.

- In **Uzbekistan**, the Administrative Liability Code makes it illegal to participate in the activity of an unregistered organization.
- In **Cuba**, persons involved in unauthorized associations risk imprisonment and/or substantial fines.
- In **Belarus**, state authorities have warned 20 organizations that they have breached the Law on Public Organizations by participating in the unregistered group, the *Assembly of Non-Governmental Organisations* (which has reportedly been denied registration several times)

(3) Restrictions on founders. The law can limit freedom of association by restricting eligible founders or by requiring difficult-to-reach minimum thresholds for founders.

- In **Turkmenistan**, national-level associations can only be established with a minimum of 500 members.
- In many countries, from **Macedonia** to **Malaysia**, from **Thailand** to **Taiwan**, the law permits only citizens to serve as founders of associations, thereby denying freedom of association

to refugees, migrant workers, and stateless persons.

- In addition, in **Qatar**, founders of an association are required not only to be Qatari nationals but also to be of “good conduct and reputation.”

(4) Burdensome registration/incorporation procedures. Many states require NGOs to undergo formal registration, - incorporation, or other similar – procedures (hereinafter “registration”) in order to attain legal entity status, and some make the process so difficult that it effectively prevents NGOs from being registered. Such barriers include a lack of clarity regarding the registration procedures; detailed, complex documentation requirements; prohibitively high registration fees; and excessive delays in the registration process.

- In **Ethiopia and Algeria**, regulations governing the registration process are vague and leave considerable discretion to the registration officials. Consequently, NGOs have had difficulty registering, experiencing long delays, repeated requests for information, and in some cases denial.
- In the **United Arab Emirates**, the government has actively discouraged the creation of human rights organizations by simply not responding to registration applications from such groups, some of whom have been waiting years.
- In **Malaysia**, excessive delays in registering as an NGO (a “society”) compel organizations to opt to register as for-profit companies or partnerships, which thereby prevent these organizations from recruiting members or receiving tax exemptions.

- In **Syria**, only a handful of NGOs closely associated with the regime (in effect, government-organized NGOs, or GONGOs) have successfully navigated the registration process.

(5) Vague grounds for denial. A common legal tool is the use of overbroad, vague grounds for denying registration applications. Compounding the problem, the law may provide no mechanism to appeal the decision.

- In **Bahrain**, according to the law on associations, the government can refuse registration to an organization if “society does not need its services or if there are other associations that fulfill society’s needs in the [same] field of activity.”
- In **Russia**, a gay rights organization was denied registration on the grounds that its work “undermines the sovereignty and territorial integrity of the Russian Federation in view of the reduction of the population.”
- In **Malaysia**, the Societies Act provides that the registrar may not register any local society “which *in the opinion of the Minister* is likely to affect the interests of the security of the Federation or any part thereof, public order or morality,” and “where *it appears to him* that such local society is unlawful under provisions of this Act or any other written law or is likely to be used for unlawful purposes or any purpose prejudicial to or incompatible with peace, welfare, good order, or morality in the federation.” (italics added)

(6) Re-registration requirements. In practice, re-registration requirements burden civil

society and give the state repeated chances to deny entry to politically disfavored organizations.

- In **Uzbekistan**, in 2004, President Islam Karimov issued a decree requiring local NGOs working on “women’s issues”, which make up 70-80 percent of all NGOs in the country, to re-register with the Ministry of Justice. Organizations that chose not to do so were forced to cease their activities. In addition, the Karimov government imposed a re-registration requirement on previously accredited international organizations.
- In **Rwanda**, civil society work is hampered by the requirement of annual renewal of registration.
- Similarly, in **Zambia**, a newly proposed NGO bill would require NGOs to register annually.

(7) Barriers for international organizations. Some countries use legal barriers specifically to target international organizations, seeking to prevent or impede their operation inside the country.

- In **Jordan**, international organizations may set up branch offices, subject to “any conditions and restrictions which [the Minister of Social Development] imposes.”
- Even more starkly, in some countries, like **Turkmenistan**, registration of foreign organizations is practically impossible.
- In **Uganda**, registration of a foreign organization requires a recommendation from the diplomatic mission in Uganda or a duly authorized government office of

the organization's home country. Prior to registration, the NGO Board (a government agency within the Ministry of Internal Affairs) must approve its structure, foreign employees, and a plan to replace its foreign employees.

II. Barriers to Operational Activity

Even when NGOs have successfully negotiated the above barriers to entry, the law may subject them to a wide range of constraints to legitimate activities. Such impediments assume many forms.

(1) Direct prohibitions against spheres of activity. In some cases, the law may directly prohibit NGOs from participating in certain spheres of activity.

- The law in **Equatorial Guinea** restricts NGOs from engaging in promoting, monitoring or engaging in any human rights activities and requires government approval for political gatherings involving more than ten individuals.
- Prohibitions are formulated in broad, imprecise, and vague terms, giving considerable discretion to government officials. For example, in **Tanzania**, an International NGO must “refrain from doing any act which is likely to cause misunderstanding” among indigenous or domestic NGOs.
- Laws in several countries prohibit participation in “political,” “extremist” or “terrorist” activity without defining these terms clearly; such vague language allows the state to block NGO activity in legitimate spheres of work (and to brand NGOs or NGO activists as “extremists” or

“terrorists”).

(2) Invasive supervisory oversight. The law invites arbitrary interference in NGO activities by empowering governmental bodies to exercise stringent supervisory oversight of NGOs. Invasive oversight may take the form of burdensome reporting requirements, interference in internal management, and mandatory coordination with government policy.

- In **Syria**, the law authorizes state interference in associational activities, by allowing government representatives to attend association meetings and requiring associations to obtain permission to undertake most activities.
- Similarly, in **Russia**, NGO legislation authorizes the government to request any financial, operational, or internal document at any time without any limitation, and to send government representatives to an organization's events and meetings (including internal business or strategy meetings).
- A draft NGO Bill in **Nigeria** authorizes a government-controlled NGO Council to “do anything which in its opinion is calculated to facilitate the carrying out of its actions under” the act.
- **Vietnam's** Decree 88, governing associations, provides for strict control over associations at all levels. Associations registered under Decree 88 are directly linked to government programs, and effectively serve as agencies of government ministries. The government has the right to intervene in all stages of NGO operations, including membership, and it may veto members or introduce

members of its own choice.

(3) Government harassment. Poorly drafted laws encourage government harassment through repeated inspections and requests for documentation, as well as the filing of warnings against NGOs. Indeed, governments also take “extra-legal” actions to harass independent groups.

- In **Egypt**, NGOs are impeded by the extra-legal actions of the security services, who scrutinize and harass civil society activists even though the law does not accord them any such powers.
- In **Belarus**, 78 civil society organizations (CSOs) were forced to cease operations in 2003 due to harassment from government officials. In 2004, the government inspected and issued warnings to 800 others. These inspections have proved successful in disrupting NGOs, preventing them from concentrating on their mission activities.
- In **Cuba**, officials have used the provisions of the Law for the Protection of National Independence and the Economy of Cuba, which outlaws “counterrevolutionary” or “subversive” activities, to harass dissidents and human rights activists.
- Most recently, in **Burma**, after images of the beatings of Buddhist monks and the killing of a Japanese photographer leaked out via the Internet, Burma’s military rulers physically disconnected primary telecommunications cables in two major cities, thereby blocking 85 percent of e-mail service providers and nearly all political-opposition and pro-democracy websites.

(4) Criminal sanctions against individuals. The use of criminal penalties against individuals connected with NGOs can prove a powerful deterrent against NGO activities and freedom of association.

- **Tanzania’s** NGO Act (2002) contains penal provisions for even minor breaches of the Act (e.g., use of an inappropriate registration form is punishable by imprisonment). More disturbingly, the Act places the burden of proof in a criminal trial against office bearers of an NGO not on the prosecution, but on the accused.
- In **Yemen**, the Law Concerning Associations and Foundations includes draconian individual punishments, providing up to six months in prison for individuals who are not members of an NGO but participate in the management or discussions of an NGO’s General Assembly without express approval of the NGO’s Board of Directors, and up to three months in prison for any violation of the Law, no matter how small.
- The **Iranian** government has used “suspended” sentences against civil society activists as a way to avoid international condemnation for imprisoning activists while simultaneously discouraging them from future activism.

(5) Failure to protect individuals and organizations from violence. The conspicuous failure of states to protect individual activists and civil society representatives in the face of threats, intimidation, violent assault and even murder creates a climate of fear that can effectively undermine the strength of civil society.

- In the **Philippines**, since 2001, there have been a rising number of cases of unsolved extra-judicial killings and abductions of human rights and political activists. The government’s own Commission on Human Rights estimates the number of victims between 2001 and May 2007 at 403 people – more than one per week.
- In **Colombia**, in a July 2007 incident similar to many others this year, members of a paramilitary group operating openly and in conspicuous communication with the police publicly threatened members of the Peace Community of San José de Apartadó. With no police response to this reported threat, the next day the same paramilitary members murdered one of the group’s leaders, constituting the fourth murder of a leader of the Peace Community over a 20 month period.

(6) Termination and Dissolution. The ultimate supervisory tool against NGOs is suspension and/or termination, which is often based on vague or arbitrary legal grounds.

