

# GLOBAL TRENDS IN NGO LAW

A quarterly review of NGO legal trends around the world

## *GLOBAL PHILANTHROPY IN A TIME OF CRISIS*

### ***Letter from the Editor***

As the global financial crisis continues to cut into corporate profits, slash endowments, and exacerbate government deficits, policy makers and other interested stakeholders in the global philanthropic community brace for the impact. At the same time, the crisis has fueled a rising need for charitable support. By one estimate, the crisis has “already driven more than 50 million people into extreme poverty, particularly women and children.”<sup>1</sup>

Both government and private donors around the world are seeking ways to protect the neediest even as resources become more scarce. As some countries have shown, laws designed to facilitate philanthropy and remove barriers to cross border giving can play an important role in meeting such development goals. Nonetheless, a number of governments have continued to raise barriers to cross border philanthropy, even as the economic crisis deepens.

In this issue of *Global Trends* we examine legal developments affecting global philanthropy, particularly obstacles to foreign philanthropy and assistance. In Section I, we consider the most recent laws, draft laws, and government actions restricting cross-border giving. Section II examines potential responses to these restrictions.

We continue to invite all of our readers to submit developments, comments, and ideas online by visiting <http://www.icnl.org/globaltrends/>.

*GLOBAL TRENDS IN NGO LAW IS A PUBLICATION OF THE INTERNATIONAL CENTER FOR NOT-FOR-PROFIT LAW, AN INTERNATIONAL NOT-FOR-PROFIT ORGANIZATION THAT PROMOTES AN ENABLING ENVIRONMENT FOR CIVIL SOCIETY AND PUBLIC PARTICIPATION WORLDWIDE. SINCE ITS INCEPTION IN 1992, ICNL HAS PROMOTED PROGRESSIVE LAWS GOVERNING CIVIL SOCIETY AND PROVIDED TECHNICAL ASSISTANCE TO NGO LAW REFORM INITIATIVES IN MORE THAN ONE HUNDRED COUNTRIES. WE INVITE YOU TO LEARN MORE ABOUT ICNL AND OUR PROGRAMS BY VISITING US ONLINE AT [HTTP://WWW.ICNL.ORG](http://www.icnl.org).*

## Introduction

In September 2000, 192 United Nations member states adopted the United Nations Millennium Declaration. The Declaration committed nations to a new global partnership to reduce extreme poverty and established a series of time-bound targets - with a deadline of 2015 - that have become known as the Millennium Development Goals (MDGs).<sup>2</sup> Secretary General Ban Ki-moon recently warned, “the financial crisis threatens the foundations of globalization, which in turn underpins global growth. As we look to the next seven years of our work on the Millennium Development Goals, we must ensure that our gains are not reversed.”<sup>3</sup> Donor countries have pledged under MDG No. 8 to increase aid from \$80 billion in 2004 to \$130 billion by 2010.<sup>4</sup> In order for the level of aid committed for 2010 to be met, donor contributions will have to increase significantly over the next two years.<sup>5</sup>

Donor governments will certainly play a major role in blunting the impact of the global economic crisis on low income countries. But they will be most effective in meeting growing development needs if they join with other development partners. The United States Secretary of State Hillary Clinton recognized as much in her speech to the Global Philanthropy Forum announcing the Global Partnership Initiative. She made clear that in pursuit of the United States development goals, the Department of State will seek partnerships “with philanthropy, with global business, partnerships with civil society.”<sup>6</sup>

*“So in that spirit, I’m here today to announce that the State Department is opening its doors to a new generation of public-private partnerships. We will expand current partnerships and embark on new ones. We’ll embrace collaboration and become more receptive to the ideas and approaches that you will bring to us.”<sup>7</sup>*

At the same time that global philanthropy is called upon to join with government to meet growing development needs, the rise of “philanthropic protectionism” threatens to close civic space as governments seek to reduce influence of foreign donors during a time of economic uncertainty. A number of countries have adopted laws or policies imposing barriers to foreign funding of NGOs operating within their borders. As funding to NGOs is an important part of the assistance allocated for development purposes, these restrictions have serious implications for both government and private donors.

