



## **Anti-NGO Laws and Other Tools of Democratic Repression**

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Chairman Cardin, Ranking Member Risch, distinguished members of the Senate Foreign Relations Committee: thank you for inviting me to testify. I appreciate your interest in the legal environment for civil society around the world.

### **Democratic Repression**

According to [Freedom House](#), global freedom has declined for 18 consecutive years. [Seventy-one percent](#) of the world's population – 5.7 billion people – live in autocracies. Some say the world is witnessing a “democratic recession,” but many countries have already entered a new phase: the Great Repression.

As a tool of repression, governments are enacting legislation to restrict civil society, including human rights groups, development organizations, religious organizations, and chambers of commerce. In doing so, governments undermine freedom, peace, and prosperity.

According to [ICNL](#) data, 72 countries have introduced more than 270 legal initiatives restricting civil society over the past five years. Governments are converting the rule of law into the rule by law. They are using legislation to consolidate power, control civil society, and constrain civic freedom.

### **Global Trends**

#### ***Lifecycle Legislation***

Thirty-three percent of recent restrictions undermine the right of people to form and operate a civil society organization (“CSO”). Combined with preexisting laws, governments have erected significant legal barriers to enter civic space. For example:

- In [Belarus](#), organizing or participating in the activities of an unregistered association is a criminal offense subject to imprisonment.
- In [Eritrea](#), a citizen seeking to establish a relief organization must have access to \$1 million, which is more than the average Eritrean will earn in her entire lifetime.
- In Afghanistan, the Ministry of Economy issued a [ban](#) on female employees of domestic and international CSOs.
- Last month, the National Assembly of Venezuela passed a [law](#) that gives the government almost unbridled discretion over which CSOs can register and subjects registered organizations to strict government control.
- At the same time, the Nicaraguan government revoked the legal status of more than [1,500](#) nonprofits, including hundreds of religious organizations, the American Chamber of Commerce of Nicaragua, and human rights groups.

### ***Access to International Solidarity and Support***

Governments are restricting the right of civil society to receive funding from domestic and international sources. Instead of defending civil society, they are defunding civil society, undermining fundamental freedoms and property rights. For example:

- In [Niger](#), development CSOs must obtain government approval to receive donations, including from local citizens and businesses.
- In [Saudi Arabia](#), a CSO must have the government's permission to organize domestic fundraising events, even a gala dinner.
- In [Egypt](#) and many other countries, the government has broad discretion to determine whether a CSO can receive international funding.
- Eighteen countries, including Georgia, have [introduced](#) foreign influence registration laws. Many of these laws have overbroad and vague provisions, enabling governments to stigmatize, burden, and isolate civil society.

### ***The Evolution of Legal Restrictions***

Years ago, scholars wrote about closing space and focused on laws targeting CSOs. Today, we are seeing the rise of restrictive laws that apply to all sectors of society. These whole-of-society laws account for 50% of the legal restrictions tracked by ICNL over the past 5 years.

These laws enable governments to target democracy defenders in civil society, the political opposition, business, the media, or otherwise. For example:

- This year, the [National Security Law](#) in Hong Kong was used to [convict](#) dozens of democracy defenders of subversion.

- Indonesia’s Criminal Code [outlaws](#) statements that undermine the “honor” or “dignity” of the President or Vice President. It also prohibits verbal and written insults against the government or state institutions.
- Tanzania’s [Online Content Regulations](#) prohibit the publication of any online content about the weather, droughts, or “natural calamities” without approval from the authorities.
- Last month, a military court [sentenced](#) a local journalist to life in prison under Burma’s overbroad counterterrorism law.
- Belarus is [misusing](#) counterterrorism and anti-extremism legislation to stifle dissent.
- In Venezuela, Maduro's regime [arrested](#) over 2,400 people connected to post-election protests.

At the same time, many governments target defenders by utilizing surveillance, online harassment, Interpol red notices, imprisonment, or worse. Governments have an extensive toolkit to compress civic space and repress democracy.