- In **Argentina**, the law permits the termination of an NGO when it is “necessary” or “in the best interests of the public.”
- In **Burma**, the Ministry of Home Affairs issued an order that terminated 24 civic organizations, including the *Free Funeral Services Society* and the *Chinese Traders Association*, founded in 1909; the termination order did not indicate a clear basis for closure, stating only that “the registration of the following 24 associations in Rangoon division has been objected to and that officials need to take necessary action

as per the registration law of forming associations.”

(7) Establishment of GONGOs. By legislation or decree, governments have established organizations known as “government-organized NGOs” or GONGOs. GONGOs represent a threat to civil society, when they are used to monopolize the space of civil society-government dialogue, attack legitimate NGOs, defend government policy under the cover of being “independent,” – or otherwise inappropriately reduce the space for truly independent civic activity – all of which make GONGOs difficult to categorize.

III. Barriers to Speech and Advocacy

For many NGOs, particularly those engaged in human rights and democracy promotion, the ability to speak freely, raise awareness and engage in advocacy is fundamental to fulfilling their mission. Legal provisions are used to restrict the ability of NGOs to engage in a full range of free expression, including advocacy and public policy engagement.

(1) Prior restraints and censorship. In some countries, restrictions may come through direct burdens on publication.

- In the **United Arab Emirates**, the Law on Associations (1999) requires associations to follow government censorship guidelines and to receive prior government approval before publishing any material.
- In **Uganda**, NGOs wishing to publish human rights materials must submit them to the Government Media Center for scrutiny before publication.

(2) Defamation laws. Laws of defamation are used to hinder free speech and protect

powerful people from scrutiny.

- In 2005-2006, in **Cambodia**, several human rights activists were arrested and detained on defamation charges. Defamation remains a criminal offence for which suspects can be arrested, and subject to fines of up to 10 million riel (US\$2,500) – a sum which most Cambodians would have little chance of paying, thus facing the prospect of imprisonment for incurring debts.

(3) Broad, vague restrictions against advocacy.

Broad, ambiguous terms are often used to restrict “political” activities or “extremist” activities, giving the government substantial discretion to punish those whose statements are deemed improper, which in turn serves to chill free expression.

- In **Nepal**, a proposed Code of Conduct would have outlawed “attempts of political influence” on others.
- The **Russian** Law on Extremist Activity (2003) prohibits advocacy of extreme political positions and relies on a vague definition of “extremist activity,” inviting the government to label NGOs that advocate positions counter to the state as extremist.

(4) Criminalization of dissent. In some countries, the law may be so phrased as to potentially criminalize the actual expression of criticism against the ruling regime.

- In **Belarus** in 2005, the Criminal Code was amended to prohibit the dissemination of “dishonest” information about the political, economic, or social situation of the country, with a corresponding penalty of up to six months in prison.
- Similarly, in **Malaysia**, the Anti-

Sedition Act prohibits public discussion of certain issues altogether, and provides that the dissemination of false information can lead to imprisonment.

- In **Vietnam**, thousands of individuals are currently detained under catch-all “national security” provisions in the Vietnamese Criminal Code, such as “spying” (article 80, which includes sending abroad documents which are not state secrets “for use by foreign governments against the Socialist Republic of Vietnam”) and article 88, which forbids “conducting propaganda”). In addition, the Law on Publication strictly prohibits the dissemination of books or articles which “disseminate reactionary ideas and culture ...; destroy fine customs and habits; divulge secrets of the Party, State, and security ...; distort history, deny revolutionary achievements, hurt our great men and national heroes, slander or hurt the prestige of organizations, honor and dignity of citizens.”

(5) Restrictions on freedom of assembly.

By making it difficult or even illegal for individuals and groups to gather or meet (i.e., to exercise freedom of assembly), the law directly hinders the ability of NGO representatives, and individuals generally, to plan and/or engage in advocacy activities.

- In **Singapore**, any gathering of five or more people for non-social purposes is considered an illegal assembly.
- The Law on Demonstrations in **Russia** requires notification to the government for any assembly, mass meeting, demonstration, procession or vigil, occurring at any place and

time, which involve more than ten people for non-private purposes.

- The government of **Paraguay** has introduced proposals for the modification of the penal code and an Anti-Terrorist Law which could result in the criminalization of social protest.

IV. Barriers to Contact and Communication

Closely related to free expression is the ability of NGOs to receive and provide information, to meet and exchange ideas with civil society counterparts inside and outside their home countries. Here again, the law is being used to prevent or stifle such free exchanges of contact and communication.

(1) Barriers to the creation of networks. Existing legal entities—whether associations, foundations, trade unions or other legal forms – may be limited in their freedom to form groups or establish networks, coalitions or federations, or even prohibited from doing so.

- The NGO Act 2002 in **Tanzania** established a National Council of NGOs as the sole umbrella group for NGOs, compelling all NGOs to belong to the Council, and prohibiting any person or organizations from performing “anything which the Council is empowered or required to do” under the Act. Thus, no other NGO umbrella group can operate lawfully.
- In **Bosnia and Herzegovina**, the government has simply refused for years to register associations of legal entities – i.e., umbrella groups – whether established by trade unions,

foundations or other associations.

(2) Barriers to international contact. Governments prevent and inhibit international contact by denying internationals entry into the country, or by hindering nationals from leaving the country. In addition, meetings and events convening nationals and internationals are restricted.

- The 1999 Law on Associations in the **United Arab Emirates**, for example, restricts NGO members from participating in events outside the country without government permission.
- **Egypt’s** Law 84/2002 restricts the right of NGOs to join with non-Egyptian NGOs, and “to communicate with non-governmental or intergovernmental organizations.” Moreover, the law threatens NGOs that interact with foreign organizations with dissolution.
- In **Uzbekistan**, several international NGOs were ordered to terminate their activities due to engaging in “close cooperation and providing assistance to the activists of non-registered organizations.”
- The ability to conduct conferences with domestic and international participants is severely constrained in many countries. In **Algeria**, for example, the Algerian human rights league organized a conference on the disappeared and invited lawyers and activists from Latin America and other countries. International participants were denied visas to enter the country, and nationals were blocked from entering the conference. Similarly, in **Tunisia**, a court ordered the Tunisian Human

Rights League to desist from holding a human rights conference.

- In **China**, the government closed the China Development Brief (CDB), a publication which helped to connect Chinese nonprofit organizations with potential foreign funders. Termination was based on allegations that the publication conducted unauthorized surveys.

(3) Barriers to communication. Legal barriers affecting the free use of the Internet and web-based communication are becoming increasingly common. The impact of these restrictions reaches far beyond civil society, of course, but civil society leaders and their organizations are prominent targets.

- In **Syria**, seven human rights defenders, who allegedly participated in a pro-democracy discussion group and published articles on the Internet which criticized the lack of democracy and freedom in Syria, were sentenced to between five and seven years' imprisonment on 17 June 2007 on charges of "carrying out activities or making written statements or speeches that expose Syria to the risk of hostile operations."
- In **Vietnam**, Decision 71 (2004) strictly prohibits "taking advantage of the web to disrupt social order and safety" and obliges users of Internet cafes to provide a photo ID which is kept on file for 30 days. Decree 56/2006 imposes exorbitant fines of up to 30 million VND (2000 USD) for circulating "harmful" information by any means.
- In **Zimbabwe**, the Interception of Communications Act signed into law on 3 August 2007 authorizes the

government "to intercept mail, phone calls and emails without having to get court approval."

(4) Criminal sanctions against individuals. As noted above, criminal laws can be enforced to undermine NGO activity, while states have used criminal sanctions to prevent and discourage free contact and communication.

- In **Angola**, in February 2007, a human rights and anti-corruption campaigner was arrested by armed Angolan police while visiting an oil-rich enclave to meet with local civil society representatives. She has reportedly been charged with espionage.
- In Novorossiysk, **Russia**, in January 2007, nine members of Froda, an NGO that campaigns for ethnic minority rights, were found guilty of holding an unsanctioned "tea" meeting with two German students.

V. Barriers to Resources

The law can be used to restrict the ability of NGOs to secure resources necessary to carry out their activities. Barriers to funding have become increasingly common in recent years, targeting foreign funding in particular.

(1) Prohibitions against funding. Most directly, the law may prohibit the receipt of certain categories of funding altogether.

- In **Eritrea**, the government issued Administration Proclamation No. 145/2005 that broadly restricts the U.N. and bilateral agencies from funding NGOs.
- In the Transnistria region of **Moldova**, the president of the separatist government signed a decree in 2006

prohibiting foreign funding of NGOs registered in Transnistria. Specifically, NGOs were prohibited from receiving funding directly or indirectly from any international or foreign organization, foreign government, Transnistrian organization with a foreign capital share in excess of 20 percent, foreign citizen or stateless person, or any anonymous source.

- An NGO Bill was enacted in **Zimbabwe** in 2004 (though never signed into law) that would have prohibited local NGOs engaged in “issues of governance” from accessing foreign funds.

(2) Advance government approval. More commonly, the law allows the receipt of foreign funding, but requires advance governmental approval.

- Foreign donations to associations in **Algeria** must be pre-approved by the Ministry of Interior.
- **Egyptian** NGOs can be severely punished for collecting or sending funds abroad without official permission, or for affiliating with a foreign NGO network or association without ministry permission. A government decree, citing the foreign funding restriction, recently dissolved the Association for Human Rights Legal Aid.

(3) Routing Funding through the Government.

- **Eritrea**’s Proclamation No. 145/2005 (mentioned above) requires all donor funds to flow through government ministries, allowing NGOs to receive funding only if there is insufficient

capacity at the ministry level.