The reasons given by governments adopting these restrictions vary.<sup>8</sup> Some have cited the need to meet international demands to curb terrorist financing; others cite the need to coordinate and increase the effectiveness of foreign aid; and still others raise concerns about preventing intrusions upon national sovereignty. In many cases these are merely rhetorical justifications, and in any event they will have a deleterious impact on foreign philanthropy and assistance.

## I. Barriers to Foreign Philanthropy

Government imposed restrictions on foreign funding of domestic NGOs are not a new phenomenon; India enacted its Foreign Contribution (Regulation) Act in 1976, and laws in some countries of the Middle East/North Africa region have restricted foreign funding of domestic groups for decades. As the “backlash” against civil society has grown,<sup>9</sup> however, the number of countries enacting or considering such restrictions has increased. These laws and draft laws construct various types of impediments that have differing implications for NGO activities. These impediments include:

- 1) *Complete prohibition of certain types of foreign funding.* Eritrea, for example, broadly restricts the U.N. and bilateral agencies from funding NGOs. In Afghanistan, a Cabinet of Ministers decree prohibits foreign funding of social organizations, one of two key NGO organizational forms in the country.
- 2) *Requirements that government grant permission before organizations may receive foreign funding.* Countries of the Middle East/North Africa region, including Algeria, Bahrain, Oman, and Egypt, as well as countries of the Former Soviet Union, including Belarus, Uzbekistan, and Turkmenistan, require an NGO to receive advance approval from a government Ministry before accepting funds from abroad.

- 3) *Prohibitions on foreign funding of particular recipients.* An NGO Bill enacted in Zimbabwe but not signed into law would have prohibited NGOs engaged in “issues of governance” from receiving foreign funds.
- 4) *Routing Funding through the Government.* “International Cooperation” laws proposed in several Latin American countries would require channeling of foreign funding through a government controlled entity. Eritrea requires donor funds to flow through government ministries, while Uzbekistan requires that all foreign funds be deposited in one of two government controlled banks, which has allowed the government to disrupt funding to intended recipients.
- 5) *Prohibitive tax burdens.* In the Russia example cited below, grants from foreign organizations that are not included on the government approved list of donors are subject to taxation.
- 6) *Other restrictions.* Visa restrictions and other barriers to aid workers and volunteers may interrupt the provision of cross-border technical assistance.

We consider below recent examples of restrictions on cross border giving, which have occurred in categories 2-6 above.<sup>10</sup>

### 1. Prior Government Permission

Some countries have or are considering laws that would require NGOs to receive **prior government permission** before receiving foreign funds.

- In March 2009 the **Iraqi** government sent to the legislature a draft federal law that requires NGOs receiving donations, grants or bequests “from within the Republic of Iraq or from abroad” to obtain prior approval from the Department of NGOs in the Secretariat of the Council of Ministers, and also requires individuals who wish to donate to NGOs to notify this Department ahead of time.<sup>11</sup> The law does not specify how permission is obtained or on what grounds permission will be granted or denied. This is one of the broader restrictions proposed in recent years, constraining foreign and domestic funding alike, and placing a potentially severe burden in the way of NGO sustainability.

NGOs have actively sought to expand consultation within their community about the draft and to advocate for changes to the funding provision, among others. In April, the Speaker of the Parliament, Iyad al-Samarrai, stated on the Council of Representatives website that he would be willing to consider revision to the funding provision.<sup>12</sup>

- The government of **Yemen** is currently considering amendments to its 2001 *Law on Associations and Foundations* that, similar to the draft law in Iraq, would require domestic associations and foundations to obtain permission from the Minister of Labor and Social Affairs before obtaining any “material or financial support from a foreign person or from foreign actors, either abroad or within the Republic.”<sup>13</sup> The Ministry would have significant discretion to deny funding to organizations, and certain types of organizations that may rely heavily on foreign funding could potentially be starved of resources, essentially extinguishing their rights to associate.
- In 2008 **Jordan** enacted the *Law on Societies*, which requires NGOs to submit an application to the government before accepting any contribution, grant, or funding from a foreign source.<sup>14</sup> If the Ministry does not decide on an application within 30 days, it is considered granted. The law gives the government the authority to order “appropriate” measures for violations of this provision, including the funds’ return to the funder or transfer to a newly created Fund for the Support of Societies. A person who retains or uses foreign funds that were not declared or not approved can be imprisoned for three month or more, fined between 1000 and 10,000 JD, or both. Such persons are also barred from serving on the board of any Jordanian association.