### **Progress is Possible with Local Leadership**

Countries as diverse as [Nigeria](#), [Moldova](#), and [Morocco](#) have adopted more enabling legislation affecting civil society, though continued vigilance is necessary. In many other countries, restrictive laws have been rejected. In addition, courageous individuals around the world are undertaking heroic efforts to advance democracy and rights in restrictive environments – often at great risk to themselves.

Democracy and rights cannot be imposed from outside. Fortunately, in every country, there are people whose skill and dedication inspire confidence that progress is possible.

### **Illustrative International Initiatives**

While reform must come from within, the international community can assist by helping to safeguard defenders and civic space. There are scores of initiatives; the following are a few illustrative examples:

- The [Lifeline Embattled CSO Assistance Fund](#), which provides small, short-term emergency grants to CSOs threatened because of their human rights work.
- [Reporter’s Shield](#), a USAID-funded program that defends investigative reporting around the world from legal threats meant to silence critical voices.
- The [Surge and Sustain Fund](#), a program run by the Department of State’s Bureau of Democracy, Human Rights, and Labor. The fund supports user costs for open-

source VPN and circumvention solutions serving users in highly restrictive censorship environments.

- [Scholars at Risk](#) and the [Journalists in Distress Network](#), which provide support for academics and journalists under threat.
- The [Open Government Partnership](#), where civil society and governments co-create commitments to enhance civic space and to promote participatory, accountable governance.

Foundations, international organizations, and the private sector play a critically important role in this ecosystem of support. In addition, Denmark, the Netherlands, Norway, Sweden, and the United Kingdom are among the governments that have strategically engaged to protect and promote civic space.

## Recommendations

Based on the input of our partners around the world and the current ecosystem of support, I respectfully suggest three lines of effort for the Committee's consideration: Programs, Personnel, and Policy:

### 1. **Programs.** Programs should prioritize prevention, mitigation, and protection.

In terms of *prevention*, the US Government should create a stand-alone global program that proactively and preemptively addresses anti-NGO laws and related legal threats to civil society. This is a top priority.

In terms of *mitigation*, let's ramp up programs that help defenders operate in restrictive environments, such as the [Surge and Sustain Fund](#).

In terms of *protection*, there are already a number of programs. Let's review their scope to see if they should be expanded to cover new categories of defenders. In addition, let's be sure they offer comprehensive services, including risk assessments, digital security, physical security, legal assistance, and psychosocial support.

### 2. **Personnel.** The US Government should ensure there are sufficient personnel dedicated to addressing threats to defenders, including transnational repression. This should include trained officials in the Department of State's regional bureaus and additional staff in USAID's Bureau of Democracy, Human Rights, and Governance and the Department of State's Bureau of Democracy, Human Rights, and Labor. In addition, regional bureaus and embassies should be required to have specific plans in place on the protection of defenders and to report regularly on the sufficiency and implementation of those plans.

**3. Policy.** I thank Senator Cardin for his leadership in championing the Global Magnitsky Act. The Act has significantly advanced accountability for human rights violations around the world, and it serves as a model for other countries establishing similar mechanisms.

That said, as colleagues at Human Rights First have [documented](#), there has been a significant slowdown in the use of Global Magnitsky sanctions in recent years. Perhaps the Committee could exercise its oversight role to promote more and effective use of these authorities. We would also welcome legislative language encouraging the Administration to consider transnational repression, and the undermining of democratic institutions, when determining whether to impose sanctions.

In addition, at the Summit for Democracy, thirteen countries [committed](#) to supporting civil society in exile. The US should engage with these countries to ensure there is a safe place for human rights and democracy defenders to continue their courageous work.

As a final policy ask, a number of bills affecting civil society are working their way through Congress. When you consider these bills, please ensure that they safeguard civil society and philanthropy, both internationally and at home. If helpful, ICNL is prepared to provide nonpartisan analysis, and please be assured of ICNL's continued collegial and constructive engagement as bills arise.

In closing, I thank Chairman Cardin and Ranking Member Risch for inviting me to testify at today's hearing. I appreciate the opportunity to share ICNL's perspectives with the Committee, and I look forward to your questions.