- A draft International Cooperation Bill in **Venezuela** proposes a Fund for Cooperation and International Assistance, which would receive various forms of financial resources, such as financial assistance from foreign governments, international organizations, and public or private institutions. It is not clear how the Fund would be managed or financial resources distributed.
- In **Uzbekistan**, in 2004, the government began requiring that foreign funding for NGOs be channeled through one of two government-controlled banks, thereby allowing the monitoring of all money transfers, and affording the opportunity to extract part of the money transfer, whether through administrative fees, taxation or corruption. Reportedly, the Uzbek government has used this system to obstruct the transfer of at least 80% of foreign grants to NGOs.

To emphasize, the foregoing list of legal barriers is illustrative, not exhaustive. It should also be noted that the impact of restrictive legal measures goes beyond those organizations or individuals that may be immediately subject to them, and can lead to a chilling of civil society activity more broadly. This, of course, is more difficult to measure.

The aim of this report is to highlight the trend, largely prevalent within authoritarian and semi-authoritarian regimes, towards more intrusive and punitive regulation of civil society organizations. There are some grounds for concern in developed or consolidated democracies even if they do not reflect a manifestly repressive intent. In Argentina, for

example, the law permits the termination of an NGO when it is “necessary” or “in the best interests of the public”, while in India, NGOs have protested that the proposed Foreign Contribution Management Control Bill (FCMC) would further burden foreign funding. Similarly, in the United States, civil liberties groups have challenged the recent use of secret, unchallenged evidence to close down charities purportedly associated with terrorists and criticized amendments to the Foreign Intelligence Surveillance Act which expand government authority to monitor private phone calls and emails without warrants if there is “reasonable belief” that one of the parties is overseas. The fact that such issues have been and remain subject to criticism and future revision is a critical factor that sets them apart from countries where political debate is stifled.

Government Justifications for Legal Barriers

The justifications presented by governments for the regulatory backlash against civil society are as diverse as the restrictions themselves. Governments argue that they are necessary to promote NGO accountability, protect state sovereignty, or preserve national security. A key problem is that these concepts are malleable and prone to misuse, providing convenient excuses to stifle dissent, whether voiced by individuals or civil society organizations. As the United Nations has noted:

Under the pretext of security reasons, human rights defenders have been banned from leaving their towns, and police and other members of security forces have summoned defenders to their offices, intimidated them and ordered the suspension of all their human rights activities. Defenders have been prosecuted and convicted under vague security legislation and condemned to harsh sentences of imprisonment.¹

As a result, “[o]rganizations are closed down under the slightest of pretexts; sources of funding are cut off or inappropriately limited; and efforts to register an organization with a human rights mandate are delayed by intentional bureaucracy.”²

This section seeks to identify the government justifications for the regulatory backlash and examine to what extent those proffered justifications are indeed justifiable under international law.

¹ Fact Sheet No. 29: Human Rights Defenders: Protecting the Right to Defend Human Rights, p. 12.

² Id. at p. 13.

I. Government Justifications ...

In recent years, governments have defended the enactment and/or implementation of legal impediments constraining civil society as seeking to accomplish a range of governmental purposes.

To illustrate:

- Legislation recently enacted or proposed in **Afghanistan, Russia, and Uzbekistan** was premised, at least in part, on governments’ declared intent to enhance NGO accountability and transparency.
- A related but distinct justification is the desire to “harmonize” or “coordinate” NGO activities. The draft NGO Bill in **Nigeria** provided for the “harmonization” of the activities of NGOs, without defining what “harmonization” means. Similarly, the 2006 draft International Cooperation Bill in **Venezuela** sought to subject NGOs to “coordination” and “harmonic integration,” apparently intending to require NGO activities to conform with guidelines established by the President.
- Governments have sought to justify restrictions under the banner of national security, counter-terrorism or anti-extremism. Counter-terrorism was used to justify the need for **Venezuela**’s proposed International Cooperation Bill; according to Deputy Montiel, the Bill would be a “certain blow ... to those disguised NGOs, because in truth they are terrorist organizations,

prepared to claw.”³

- Among the most common justifications for the current regulatory backlash against NGOs is preventing interference with state sovereignty, or guarding against foreign influence in domestic political affairs.⁴ **Russian** President Putin has accused the U.S. and Europe of trying to subvert Russia in part through foreign-funded NGOs.⁵ State-controlled media in **Uzbekistan** have accused the United States of trying to undermine Uzbek sovereignty through the Trojan horse of democratization.⁶ **Zimbabwean** President Robert Mugabe has claimed that Western NGOs are fronts through which Western “colonial masters” subvert the government.”⁷

II. ... Under Scrutiny

The proffered government justifications may be rhetorically appealing, but rhetoric alone is not sufficient to justify interference with freedom of association and the rights of

³ Human Rights First, Memo on Venezuelan International Cooperation Bill.

⁴ In the 1990s, several prominent Asian leaders articulated a new challenge to the concept of universal human rights based on culture difference. Countries including Singapore, Malaysia and Indonesia began to argue that international human rights law should not necessarily be applied to them because it was Western and did not conform to Asian culture or, as was sometimes argued, Confucianism. This assertion of culture is somewhat similar to articulations of sovereignty. Much has been written about the “Asian values” debate, but we note the ongoing relevance of the issue for several Asian countries. For more information, see Karen Engle, *Culture and Human Rights: The Asian Values Debate in Context*, available at <http://www.law.nyu.edu/journals/jilp/issues/32/pdf/32e.pdf>.

⁵ Schofield, Matthew, *Putin Cracks Down on NGOs*, February 21, 2007.

⁶ Carothers, Thomas, *The Backlash Against Democracy Promotion*, Foreign Affairs, March/April 2006.

⁷ *Id.*

NGOs. Such interference must, instead, find legal justification. Indeed, each restriction on freedom of association, where challenged, is subject to a rigorous legal analytical test, as defined by the International Covenant for Civil and Political Rights (ICCPR) in Article 22⁸:

No restrictions may be placed on the exercise of this right [freedom of association with others] other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

Thus, restrictions on the exercise of freedom of association are justifiable *only* where they are:

- (a) Prescribed by law;
- (b) In the interests of one of the four legitimate state interests:
 - National security or public safety;

⁸ While only binding on signatories to the ICCPR, there are sound arguments for broader applicability. As members of the United Nations, every government has accepted obligations to protect the rights enshrined in international law, including the Universal Declaration of Human Rights and the ICCPR, among others. No state has ever sought to join the UN and reserve against Articles 55 and 56 of the Charter, according to which member states pledge themselves to take joint and separate action to promote “universal respect for and observance of human rights and fundamental freedoms without distinction as to race, sex, language, or religion.” Of the 8 States that abstained from the General Assembly vote in 1948, only Saudi Arabia has not renounced its abstention. (Forsythe, David, *Human Rights Fifty Years After the Universal Declaration*, PS: Political Science and Politics, Vol. 31, No.3 (Sep. 1998).

- Public order;
 - The protection of public health or morals;
 - The protection of the rights and freedoms of others; *and*
- (c) Necessary in a democratic society.

(1) Prescribed by Law?

In subjecting restrictions on freedom of association to closer scrutiny, the first question is whether or not the interference is prescribed by law. This requirement means that restrictions should have a formal basis in law and be sufficiently precise for an individual or NGO to assess whether or not their intended conduct would constitute a breach and what consequences this conduct may entail.⁹ The degree of precision required is that which sets forth clear criteria to govern the exercise of discretionary authority.¹⁰ The Johannesburg Principles assert that “[t]he law must be accessible, unambiguous, drawn narrowly and with precision so as to enable individuals to foresee whether a particular action is unlawful.”¹¹

Some of the legal barriers described above are clearly not prescribed by law. For example, the extra-legal actions of security services, which scrutinize and harass civil society activists, are certainly not prescribed by law. The failure of the state to protect groups and activists from threats of harm or violent acts is a dereliction of duty, not prescribed by law. Furthermore, vague and

⁹ OSCE/ODIHR, Key Guiding Principles of Freedom of Association with an Emphasis on Non-Governmental Organizations, page 4.

¹⁰ *Id.*

¹¹ The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, Principle 1.1(a). The Johannesburg Principles were developed by a meeting of international experts at a consultation in South Africa in October 1995 and are available at www.article19.org.

ambiguous regulatory language authorizing government officials to exercise subjective or even arbitrary decision-making (e.g., laws failing to define “extremism,” which is a ground for dissolution) may also not be prescribed in law, if the application of law is not reasonably foreseeable.

In failing to satisfy even the first prong of the ICCPR test, restrictions on freedom of association can only be deemed to violate international law.

(2) Legitimate Government Concerns?

A second issue is whether or not the restrictions are used *in pursuance of legitimate grounds*. The grounds available are limited to the four government aims listed above. The interpretation of these grounds cannot be expanded to embrace grounds other than those explicitly defined in Article 22(2).

Many of the restrictions identified in the “Legal Barriers” section of this report may not be supported by legitimate government concerns. For example, regulatory measures based on the government intent to “harmonize” or “coordinate” NGO activities are suspect. While “harmonization” and “coordination” may sound innocuous, they may also conceal the government intent to control or direct the activities of NGOs. In such cases, harmonization contradicts the basic premise of freedom of association, namely that people can organize for any legal purpose. It is difficult to see how such a justification can be compatible with the exhaustive list of ICCPR purposes and therefore be deemed legitimate.