While the government has prepared amendments to the Law that evidence a willingness to make many improvements sought by NGOs, it has thus far held firm to its position that the foreign funding provision will remain. The Parliament is expected to consider amendments to the Law on Societies this summer; NGOs continue to advocate for elimination of the foreign funding requirement.

- **Indonesia** requires social organizations that seek to receive or provide donations to or from foreign entities to engage in an exhaustive approval and reporting process. A 2008 regulation prohibits foreign assistance causing “social anxiety and disorder of national and regional economy.”<sup>15</sup> This regulation requires NGOs to register with the government, seek Ministry of Home Affairs' approval for foreign funding, pay tax on the funds and publicize foreign-funded activities through the media.<sup>16</sup> According to a local expert, the regulations should only apply to social organizations and not foundations and associations, although the Ministry of Internal Affairs continues to insist that all organizations are “social organizations” subject to this set of regulations.<sup>17</sup>

In some cases, countries with existing prior approval requirements have stepped up their enforcement efforts:

- Since 1978<sup>18</sup> **Bangladeshi** NGOs receiving foreign contributions have had to register with the NGO Affairs Bureau (NGOAB) and each foreign contribution received by registered organizations must be pre-approved by the NGOAB. In the past the NGOAB did not actively use its powers to take action against NGOs that fail to comply, but in the wake of claims that foreign-funded NGOs are fuelling the Islamic militancy, the NGOAB has begun to scrutinize NGO funding sources more closely.<sup>19</sup> In March 2009, the Bangladeshi Finance minister A.M.A. Muhith confirmed this, stating, “from now on the scrutiny would be made more intense.”<sup>20</sup>
- In **Egypt** on April 27, 2009 the Egyptian Organization for Human Rights (EOHR) received a dissolution decree, alleging that the EOHR received foreign funding without authorization.<sup>21</sup> The dissolution order reportedly came soon after EOHR published its 2008 Annual Report critical of the Egyptian government.<sup>22</sup> An Egyptian administrative court found in a prior case involving another NGO that dissolution of an organization based on receipt of foreign funds without prior approval is unconstitutional.<sup>23</sup>

Governments that require prior approval for an NGO to receive foreign funds may limit the independence of civil society. This type of restriction raises concerns that government will exercise its discretion over the approval process to limit funding to classes of NGOs disfavored by government, a burden that often falls most heavily on advocacy or human rights groups. Prior approval requirements can be used to starve certain NGOs of resources, forcing their closures or suspension of activities. Alternately, they may chill NGO expression, as groups avoid controversial positions that may cause government officials to terminate their funding sources.

## ***2. Particular NGOs or Recipients Ineligible***

Some governments have carved out areas where NGOs receiving foreign funding cannot participate or they have singled out certain categories of recipients ineligible to receive foreign resources.

- In early 2009 the **Kyrgyz Republic** proposed legislation granting authorities broad discretion to prohibit branches and representative offices of foreign NGOs from financing , “a certain recipient, with the purposes of protecting constitutional bases, morality, health, rights and legal interests of other people, guarantee of country’s defense and security.” After the NGO community engaged with the government to advocate for changes to the proposed law, an “Agreement on Cooperation” between the government and NGOs was reached in early May 2009, and key government official stated that the President’s position is that no law imposing discriminatory restrictions on NGOs will be adopted.<sup>24</sup>

- Amendments to a Russian law provides a registration authority the power to ban the transfer by a foreign organization's branches, representative offices, or affiliates of funds or other resources to particular recipients for the purposes of "protecting the basis of the Constitutional system, morality, health, rights and lawful interests of other persons, and with the aim of defending the country and the state security."<sup>25</sup>
- A new **Ethiopian** law provides that an NGO that receives more than 10% of its funding from a foreign source may not participate in the following activities: human and democratic rights; equality of genders, religions and nationalities; the rights of children and the disabled; conflict resolution and reconciliation; and "the promotion of the efficiency of the justice and law enforcement services."<sup>26</sup> The government has justified the law by claiming the charity sector has been used by "political activists" who are working on "other issues," not "catastrophes that required aid and assistance."<sup>27</sup>

Prohibitions on funding of particular recipients clearly disadvantage the identified classes of NGOs, and may force the closures of such organization by denying them funds. As is true of other types of foreign funding restrictions, this is of particular concern in countries where local sources of financing are very limited and NGOs are thus dependent on foreign funding. Alternately, NGOs may abandon disfavored missions or activities if they cannot raise funds locally to sustain them.

### 3. Routing Funding Through the Government

"International Cooperation" laws may require that *foreign funding to be channeled via a government fund*.

- The **Venezuelan** National Assembly announced in March 2009 that it will renew consideration of the draft Law on International Cooperation.<sup>28</sup> The Law on International Cooperation was introduced and passed its first reading in 2006. It was the first such "international cooperation law" in Latin America, and influenced similar laws and drafts in Bolivia, Peru, and Mexico. The Law if enacted will give the President and Cabinet of Venezuela unprecedented authority to organize, control, direct, and coordinate all "activities of international cooperation," including transfers of assets, technology, and other forms of material support. The law requires NGOs to register in order to receive support from abroad or to take advantage of tax incentives; and NGOs engaging with their foreign counterparts would be required to provide detailed reports and submit to government inspections and audits, which might easily lead to harassment and abuse of NGOs.<sup>29</sup>

Under the law, all foreign funds would have to be routed through a "Fund for International Cooperation and Assistance," allowing the government discretion to determine which local organizations could receive financing. The Fund's stated purpose is to finance, "in conformity with the priorities of foreign policy and national convenience," the programs and other activities of Venezuela relating to international cooperation. Much about the Fund's operations is unclear, as details have been left to implementing regulations. Venezuelan NGOs have expressed concern that the Fund will be used to "financially strangle" disfavored groups.<sup>30</sup>

- **Sri Lanka** appears to be prepared to follow the Venezuelan model. In March 2009, **Sri Lankan** Defense Spokesman Minister Keheliya Rambukwella said, "The aid or grants coming from other foreign countries should not directly go to the INGOs or NGOs and should be channeled through the government's management and the administration."<sup>31</sup> The Social Services Ministry expects to get the "necessary" legislation approved soon for an NGO law under which all INGOs and NGOs would have to be registered with a central Agency.<sup>32</sup>

The Venezuelan model is particularly troublesome, in that it purports to give the government authority to appropriate private resources for the government's priorities. Donors most likely will react to the law by declining to provide funding to Venezuelan groups, because they do not want their funds directed to

a foreign government entity. The practical consequence will be the likely elimination of most foreign philanthropy to Venezuela.

#### 4. Prohibitive Taxation

While tax frameworks have often been used to encourage philanthropy, some governments are employing prohibitive taxes to discourage foreign philanthropy.

- In **Russia**, under Presidential Decree, #485, issued in June 2008, foreign grants to local NGOs are taxed up to 24% unless the donor is on a government approved list. In the past, a limited number of foreign NGOs were able to get on the list, but following issuance of the Decree, almost no foreign organizations are listed.

In contrast, some governments are working to support greater cross-border philanthropy.

- In 2008, the **Mexican** government worked together with NGOs to implement several reforms to encourage cross-border philanthropy. Specifically, the government took measures to reinforce the applicability of the US-Mexico bilateral treaty,<sup>33</sup> which eases burdens for US foundations interested in making grants to Mexican charities.

#### 5. Other Restrictions

Barriers to cross-border giving are not limited to restrictions on funding. Some countries have sought to impose restrictions on employees and volunteers providing assistance, expelled organizations and aid workers, or imposed banking and currency restrictions that hinder philanthropy.