A generalized assertion of “national sovereignty” or “state sovereignty” is questionable as a basis for interference with

fundamental freedoms, including freedom of association.¹² Claims of state sovereignty are belied by the very states using the justification for restrictions against NGOs when the very same governments use their funding to influence domestic political affairs in other countries.¹³ Hypocrisy abounds when governments accept millions (or in some cases, billions) of dollars of U.S., foreign assistance but then prohibit a local NGO from receiving a grant from a U.S.-based NGO, on the grounds that it might give the U.S. unwarranted influence over domestic political affairs. All duplicity aside, however, the critical point is that international law does not automatically recognize generalized assertions of “state sovereignty” as a justification to infringe fundamental rights and freedoms.¹⁴

Assertions of national security or public safety may, in certain circumstances, constitute a legitimate state aim. But states may not enact whichever measures they deem appropriate in the name of national security, public safety, or counter-terrorism.¹⁵ Claims of national security shall be construed restrictively as justifying measures limiting certain rights *only when* they are taken to protect the existence

of the nation or its territorial integrity or political independence against force or threat of force. National security cannot be invoked as a reason for imposing limitations to prevent merely local or relatively isolated threats to law and order.¹⁶

In sum, many legal barriers amount to restrictions not linked to legitimate state aims and are therefore insupportable. Where restrictions on freedom of association are both prescribed by law and in the interest of legitimate state purposes, we must then turn to the final prong of the analysis.

(3) Necessary in a Democratic Society?

Legitimate government concerns, in and of themselves, do not justify interference with freedom of association, unless that interference is “necessary in a democratic society.” Stated differently, restrictions prescribed by law and amounting to interference with freedom of association cannot be justified merely because they are linked with legitimate government interests; they must also be necessary in a democratic society. The “necessary” test implies that any measures must be proportionate to the legitimate aim pursued, and only imposed to

¹² See Neier, Aryeh, Open Society Institute, “Asian Values vs. Human Rights”, available at <http://www.nancho.net/fdlap/fdes-say2.html>, where the conflict between Asian values and fundamental human rights is questioned.

¹³ See *The Backlash against Democracy Assistance*, Report prepared by the National Endowment for Democracy, June 8, 2006, p. 12 (The Russian Duma, in November 2005, allocated 500 million rubles (\$17.4 million) to “promote civil society” and defend the rights of Russians in Baltic States. Venezuela has reportedly invested considerable sums in supporting Cuba, subsidizing the election campaign of Bolivia’s president Evo Morales, and funding other radical or populist groups in Latin America.)

¹⁴ Please note the following discussion regarding the limitations on the use of the national security exception. These same arguments are presumably applicable to the state sovereignty claim.

¹⁵ *Izmir Savas Karsitlari Dernegi & Others v. Turkey*, European Court of Human Rights, Application no. 46257/99, 2 March 2006, at page 36, 49-50 (the case is available only in French).

¹⁶ OSCE/ODIHR, Key Guiding Principles of Freedom of Association with an Emphasis on Non-Governmental Organizations, page 5, drawing on criteria from the “Siracusa Principles” [United Nations, Economic and Social Council, U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities, Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, Annex, UN Doc E/CN.4/1985/4 (1985)] adopted in May 1984 by a group of international human rights experts convened by the International Commission of Jurists, the International Association of Penal Law, the American Association for the International Commission of Jurists, the Urban Morgan Institute for Human Rights, and the International Institute of Higher Studies in Criminal Sciences. Though not legally binding, these principles provide an authoritative source of interpretation of the ICCPR with regard to limitations clauses and issue of derogation in a public emergency.

the extent which is no more than absolutely necessary; there must be a pressing social need for the interference.¹⁷

To determine whether government interference is necessary, it is important to consider whether or not there are less intrusive means available to accomplish the desired end. For example, the use of government supervision to disrupt the activity of NGOs (through government attendance at the internal meetings of NGOs or the requirement of advance government approval to engage in human rights activities) certainly amounts to interference with freedom of association. Although prescribed by law, and at least arguably linked to a legitimate government interest (public order or the protection of the rights and freedoms of others), such invasive government actions cannot be considered necessary in a democratic society. Indeed, a number of countries have developed less intrusive means to accomplish the same ends.

Thus, even if restrictions are implemented in pursuance of legitimate government aims, they will be deemed violations of international law if not necessary in a democratic society. Most of the legal barriers listed in this paper are insupportable on this basis. Put simply, legitimate state interests can never justify the use of disproportionate constraints, such as:

- arrest of individuals simply for participating in the activities of an unregistered organization;
- the restriction of the right to register an NGO to citizens only;
- denial of registration to an NGO dedicated to cultural preservation of

¹⁷ OSCE/ODIHR, Key Guiding Principles of Freedom of Association with an Emphasis on Non-Governmental Organizations, page 4.

- a minority group or to human rights;
- granting of unlimited authority to the state to inspect NGO premises or attend any NGO meeting or event;
- harassment, arrest and imprisonment of peaceful critics of the government;
- closure of international NGOs for engaging in peaceful, lawful activities;
- arrest of local NGO representatives for meeting with foreign students;
- requirement that NGOs receive advance permission from the state before meeting or participating in foreign NGO networks; and/or
- placement of stifling restraints on the ability to access resources.

To consider the legality of each legal barrier cited in this paper is beyond the scope of this inquiry. On the contrary, it is the state's obligation to demonstrate that the interference passes scrutiny under the foregoing analytical framework.¹⁸ Unless the state is able to show that the restriction at issue is prescribed by law, in the interest of legitimate government aim(s) and necessary in a democratic society, then that restriction is not justified.

¹⁸ The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, Principle 1(d): "The burden of demonstrating the validity of the restriction rests with the government."

International Principles Protecting Civil Society

To protect civil society from the regulatory barriers described in this paper, this section seeks to articulate principles that govern and protect civil society – and in particular, NGOs – from repressive intrusions of governments. Tracking the five clusters of legal barriers, the principles are designed to ensure that states honor:

- (1) the right of NGOs to entry (that is, the right of individuals to form and join NGOs);
 - (2) the right to operate to fulfill their legal purposes without state interference;
 - (3) the right to free expression;
 - (4) the right to communication with domestic and international partners; and
 - (5) the right to seek and secure resources.
- Finally, these principles underscore
- (6) the state's positive obligation to protect the rights of NGOs.

I. The Right to Entry (Freedom of Association)

International law protects the right of individuals to form, join and participate in civil society organizations.

(1) Right to Form or Join an NGO

The rights of civil society are rooted in the concept of freedom of association as guaranteed by the Universal Declaration of Human Rights¹⁹, the International Covenant for Civil and Political Rights (ICCPR)²⁰,

¹⁹ Adopted by General Assembly Resolution 217a (III) of 10 December 1948. Source: <http://www.ohchr.org/english/about/publications/docs/fs2.htm>.

²⁰ Entry into force 23 March 1976; adopted by the General Assembly in Resolution 2200A (XXI) of 16 December 1966. Source: <http://www.ohchr.org/english/law/ccpr.htm>.

the International Covenant on Economic Social and Cultural Rights (ICESCR)²¹, and a substantial list of other human rights conventions and declarations²². Freedom of association involves the right of individuals to interact and organize among themselves to collectively express, promote, pursue and defend common interests.²³

(a) *Broad scope of right.* Freedom of association broadly protects the formation of a wide range of civil society forms.

- The Universal Declaration of Human Rights, Article 23(4), states that "Everyone has the right to form and to join trade unions for the protection of his interests." Article 22 of the ICCPR, in defining the right to freedom of association, specifically mentions trade unions, as does Article 8 of the ICESCR. The International Labor Organization's 1998 *Declaration on Fundamental Principles and Rights at Work* is particularly significant because it grounds trade union rights in the basic, democratic, political right of freedom of association.

²¹ Entry into force 3 January 1976; adopted by the General Assembly in Resolution 2200A (XXI) of 16 December 1966. Source: http://www.unhchr.ch/html/menu3/b/a_ceschr.htm

²² These include, for example, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the African Charter on Human and People's Rights, the American Convention on Human Rights, the Arab Charter on Human Rights, and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

²³ Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani, in accordance with General Assembly resolution 58/178, page 12.

- The Universal Declaration of Human Rights, Article 20(1), states that “Everyone has the right to freedom of peaceful assembly and association.” Article 22 of the ICCPR, while making specific reference only to trade unions, protects the right to form and join any associative group or membership organization.²⁴ Indeed, the European Court of Human Rights, in interpreting virtually identical language in the European Convention for the Protection of Human Rights and Fundamental Freedoms²⁵, has held specifically that freedom of association broadly embraces the right of individuals to form or join associations, political parties, religious organizations, trade unions, employer associations, companies, and various other forms of association.²⁶
- The U.N. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (hereinafter, “Defenders

Declaration”)²⁷, adopted by the General Assembly in 1998, states that “everyone has the right, individually and in association with others, at the national and international levels: ... (b) to form, join and participate in non-governmental organizations, associations, or groups.”²⁸ In recognizing that individuals can form NGOs in addition to “associations,” it implicitly recognizes that NGOs can be membership based or non-membership based. This is significant in that many of the organizations engaged in civil society support work are foundations, not-for-profit companies, or other non-membership forms.²⁹

(b) *Broadly permissible purposes.* International law recognizes the right of individuals, through NGOs, to pursue a broad range of objectives. Permissible purposes generally embrace all ‘legal’ or

²⁴ The ICCPR Human Rights Committee (established under Article 28 of the ICCPR), in expressing concern over Belarus, reiterated that “the free functioning of non-governmental organizations is essential for protection of human rights.” ICCPR, A/53/40, vol. I (1998) 26 at para. 155.