- The **Sri Lankan** government has taken steps to restrict entry of foreign NGO workers and volunteers. During the summer of 2008 the government began cancelling or denying extensions for visas issued to foreign NGO workers for "security reasons."<sup>34</sup> U.N. workers are permitted to stay on four-year visas which may be extended in exceptional cases. But a senior U.N. worker said the rules would affect dozens of foreign volunteers who work for U.N. Volunteers (UNV).<sup>35</sup>
- After the International Criminal Court (ICC) issued a warrant for Sudanese president Omar al-Bashir, the government of Sudan expelled thirteen International NGOs.<sup>36</sup> According to the UN halting the NGOs' operations would leave 1.1 million people without food, 1.5 million without healthcare and at least one million without drinking water, The UN describes the groups as "integral" to the world's biggest humanitarian operation.<sup>37</sup> A senior U.N. humanitarian affairs official, Rashid Khalikov, reported "significant signs of an erosion of humanitarian response capacity, with a concurrent impact on the lives of people in Darfur" since the 13 foreign and three domestic NGOs were expelled."<sup>38</sup>
- In **Zimbabwe** the government controlled Reserve Bank of Zimbabwe (RBZ) in September 2007 demanded that all foreign currency deposits of foreign funded NGOs and humanitarian organizations be held by the central bank on their behalf.<sup>39</sup> Many Zimbabwean NGOs were threatened with closure when the RBZ was not able to release their foreign funding as a result of the foreign currency shortages of 2008.<sup>40</sup>

## II. Potential Responses

In confronting actual and potential barriers to philanthropy, it is important to consider a government's international, bilateral and domestic legal obligations.

- Many of the states enacting restrictions are parties to one or more international conventions protecting the right to free association. Article 22 of the *International Covenant on Civil and Political Rights*, for example, sets out the very limited conditions under which a restriction on the right to free association is permissible: the restriction must be prescribed by law and

necessary *in a democratic society* in the interests of national security, public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others. All of the countries discussed in this report have signed and ratified the ICCPR. The *Universal Declaration of Human Rights* (Article 20) (1948), the *European Convention on Human Rights* (Article 11) (1950) (ECHR), the *African (Banjul) Charter on Human and Peoples' Rights* (Articles 10 and 11) (1982), the *American Convention on Human Rights* (Article 16) (1978) and the *Arab Charter on Human Rights* (Article 24) all contain almost identical provisions.

In a number of instances it has been argued that restrictions on foreign funding are not consistent with the right to associate protected by these conventions. Where, for example, a law bars foreign funding of particular groups in a country that offers few if any local sources of support, the result may be to extinguish the groups' ability to exist, interfering with their members' right to associate. This type of interference is difficult to justify as necessary in a democratic society for one of the allowed purposes.

- The United Nations *Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* affirms that each state has the responsibility to protect human rights and fundamental freedoms by “adopting such steps as may be necessary to create all conditions necessary... as well as the legal guarantees required to ensure” that all persons are able to enjoy these rights and freedoms (Article 2). Among these rights is 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.”<sup>41</sup> The UN High Commissioner for Human Rights has explicitly stated that the *Declaration's* protections extend to the “receipt of funds from abroad.”<sup>42</sup> In placing restrictions on the flow of foreign funding to human rights defenders, a number of the provisions discussed above would appear to be inconsistent with the *Declaration*.
- In some cases, a government may have entered into bilateral investment treaties (BIT) that protect investments, broadly defined, in not-for-profit organizations among other legal entities. A BIT may allow a citizen of one of the state parties to seek arbitration on the grounds that a foreign funding restriction limited the “free transfer” of funds protected under an agreement. The BIT between Jordan (whose Law on Societies is discussed above) and the United States, for example, contains such a provision. Other countries have entered into “Friendship Treaties” with similar protections; Ethiopia and the United States have such a treaty.<sup>43</sup>
- National constitutions may include protections that are inconsistent with foreign funding restrictions. In Peru, for example, the Constitutional Tribunal overturned several provisions of a 2006 law that increased the role of a government agency in supervising NGO activities financed with international support.

These and other protections may provide the legal basis for a number of actions that NGOs, individuals, donors, or other governments can take to address proposed or actual foreign funding restrictions.

- **Advocacy** by NGOs and their allies may persuade government officials or legislatures to eliminate or ameliorate foreign funding restrictions. As discussed above, in Iraq, the Speaker of the Parliament specifically responded to NGOs' input by agreeing to consider revisions to a provision requiring Ministry approval for foreign and domestic funding for NGOs. Kyrgyz NGOs succeeded in defeating a draft NGO law with restrictive foreign financing provisions by mounting an effective advocacy campaign.<sup>44</sup>
- **Diplomatic efforts** can be critical to communicating concerns at the higher echelons of government. Leaders of other nations and international organizations can initiate discussions with a government to dissuade it from introducing restrictive measures, providing the government with sufficient space to change course publicly.

- **Alternative Funding Mechanisms.** Many of the restrictions on foreign funding focus on registered NGOs. Donors may still have the possibility to fund individuals or “for-profit” organizations with a public benefit, or to provide volunteers.
- **Domestic litigation** offers a potentially powerful tool to challenge rights violations, to expose the repressive nature of the governing system, and/or to generate public attention and awareness. In addition, it may be necessary for parties considering litigation before an international tribunal to exhaust domestic remedies.
- **National and International Human Rights Mechanisms**
  - **National** - Many countries have established a governmental entity with responsibility to monitor, if not enforce, human rights law. These entities include ombudsman offices, human rights commissions, truth commissions, and judicial regulatory bodies. The range of powers varies widely among these entities; regardless, these entities provide an important tool for human rights NGOs and lawyers.
  - **International** - The right to freedom of association is protected by numerous international covenants and treaties. Multiple international human rights mechanisms, some with global reach (UN commissions) and some with regional jurisdiction have been created to ensure compliance with these international instruments. Each offers a potentially significant complementary tool for the work of NGOs and lawyers at the national level. Even where the mechanisms cannot issue legally binding decisions that force states to comply, the political and moral force of the decisions has proved significant in influencing state behavior. For example, The Human Rights Committee was set up under the International Covenant on Civil and Political Rights (ICCPR) to ensure that state parties respect human rights as defined in the ICCPR. The Committee is authorized to accept individual complaints and to investigate alleged violations of the human rights set out in the ICCPR brought by victims of violations or their representatives. Where the Committee believes a violation has occurred (or is about to occur), it can take action, which could include (1) requesting interim measures by the state, (2) declaring that the state has violated the ICCPR, or (3) calling upon the state to end the violation of the ICCPR.

## Conclusion

The financial crisis presents challenges to philanthropic resources NGOs rely on to deliver critical services; legal barriers to these resources exacerbate the situation. If the global community is to achieve critical development goals, cooperation between stakeholders will be necessary. Lowering barriers to global philanthropy will help to support partnerships that will work towards meeting these development goals.

We invite you to submit comments and reports of emerging issues in your country by visiting <http://www.icnl.org/globaltrends/>.

<sup>1</sup> Joint Ministerial Committee of the Boards Of Governors of the Bank and the Fund on the Transfer of Real Resources to Developing Countries, *Development Committee Communiqué* (April 26, 2009), available online at: [http://siteresources.worldbank.org/DEVCOMMINT/NewsAndEvents/22157091/FinalCommunique\(E\)042609.pdf](http://siteresources.worldbank.org/DEVCOMMINT/NewsAndEvents/22157091/FinalCommunique(E)042609.pdf).

<sup>2</sup> The eight Millennium Development Goals have been adopted by the international community as a framework for the development activities of over 190 countries in ten regions; they have been articulated into over 20 targets and over 60 indicators.

<sup>3</sup> Veronica Uy, “Ban to rich nations: Keep your promises” *INQUIRER.net* (29 October 2008) <http://globalnation.inquirer.net/news/breakingnews/view/20081029-169127/Ban-to-rich-nations-Keep-your-promises>.