²⁵ Entry into force 3 September 1953; adopted 4 November 1950 by the members of the Council of Europe, Rome. Source: <http://conventions.coe.int/Treaty/en/Summaries/Html/005.htm>.

²⁶ See *Sidiropoulos and others v. Greece*, European Court of Human Rights, 10 July 1998, Reports of Judgments and Decisions, 1998-IV, par. 40 (“The Court points out that the right to form an association is an inherent part of the right set forth in Article 11, even if that Article only makes express reference to the right to form trade unions.”) See also *Liebscher and Hubl v. Austria*, no. 25710/94, European Commission on Human Rights, 12 April 1996 (Article 11 is also applicable to companies, regardless of whether they were founded for economic purposes or not.)

²⁷ Adopted by the General Assembly in Resolution 53/144 of 9 December 1998. Source: <http://www.ohchr.org/english/law/freedom.htm>.

²⁸ Like the 1948 Universal Declaration, the Defenders Declaration, as a General Assembly Resolution, is not legally binding. Significantly, however, it contains a series of principles and rights that are based on human rights standards enshrined in other international instruments and was adopted by consensus—therefore representing a strong commitment by states to its implementation.

²⁹ Both the US State Department and the Council of Europe have recognized the importance of NGOs in all their forms, and not only associative groups. The *Guiding Principles on Non-Governmental Organizations* (issued by the US State Department on December 14, 2006) state, for example, “Individuals should be permitted to form, join and participate in NGOs of their choosing in the exercise of the rights to freedom of expression, peaceful assembly and association.” The Committee of Ministers of the Council of Europe issued a Recommendation relating to the legal status of NGOs in Europe in October 2007, which states in section I (#2) that “NGOs encompass bodies or organisations established both by individuals persons (natural or legal) and by groups of such persons. They can be either membership or non-membership based.”

‘lawful’ purposes and emphatically includes the promotion and protection of human rights and fundamental freedoms.

- The Inter-American Commission on Human Rights (IACHR) has stated that freedom of association is the right to join with others “for the common achievement of a legal goal.”³⁰
- The Council of Europe is even more explicit on this point: “NGOs should be free to pursue their objectives, provided that both the objectives and the means employed are consistent with the requirements of a democratic society. NGOs should be free to undertake research, education and advocacy on issues of public debate, regardless of whether the position taken is in accord with government policy or requires a change in the law.”³¹
- Significantly, as recognized by the U.N. Defenders Declaration (Article 1, 5), NGOs must be free to promote and protect human rights and fundamental freedoms.

(c) *Potential founders.* The architecture of international human rights is built on the premise that all persons, including non-

³⁰ See Inter-American Commission on Human Rights, Advisory Opinion OC-5/85 of November 13, 1985, separate opinion of Judge Rafael Neito-Navia.

³¹ See Council of Europe, *Fundamental Principles*, Strasbourg, 13 November 2002, p. 3 (#10). In addition, the European Court of Human Rights has held states in violation of Article 11 (freedom of association) for denying its protection to associations with stated goals of the promotion of regional traditions (*Sidiropoulos v. Greece*, 10 July 1998, Reports of Judgments and Decisions, 1998-IV), of achieving the acknowledgement of the Macedonian minority in Bulgaria (*Stankov and the United Macedonian Organization Ilinden v. Bulgaria*, no. 29221/95 and 29225/95, ECHR 2001-IX).

citizens, enjoy certain rights, including freedom of association.

- The Universal Declaration of Human Rights recognizes this principle in Article 2(1): “everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind...”
- The ICCPR, in Article 2(1), similarly embraces non-citizens by requiring states to ensure rights to “all individuals within its territory and subject to its jurisdiction.”
- The Human Rights Committee adopted is General Comment No. 15 in 1994, which explained, in relevant part, that “the rights set forth in the Covenant apply to everyone, irrespective of reciprocity, and irrespective of his or her nationality or statelessness; and that “Aliens receive the benefit of the right of peaceful assembly and of freedom of association.”

(2) Right to Associate Informally³²

It is widely recognized that freedom of association includes the right to associate informally, that is, as a group lacking legal personality. Freedom of association cannot be made dependent on registration or legal person status. That NGOs may be formed as legal entities does not mean they are *required* to form legal entities in order to exercise their freedom of association. On the contrary, freedom of association guarantees are implicated when a gathering has been formed

³² By “informally,” we are referring to the lack of legal personality or legal entity status. We recognize that some informal groups may actually adopt highly formalized structures for their activities.

with the object of pursuing certain aims and has a degree of stability and thus some kind of institutional (though not formal) structure.³³ National law can in no way result in banning informal associations on the sole ground of their not having legal personality.³⁴

(3) Right to Seek and Obtain Legal Status

In order to meet its mission goals most effectively, individuals may seek legal personality (or legal entity status) for organizations they form. It is through legal personality that, in many countries, NGOs are able to act not merely as an individual or group of individuals, but with the advantages that legal personality may afford (e.g., ability to enter contracts, to conclude transactions for goods and services, to hire staff, to open a bank account, etc.). It is well accepted under international law that the state should enable NGOs to obtain legal entity status. Article 22 of the ICCPR would have little meaning if individuals were unable to form NGOs and also obtain legal entity status. The U.N. Special Representative on human rights defender noted that “NGOs have a right to register as legal entities and to be entitled to

the relevant benefits.”³⁵

- The European Court of Human Rights has held as follows: “That citizens should be able to form a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of the right to freedom of association, without which that right would be deprived of any meaning. The way in which national legislation enshrines this freedom and its practical application by the authorities reveal the state of democracy in the country concerned.”³⁶
- Sounding a similar note in its March 2006 report, the Inter-American Commission on Human Rights affirmed the responsibility of member states to “ensure that the procedure for entering human rights organizations in the public registries will not impede their work and that it will have a declaratory and not constitutive effect.”³⁷

In terms of the available procedures for legal recognition, some countries have adopted systems of “declaration” or “notification” whereby an organization is considered a legal entity as soon as it has notified its existence to the relevant administration by providing

33 These attributes separate gatherings protected by freedom of association from mere gatherings of people wishing to share each other’s company, or transient demonstrations, which are separately protected by the freedom of assembly. See McBride, Jeremy, *International Law and Jurisprudence in Support of Civil Society*, Enabling Civil Society, Public Interest Law Initiative, © 2003, pp. 25-26. See also Appl. No. 8317/78, *McFeely v. United Kingdom*, 20 DR 44 (1980), n. 28, at 98, in which the European Commission on Human Rights described freedom of association as being “concerned with the right to form or be affiliated with a group or organization pursuing particular aims.”

34 OSCE/ODIHR Key Guiding Principles of Freedom of Association with an Emphasis on Non-Governmental Organizations, page 6-7; see also U.N. Special Representative Report, page 21 (“... the Special Representative also believes that registration should not be compulsory. NGOs should be allowed to exist and carry out collective activities without having to register if they so wish.”)

35 Report submitted by the U.N. Special Representative of the Secretary-General on human rights defenders, Hina Jilani, in accordance with General Assembly resolution 58/178, page 21.

36 Sidiropoulos, par. 40.

37 Inter-American Commission on Human Rights, *Report of the Situation of Human Rights Defenders in the Americas*, Doc: OEA/Ser.L/V/II.124Doc.5rev.1 (March 7, 2006), Recommendation 16.

basic information.³⁸ Where states employ a registration system, it is their responsibility to ensure that the registration process is truly accessible, with clear, speedy, apolitical, and inexpensive procedures in place.³⁹ The designated registration authority should be guided by objective standards and restricted from arbitrary decision-making.

- The Inter-American Commission on Human Rights has stated that states should “[r]efrain from promoting laws and policies regarding the registration of human rights organizations that use vague, imprecise, and broad definitions of the legitimate motives for restricting their establishment and operation.”⁴⁰
- The Council of Europe maintains that “The rules governing the acquisition of legal personality should, where this is not an automatic consequence of the establishment of an NGO, be objectively framed and should not subject to the exercise of a free discretion by the relevant authority. The rules for acquiring legal personality should be widely published and the process involved should be easy to understand and satisfy.”⁴¹

³⁸ In the Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani, in accordance with General Assembly resolution 58/178, page 21, the Special Representative favors regimes of declaration instead of registration.

³⁹ “Excessively restrictive provisions of Uzbek law with respect to the registration of political parties as public associations, by the Ministry of Justice, are of deep concern.” ICCPR Human Rights Commission, A/56/40 vol. I (2001) 59 at paras. 79(23-24).

⁴⁰ Inter-American Commission on Human Rights, *Report of the Situation of Human Rights Defenders in the Americas*, Doc: OEA/Ser.L/V/II.124Doc.5rev.1 (March 7, 2006), Recommendation 17.

⁴¹ Council of Europe Recommendation on legal status of NGOs, section IV (#28-29).

II. The Right to Operate Free from Unwarranted State Interference

Once formed, NGOs have the right to operate in an enabling environment, free from unwarranted state intrusion or interference in their affairs.

(1) Protection against Unwarranted State Interference

International law creates a presumption against any state regulation that would amount to a restriction of recognized rights. The ICCPR lists four permissible grounds for state interference with freedom of association: the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.⁴² It is the state’s obligation to demonstrate that the interference is justified. Interference can only be justified where it is prescribed by law, in the interests of a legitimate government interest, and “necessary in a democratic society.” This litmus test applies broadly to the use of regulatory restrictions on the fundamental rights of NGOs.⁴³

To emphasize, the Human Rights Committee

⁴² Article 22(2), ICCPR: “No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.”

⁴³ See also U.S. State Department, *Guiding Principles*, no. 2 (“Any restrictions which may be placed on the exercise by members of NGOs of the rights to freedom of expression, peaceful assembly and association must be consistent with international legal obligations.”). In addition, the *Principles* note (no. 5) that “Criminal and civil penalties brought by governments against NGOs, like those brought against all individuals and organizations, should be based on tenets of due process and equality before the law.”

General Comment 31(6) has stated: “Where such restrictions are made, states must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant rights. In no case may the restrictions be applied or invoked in a manner that would impair the essence of a Covenant right.”⁴⁴

Regional human rights commissions have repeatedly made the same point; for example, the African Commission on Human and People’s Rights adopted a resolution on the right to freedom of association, providing that “in regulating the right to association, competent authorities should not enact provisions which will limit the exercise of the freedom.”⁴⁵

In the context of freedom of association, it follows that the state must refrain from unwarranted interference with the ability to form NGOs and with the ability of NGOs, once formed, to operate. NGOs should only be subject to regulation if they implicate a legitimate government interest. Moreover, it is incumbent upon the state to ensure that applicable laws and regulations are implemented and enforced in a fair, apolitical, objective, transparent and consistent manner.⁴⁶

⁴⁴ ICCPR Human Rights Committee, General Comment No. 31(6), Nature of the General Legal Obligation Imposed on State Parties to the Covenant, 26 May 2004.

⁴⁵ See Center for Human Rights, University of Pretoria, African Human Rights System: The African Charter, available online (http://www.chr.up.ac.za/centre/publications/ahrs/african_charter.html).

⁴⁶ See U.S. State Department, *Guiding Principles*, no. 4 (“Acknowledging governments’ authority to regulate entities within their territory to promote welfare, such laws and administrative measures should protect – not impede – the peaceful operation of NGOs and be enforced in an apolitical, fair, transparent and consistent manner.”)

State interference with civil society assumes its most egregious form in the forced closure or termination of NGOs. Like any other governmental intrusion, involuntary termination must meet the standards outlined in the ICCPR.⁴⁷ The relevant government authority should be guided by objective standards and restricted from arbitrary decision-making.

(2) Protection against Unwarranted Intrusion in an Organization’s Internal Governance

Freedom of association embraces the freedom of the founders and/or members to regulate the organization’s internal governance. Indeed, one of the principal elements of freedom of association is the ability to run one’s own affairs.⁴⁸ As independent, autonomous entities, NGOs should have broad discretion to regulate their internal structure and operating procedures.⁴⁹

The state has an obligation to respect the private, independent nature of NGOs, and refrain from interfering with their internal

⁴⁷ See *United Communist Party of Turkey and others v. Turkey*, Judgment of 30 January 1998, Reports 1998-I, par. 33, in which the European Court observed that the right of freedom of association would be largely theoretical and illusory if it were limited to the founding of an association, since the national authorities could immediately disband the association without having to comply with the Convention. See also Council of Europe Recommendation on legal status of NGOs, section IV (#44) (“The legal personality of NGOs can only be terminated pursuant to the voluntary act of their members - or in the case of non-membership NGOs, its governing body – or in the event of bankruptcy, prolonged inactivity or serious misconduct.”)

⁴⁸ See McBride, Jeremy, *International Law and Jurisprudence in Support of Civil Society*, Enabling Civil Society, Public Interest Law Initiative, © 2003, p. 46 (“... it would be very difficult to justify attempts (whether at the registration stage or subsequently) to prescribe in detail how an association should organize its affairs – whether it ought to have this or that management structure – and there should certainly not be attempts to interfere with the choice of its representatives.”)

⁴⁹ Indeed, this principle applies to any organization predominantly governed by private law.

operations.⁵⁰ Put differently, state interference in internal affairs (e.g., attending meetings, appointing board members) may amount to a violation of freedom of association. “... [I]t would be very difficult to justify attempts (whether at the registration stage or subsequently) to prescribe in detail how an association should organize its affairs – whether it ought to have this or that management structure – and there should certainly not be attempts to interfere with the choice of its representatives.”⁵¹

- The African Commission on Human Rights, in reviewing a government decree establishing a new governing body for the Nigerian Bar Association, held that “interference with the self-governance of the Nigerian Bar Association by a Body dominated by representatives of the government with wide discretionary powers violated the right to association.”⁵²
- The Council of Europe Recommendation on the legal status of NGOs in section VII (#70) states that “No external intervention in the running of NGOs should take place unless a serious breach of the legal requirements applicable to NGOs has been established or is reasonably believed to be imminent.”

⁵⁰ The legal framework in some countries may set certain minimum governance standards, relating to issues such as the non-distribution constraint, the highest governing body, conflicts of interest, etc.

⁵¹ See McBride, p. 46.

⁵² See Center for Human Rights, University of Pretoria, African Human Rights System: The African Charter, available online (http://www.chr.up.ac.za/centre_publications/ahrs/african_charter.html).

(3) Right to Privacy

Civil society representatives, individually or through their organizations, enjoy the right to privacy. Article 17 of the ICCPR enshrines the right to privacy: “(1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence.... (2) Everyone has the right to the protection of the law against such interference or attacks.”⁵³ The ICCPR Human Rights Committee has recognized that certain rights “may be enjoyed in community with others.”⁵⁴

Recognizing the potential for government intrusion into the premises of private legal entities, including NGOs, it is natural that the right to privacy is enjoyed in community with others. Indeed, the European Court, in analyzing similar language in the European Convention on Human Rights⁵⁵, has specifically held that the right is not limited to individuals, but extends to corporate entities.⁵⁶

III. The Right to Free Expression

Civil society representatives, individually and through their organizations, enjoy the right to freedom of expression.

⁵³ The Universal Declaration of Human Rights uses nearly identical language in Article 12: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

⁵⁴ ICCPR Human Rights Committee, General Comment No. 31(9), Nature of the General Legal Obligation Imposed on State Parties to the Covenant, 26 May 2004.

⁵⁵ “Everyone has the right to respect for his private and family life, his home and his correspondence.” European Convention on Human Rights, Article 8.

⁵⁶ See *Niemietz v. Germany*, 13710/88, ECHR 80 (16 December 1992), in which the Court found no reason why the notion of “private life” should exclude activities of a professional or business nature.

As with freedom of association, freedom of expression is enshrined in the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights, and a lengthy list of other UN and regional instruments.⁵⁷ Significantly, freedom of association is closely linked with freedom of expression.⁵⁸ Restricting the right to speak out on issues of public importance directly undermines freedom of association; individuals participate in NGOs in order to speak more loudly and forcefully.⁵⁹

Freedom of expression protects not only ideas regarded as inoffensive or a matter of indifference but also those that “offend, shock or disturb,” since pluralism is essential for democratic society.⁶⁰ This point is fundamental in light of governmental restrictions against “political” or “extremist” activities, which can be interpreted to restrict speech that is critical of government. Similarly, states may not restrict rights based on “political or other opinion.”⁶¹ Under international law, civil society representatives – individually or collectively – have the right to speak out critically against government on issues relating to human rights and fundamental freedoms.

⁵⁷ See footnote 2 for an illustrative list of relevant international documents.

⁵⁸ Indeed, the European Court of Human Rights has held that freedom of association derives from freedom of speech (see *Ezelin v. France*, Judgment of 26 April 1991, Series A, No. 202; (1992) 14 EHRR 362.)

⁵⁹ See *Freedom and Democracy Party (OZDEP) v. Turkey*, (App. 23885/94), Judgment of 8 December 1999.

⁶⁰ See *Socialist Party and Others v. Turkey*, (App 21237/93), Judgment of 25 May 1998; (1999) 27 EHRR 51, p. 24.

⁶¹ Article 1, ICCPR: “Each State Party to the present Covenant undertakes to protect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” See also Article 2, Universal Declaration of Human Rights.

The U.N. Defenders Declaration, Articles 6-9, addresses in particular detail freedom of expression concerning human rights and fundamental freedoms and extends to “everyone ... individually, and in association with others”⁶² the following rights:

- To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- Freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;⁶³
- To study, discuss, form and hold opinions on the observance, both in law and practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters;
- To develop and discuss new human rights ideas and principles and to advocate for their acceptance;
- To submit to governmental bodies and agencies ... criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms;
- To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms.

⁶² U.N. Defenders Declaration, Articles 6-9.

⁶³ A corollary of this principle is that NGOs should have access to both domestic and foreign-based media. See U.S. State Department, *Guiding Principles*, no. 8 (“Governments should not interfere with NGOs’ access to domestic and foreign-based media.”)

Moreover, states must not restrict freedom of expression directly or “by indirect methods or means.”⁶⁴ States must refrain from enacting laws and supporting policies restricting the potential activities (and therefore speech) of NGOs through vague, imprecise, and broad definitions of concepts, such as “political” or “extremism”.⁶⁵ The presumption against any state regulation described above in Section II applies fully here, in the context of freedom of expression.