<sup>4</sup> High-level Event on the Millennium Development Goals, United Nations Headquarters, New York, (25 September 2008), <http://www.un.org/millenniumgoals/2008highlevel/pdf/newsroom/Goal%208%20FINAL.pdf>.

<sup>5</sup> Id.

- <sup>6</sup> Secretary of State, Hillary Rodham Clinton, *Remarks at the Global Philanthropy Forum Conference*, (22 April 2009), <http://www.state.gov/secretary/rm/2009a/04/122066.htm>.
- <sup>7</sup> Id.
- <sup>8</sup> See generally International Center for Not-for-Profit Law and World Movement for Democracy Secretariat at the National Endowment for Democracy, *Defending Civil Society: A Report of the World Movement for Democracy* (2008), pp. 21-22.
- <sup>9</sup> See D. Rutzen and C. Shea, "The Associational Counterrevolution," *Alliance*, Vol. 11 No. 3 (Sept. 2006), p. 27.
- <sup>10</sup> For more information about barriers to resources not examined in this report see generally *Defending Civil Society: A Report of the World Movement for Democracy* (2008), pp. 18-20.
- <sup>11</sup> *Law on Non-Governmental Organizations* (2009), Article 17. See Iraqi Parliament website (Arabic only) [http://www.parliament.iq/Iraqi\\_Council\\_of\\_Representatives.php?name=articles\\_ajsdyawqwqdasdba46s7a98das6dasda7das4da6sd8asdsawewqeqw465e4qweq4wq6e4qw8eqwe4qw6eqwe4sadj&file=showdetails&sid=2539](http://www.parliament.iq/Iraqi_Council_of_Representatives.php?name=articles_ajsdyawqwqdasdba46s7a98das6dasda7das4da6sd8asdsawewqeqw465e4qweq4wq6e4qw8eqwe4qw6eqwe4sadj&file=showdetails&sid=2539).
- <sup>12</sup> Id.
- <sup>13</sup> 2001 *Law on Associations and Foundations* (Revised Article 23, Proposed Article 30).
- <sup>14</sup> 2008 *Law on Societies*, (Article 17(b) (1)).
- <sup>15</sup> 2008 *Receipt and Giving of Social Organization Aids From and To Foreign Parties* (Article 6(2)(e)).
- <sup>16</sup> Id. at (Article 40(1)); see also John Aglionby, "Indonesian Funding Rule "Draconian," *Financial Express*, (20 December 2008), <http://www.thefinancialexpress-bd.com/2008/12/20/53598.html>.
- <sup>17</sup> Council on Foundations, "USIG Country Report: Indonesia," <http://www.usig.org/countryinfo/indonesia.asp>.
- <sup>18</sup> In 1982 the law was amended to broaden the scope of the definition of "foreign contributions" to include all contributions to NGOs from abroad.
- <sup>19</sup> World Bank: Poverty Reduction and Economic Management Sector Unit South Asia Region, *The Economics and Governance of Non Governmental Organizations (NGOs) in Bangladesh* (August 2005) p.55, [http://www.lcgbangladesh.org/NGOs/reports/NGO\\_Report\\_clientversion.pdf](http://www.lcgbangladesh.org/NGOs/reports/NGO_Report_clientversion.pdf).
- <sup>20</sup> Finance minister A.M.A. Muhith quoted in, "NGOs with foreign funding fuelling militancy in Bangladesh," *The Gaea News* (19 March 2009), <http://blog.taragana.com/n/ngos-with-foreign-funding-fuelling-militancy-in-bangladesh-19301/>.
- <sup>21</sup> Editor, "EOHR is under the threat of dissolution" *Egyptian Organization for Human Rights*, (29 April 2009), <http://en.eohr.org/?p=102>.
- <sup>22</sup> Id.
- <sup>23</sup> Cairo Institute for Human Rights Studies, *Human Rights in the Arab Region* (Annual Report 2008) (The Association of Human Rights Legal Aid (AHRLA), a similar organization, was dissolved in September 2007 for alleged acceptance of foreign funding without the approval of the Administrative authorities. On 26 October 2008 a judicial ruling was issued to halt the dissolution of the NGO).