As highlighted above in the “Legal Barriers” section, restrictions on the freedom of assembly have a direct impact on the ability of NGO representatives to plan and/or engage in advocacy activities. It is therefore important to stress that such restrictions, as with restrictions on the freedoms of association and expression, must comply with international law. Freedom of assembly is enshrined in the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights, and a lengthy list of other UN and regional instruments.⁶⁶ States carry the burden, therefore of proving that interference with the freedom of assembly is prescribed by law, in pursuit of a legitimate government interest, and necessary in a democratic society.

IV. The Right to Communication and Cooperation

Individuals and NGOs have the right to communicate and seek cooperation with other elements of civil society, the business

⁶⁴ See, e.g., Article 13, American Convention on Human Rights.

⁶⁵ The ICCPR Human Rights Committee reviewed the Russian Law “On Combating Extremist Activities” and expressed concern that “the definition of ‘extremist activity’ ... is too vague to protect individuals and associations against arbitrariness in its application.” ICCPR, A/59/40 vol. I (2003) 20 at para. 64 (20).

⁶⁶ See footnote 23 for an illustrative list of relevant international documents.

community, international organizations and governments, both within and outside their home countries.

(1) Right to Communication

Civil society representatives, individually and through their organizations, have the rights to receive and impart information, regardless of frontiers, and through any media.

- Article 19(2) of the ICCPR protects the right to freedom of expression in language that embraces the right to communication with a range of actors both at home, abroad, and in a variety of media: “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”⁶⁷
- The Defenders Declaration provides substantially more detail. Article 5 grants everyone the right, individually and in association with others, *at the national and international levels* (emphasis added): “(a) To meet or assemble peacefully; (b) To form, join and participate in non-governmental organizations, associations or groups; (c) To communicate with non-governmental or inter-governmental organizations.”
- Other international human rights

⁶⁷ The Universal Declaration of Human Rights uses nearly identical language in Article 19: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

instruments define the right to freedom of expression in such a way as to include the right to receive information from others. The African Charter on Human and People's Rights states specifically in Article 9(1): "Every individual shall have the right to receive information." In language mirroring the ICCPR, the American Convention on Human Rights states in Article 13(1): "Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice."⁶⁸

- International law also protects individuals from unwarranted interference with their freedom of movement. The ability to move freely is critical to effective communication and cooperation among civil society representatives. Article 12 of the ICCPR states, "Everyone lawfully within the territory of a state, shall, within that territory, have the right to liberty of movement"; moreover, "everyone shall be free to leave any country, including his own."⁶⁹

⁶⁸ Article 13 of the American Convention goes on to provide that the exercise of this right "shall not be subject to prior censorship" (Art. 13(2)) and "may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions." (Art. 13(3)).

⁶⁹ The freedom of movement is an important human rights concept about which much has been written. We note its relevance to the right to communication and cooperation.

(2) Right to Cooperate through Networks

Individuals and NGOs have the right to form and participate in networks and coalitions, in order to enhance communication and cooperation, and to pursue legitimate aims. Networks and coalitions can be a crucial vehicle for exchanging information and experience, raising awareness, or engaging in advocacy. Notably, the Internet has opened up new possibilities for networking; the right to receive and impart information of all kinds, regardless of frontiers, and through any media (highlighted above) certainly includes the Internet and web-based technologies. The right to cooperate through such networks, whether as informal bodies or registered entities, is based on the freedoms of association and expression, as detailed above.

V. The Right to Seek and Secure Resources

Within broad parameters, NGOs have the right to seek and secure funding from legal sources.

Closely linked with free contact and communication is the right to seek and secure funding from legal sources. Legal sources should include individuals and businesses, other civil society actors and international organizations, as well as local, national, and foreign governments. As cutting off contact and communication for NGOs is to strike at their existence, so restrictions on resources are a direct threat to their ability to operate. Restrictions on the receipt of funding, and especially on the receipt of foreign funding have grown increasingly common, but as this section will demonstrate, such impediments violate the spirit and the developing trends within international law.

- Article 22 of the ICCPR, in protecting the right to freedom of association, places limits on the state’s ability to restrict this right; justifiable restrictions are “those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.”⁷⁰ Funding restrictions that stifle the ability of NGOs to pursue their goals may well constitute unjustifiable interference with freedom of association. The U.N. Committee on Economic, Social, and Cultural Rights (CESCR) recognized the problem with such restrictions when it expressed “deep concern” with Egypt’s Law No. 153 of 1999, which “gives the Government control over the right of NGOs to manage their own activities, including seeking external funding.”
- The U.N. Defenders Declaration addresses the issue directly in Article 13: “Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.”⁷¹

⁷⁰ ICCPR, Article 22.2.

⁷¹ UN Defenders Declaration, Article 3: “Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights should be conducted.”

The Office of the U.N. High Commissioner for Human Rights explains that the Declaration provides specific protections to human rights defenders, including the right to “solicit, receive and utilize resources for the purpose of protecting human rights (*including the receipt of funds from abroad*).”⁷² (Emphasis added).

- In its report entitled, “Human Rights Defenders: Protecting the Right to Defend Human Rights,” the United Nations explicitly identified “legislation banning or hindering the receipt of foreign funds for human rights activities” as a key issue of concern.⁷³ And if human rights NGOs are protected in receiving foreign funds, then NGOs engaged in other activities (e.g., social services) should also be protected in their right to receive foreign funds, absent some justification for discriminatory treatment.
- In the October 2004 Report of the Special Representative of the Secretary-General on human rights defenders, Hina Jilani included “Restrictions on funding” as a category of legal impediment which “seriously affected the ability of human rights defenders to carry out their activities.”⁷⁴ The Special Representative’s recommendations included the following: “Governments must allow

⁷² See Office of the United Nations High Commissioner for Human Rights at <http://www.ohchr.org/english/issues/defenders/declaration.htm>

⁷³ Fact Sheet No. 29: *Human Rights Defenders: Protecting the Right to Defend Human Rights*, p. 13,

⁷⁴ Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani, in accordance with General Assembly resolution 58/178, page 20.

access by NGOs to foreign funding as a part of international cooperation, to which civil society is entitled to the same extent as Governments. The only legitimate requirements of such NGOs should be those in the interest of transparency.”⁷⁵

- The Defenders Declaration is not alone in protecting the right to receive funding. It follows in the wake of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, which was proclaimed by the U.N. General Assembly in 1981. Of course, the focus of this Declaration is on “the right to freedom of thought, conscience and religion.”⁷⁶ The Declaration recognizes, in Article 6, that the right to freedom of thought, conscience and religion shall include, *inter alia*, the freedom to “solicit and receive voluntary financial and other contributions from individuals and institutions.”⁷⁷ Again, no distinction is made between domestic and foreign sources.
- The Council of Europe Recommendation on the legal status of NGOs in section VI (#57) states “NGOs should be assisted in the pursuit of their objectives through public funding and other forms of support, such as exemption from income and other taxes or duties on membership fees, funds and goods received from donors or governmental

and international agencies, income from investments, rent, royalties, economic activities and property transactions, as well as incentives for donations through income tax deductions and credits.”

- The 1990 Copenhagen Document of the Organization for Security and Cooperation in Europe (OSCE) establishes commitments among the 55 participating states of the OSCE. Paragraph 10.3 of the Copenhagen Document addresses forming NGOs for human rights promotion, and Paragraph 10.4 states that individuals and groups must be allowed to “have unhindered access to and communication with similar bodies within and outside their countries and with international organizations... and to solicit, receive and utilize for the purpose of promoting and protecting human rights and fundamental freedoms voluntary contributions from national and international sources as provided for by law.”
- The Inter-American Commission on Human Rights issued a report (March 2006), which focused on the responsibility of states in this area: “[States should] Refrain from restricting the means of financing of human rights organizations. The states should allow and facilitate human rights organizations’ access to foreign funds in the context of international cooperation, in transparent conditions.”⁷⁸

⁷⁵ *Id.*, page 22.

⁷⁶ U.N. Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Article 1.

⁷⁷ *Id.*, Article 6(f).

⁷⁸ Inter-American Commission on Human Rights, *Report of the Situation of Human Rights Defenders in the Americas*, Doc: OEA/Ser.L/V/II.124Doc.5rev.1 (March 7, 2006), Recommendation 19.

In addition to direct statements on the right to solicit and receive funding, the international legal framework protects the right to property.⁷⁹ The Universal Declaration, in Article 17, extends the right to own property and protection against arbitrary state deprivation of property to everyone, which could be interpreted to include legal entities and therefore NGOs.

Indeed, the European Court has held that Article 1 of the First Protocol of the European Convention on Human Rights, which protects the right to the “peaceful enjoyment of his possessions,”⁸⁰ is applicable to both natural and legal persons. While the European Court has found that the right gives no guarantee of a right to acquire possessions, it has stated, significantly, that the right to property includes the right to dispose of one’s property.⁸¹ The right to dispose of one’s property would naturally embrace the right to make contributions to NGOs for lawful purposes.

VI. State Duty to Protect

The state has a duty to promote respect for human rights and fundamental freedoms, and the obligation to protect the rights of

⁷⁹ Article 17 of the Universal Declaration of Human Rights states: “(1) Everyone has the right to own property alone as well as in association with others; (2) No one shall be arbitrarily deprived of his property.”

⁸⁰ Article 1 of the First Protocol of the European Convention reads: “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

⁸¹ Clare Ovey and Robin White, *The European Convention on Human Rights*, 3rd edition, Oxford University Press, © 2002.

NGOs. The state’s duty is both negative (i.e., to refrain from interference with human rights and fundamental freedoms), and positive (i.e., to ensure respect for human rights and fundamental freedoms). The state duty to protect also applies to certain inter-governmental organizations, including, of course, the United Nations.

International law has placed on states the obligation to ensure that the rights enshrined in international law (the Universal Declaration, ICCPR, etc.) are protected:

- United Nations Charter, Article 55: ... the United Nations shall promote: universal respect for, and observance of, human right and fundamental freedoms for all without distinction as to race, sex, language, or religion. Article 56: All Members pledge themselves to take joint and separate action in co-operation with the Organizations for the achievement of the purposes set forth in Article 55.
- Universal Declaration of Human Rights, 6th preamble: “Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms ...”
- ICCPR, Article 2: (1) Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind ... (2) ... each State Party ... undertakes to take the necessary steps ... to

adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant. The ICCPR Human Rights Committee emphasized the state obligation in General Comment 31(7) (2004): “Article 2 requires that States Parties adopt legislative, judicial, administrative, educative, and other appropriate measures in order to fulfill their legal obligations.”

- International Covenant on Economic, Social and Cultural Rights, Article 2: (1) Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.
- U.N. Declaration on the Right to Development, Article 6: All states should co-operate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms for all...
- Vienna Declaration and Programme of Action⁸²: Human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of government.

- U.N. Defenders Declaration, Article 2: Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.
- The Community of Democracies 2007 Bamako Ministerial Consensus, Article 44: Support and encourage non-governmental organizations by urging countries to adopt legislation aimed at strengthening civil society and to ensure that registration, formation, funding and operation of non-governmental organizations and their peaceful activities be carried out. At the same time we remind countries that any regulation placed on, or action taken, regarding non-governmental organizations must be consistent with domestic and international legal obligations and be enforced in an apolitical, fair and transparent manner.

In light of this body of international law, a state is not only bound to refrain from interference with human rights and fundamental freedoms, but also has a positive duty to ensure respect for human rights and fundamental freedoms, including the freedoms of association and

⁸² Adopted by the U.N. World Conference on Human Rights, June 25, 1993.

expression, among others.⁸³ This duty includes an accompanying obligation to ensure that the legislative framework for civil society is appropriately enabling and that the necessary institutional mechanisms are in place to “ensure to all individuals” the recognized rights. An enabling legal framework will help create an appropriate environment for an NGO throughout its life-cycle.⁸⁴ Necessary institutional mechanisms could include, among others, a police force to protect people against violations of their rights by state or non-state actors and an independent judiciary able to provide remedies.

83 The State ‘Duty to Protect’ cannot be trumped by claims of sovereignty. “The State that claims sovereignty deserves respect only as long as it protects the basic rights of its subjects. It is from their rights that it derives its own. When it violates them, what Walzer called ‘the presumption of fit’ between the Government and the governed vanishes, and the State’s claim to full sovereignty falls with it.” (See S. Hoffmann, *The politics and ethics of military intervention, Survival*, 37:4, 1995-96, p.35. See also V. Popovski, Sovereignty as Duty to Protect Human Rights, www.un.org/Pubs/chronicle/2004/Issue4/0404p16.html).

84 For more information on the elements of an enabling legal environment, please make reference to ICNL’s *Checklist for NPO Laws* (www.icnl.org) or to OSI’s *Guidelines for Law Affecting Civic Organizations*.

Next Steps

The *Defending Civil Society* report seeks to help mount a global response to the issue of increasingly restrictive environments for civil society organizations, particularly activities focusing on democracy and human rights. The report discusses ways in which governments have erected barriers, presents and analyzes a number of justifications for those barriers, and outlines the principles that governments are violating. To advance the adoption of these principles and help protect the political space for civil society, the World Movement for Democracy encourages civil society organizations to take action and build solidarity around the international principles outlined above.

Several actions and strategies have been suggested through the various consultations undertaken in producing this report.

Actions Directed to the International Community at Large:

- Call on democratic governments and international organizations, including the United Nations, international financial institutions, and appropriate regional organizations, to endorse the report and the principles it articulates, and to encourage national governments to adhere to them.
- Urge established democracies and international organizations to reaffirm their commitments to democratic governance, rule of law, and respect for human rights, and develop consistent policies based on the principles.
- Urge established democracies and international organizations to reaffirm that proposed restrictions on freedom

of association are subjected to the rigorous legal analytical test defined in Article 22 of the ICCPR (see Under Scrutiny section) and energetically publicize transgressions, particularly on the part of ICCPR signatories.

- Urge democratic governments and international organizations to ensure and increase assistance for civil society organizations as part of their efforts to protect and enhance public space for citizens to initiate and engage in activities to advance and consolidate democratic transitions.
- Organize discussions and hearings in parliaments, congresses, and national assemblies to raise lawmakers' awareness of the issues and principles.
- Monitor the degree to which the principles in the report are being applied in bilateral and multilateral relations.
- Call on the Community of Democracies to endorse the report and its principles, and urge it to establish a committee to monitor violations of the principles around the world.
- Encourage UN special rapporteurs to incorporate the principles into their reports and other UN documents.

Actions for Civil Society Organizations:

- Facilitate national and regional discussions to generate interest in, and mobilize support for, the findings of this report and legal reform of legal frameworks governing civil society organizations.

- Integrate the report's principles in broader democracy-assistance strategies, including efforts at the local and national levels to enhance women's and youth participation in political, social, and economic affairs; to establish independent judiciaries to enforce the rule of law; and to strengthen free and independent media.
- Insist that proposed restrictions on freedom of association are subjected to the rigorous legal analytical test defined in Article 22 of the ICCPR (see Under Scrutiny section) and energetically pursue transgressions, particularly on the part of ICCPR signatories, through energetic publicity and litigation in appropriate international courts.
- Translate the report into various local languages to deepen understanding of the issues among grassroots civil society organizations.
- Explore more effective ways to use new technologies and "virtual" space to conduct democracy and human rights work and to mobilize support for such work.

Actions Directed to Democracy Assistance Organizations:

- Call on democracy assistance foundations and organizations to endorse this report and its principles.
- Encourage democracy assistance foundations to facilitate national, regional, and international discussions among civil society groups to develop ideas for reforming legal frameworks for civil society work.
- Insist that proposed restrictions on freedom of association are subjected to the rigorous legal analytical test defined in Article 22 of the ICCPR (see Under Scrutiny section) and energetically pursue transgressions, particularly on the part of ICCPR signatories, through energetic publicity and litigation in appropriate international courts.
- Ensure that democracy assistance foundations and organizations distribute copies of this report to all of their partners and grantees around the world.

Appendix

Bibliography of Key International Instruments

- African Charter on Human and Peoples' Rights
http://www.achpr.org/english/_info/charter_en.html
- American Convention on Human Rights
<http://www.iachr.org/Basicos/basic3.htm>
- American Declaration of the Rights and Duties of Man
<http://www.oas.org/juridico/English/ga-Res98/Eres1591.htm>
- Arab Charter on Human Rights
<http://www1.umn.edu/humanrts/instree/arabcharter.html>
- Convention on the Elimination of All Forms of Discrimination against Women
<http://www.ohchr.org/english/law/cedaw.htm>
- Convention on the Rights of the Child
<http://www.ohchr.org/english/law/crc.htm>
- Convention on the Rights of Persons with Disabilities
http://untreaty.un.org/English/notpubl/IV_15_english.pdf
- Copenhagen Document of the Organization for Security and Cooperation in Europe (OSCE) (1990)
http://www.osce.org/documents/odihr/1990/06/13992_en.pdf
- European Convention for the Protection of Human Rights and Fundamental Freedoms
<http://conventions.coe.int/Treaty/en/Summaries/Html/005.htm>
- First Optional Protocol to the International Covenant on Civil and Political Rights
<http://www.ohchr.org/english/law/ccpr.htm>
- ILO Declaration on Fundamental Principles and Rights at Work
http://www.ilo.org/dyn/declaris/DECLARATIONWEB.static_jump?var_language=EN&var_pagen_ame=DECLARATIONTEXT
- International Covenant for Civil and Political Rights
<http://www.ohchr.org/english/law/ccpr.htm>
- International Covenant on Economic, Social and Cultural Rights
<http://www2.ohchr.org/english/law/cescr.htm>

- International Convention on the Elimination of All Forms of Racial Discrimination
<http://www.ohchr.org/english/law/cerd.htm>
- OSCE/ODIHR Key Guiding Principles of Freedom of Association with an Emphasis on Non-Governmental Organizations
<http://www.legislationline.org/upload/lawreviews/46/a8/24ea8fac61f2ba6514e5d38af6b2.pdf>
- Recommendation CM/Rec (2007)14 of the Committee of Ministers of the Council of Europe to member states on the legal status of non-governmental organisations in Europe
<https://wcd.coe.int/ViewDoc.jsp?id=1194609&Site=CM&BackColorIntranet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>
- U.N. Declaration on the Right to Development
<http://www.unhchr.ch/html/menu3/b/74.htm>
- U.N. General Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms
<http://www2.ohchr.org/english/issues/defenders/declaration.htm>
- United States Department of State Guiding Principles on Non-Governmental Organizations
<http://www.state.gov/g/drl/rls/77771.htm>
- Universal Declaration of Human Rights
<http://www.ohchr.org/english/about/publications/docs/fs2.htm>
- Vienna Declaration and Programme of Action
[http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.CONF.157.23.En](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.23.En)

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