- <sup>24</sup> Press conference with Mr. Dzhunushaliev, the Head of Analytical Services with the Presidential Administration (6 May 2009), (Russian) <http://kg.akipress.org/news:74931>.
- <sup>25</sup> The Federal Law of the Russian Federation #7-FZ *On Non-commercial Organizations* of January 12, 1996 with amendments as of January 10, 2006 (Article 23<sup>1</sup>).
- <sup>26</sup> *Proclamation for the Registration and Regulation of Charities and Societies 2009* (Articles 2, 14(5)).
- <sup>27</sup> "Ethiopia's restrictive NGO law 'designed' for 2010 elections - Aid officials," *Jimma Times* (23 December 2008), <http://www.jimmatimes.com/article.cfm?articleID=31638>.
- <sup>28</sup> Asamblea Nacional anunció agenda legislativa de 2009 (10 March 2009), [http://www.asambleanacional.gob.ve/index.php?option=com\\_content&task=view&id=21299&Itemid=27](http://www.asambleanacional.gob.ve/index.php?option=com_content&task=view&id=21299&Itemid=27).
- <sup>29</sup> Id.
- <sup>30</sup> "NGOs warn of restrictions in pending Venezuela law," *Associated Press* (7 May 2009), <http://www.chron.com/disp/story.mpl/ap/latinamerica/6413278.html>.
- <sup>31</sup> Sunil Jayasiri, "All foreign aid should go through Govt.: Minister Keheliya Rambukwella" (9 March 2009), <http://www.lankamission.org/content/view/1723/9/>; see also "Sri Lanka government expects transparency from NGOs" *ColomboPage* (6 March 2009) [http://www.colombopage.com/archive\\_09/March6160421RA.html](http://www.colombopage.com/archive_09/March6160421RA.html); although the Sri Lankan government has not taken any legislative action as of this writing, government spokespeople have been promising imminent action. See section 5 *infra*.
- <sup>32</sup> Sandun A. Jayasekera, "Ministry accuses NGOs of fraud" *Daily Mirror* (27 March 2009), <http://www.dailymirror.lk/DM BLOG/Sections/frmNewsDetailView.aspx?ARTID=44613>.
- <sup>33</sup> US – Mexico Income Tax Convention, <http://www.irs.gov/pub/irs-trty/mexico.pdf>.
- <sup>34</sup> Feizal Samath, "Clampdown on International NGOS" *Inter Press Service News Agency* (August 2008), <http://ipsnews.net/news.asp?idnews=43509>.
- <sup>35</sup> Id.
- <sup>36</sup> Rob Crilly, "Darfur refugees face disaster as Sudan expels NGOs in al-Salaam Camp, North Darfur, Bashir drives out 13 agencies in anger at his arrest warrant" *Irish Times.Com* (6 March 2009), <http://www.irishtimes.com/newspaper/world/2009/0306/1224242373098.html>.
- <sup>37</sup> United Nations Office for the Coordination of Humanitarian Affairs - Integrated Regional Information Networks (IRIN), "Sudan: NGO expulsion to hit Darfur's displaced" *ReliefWeb* (9 March 2009), <http://www.reliefweb.int/rw/rwb.nsf/db900SID/JBRN-7PYDRU?OpenDocument>.
- <sup>38</sup> Reuters, "Sudan says to never reverse decision to expel NGOs" *AlertNet* (20 March 2009), <http://www.alertnet.org/thenews/newsdesk/N20521830.htm>.
- <sup>39</sup> "ZIMBABWE: NGOs withering under foreign currency shortages" *PlusNews* (24 April 2008), <http://www.plusnews.org/Report.aspx?ReportId=77902>.
- <sup>40</sup> Id.

---

<sup>41</sup> *Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders)*, United Nations General Assembly Resolution 53/144 (9 December 1998), Article 13.

<sup>42</sup> See *Commentary to the Declaration on Human Rights Defenders*, available online at <http://www.ohchr.org/english/issues/defenders/declaration.htm>.

<sup>43</sup> For more detail, see Luke Eric Peterson and Nick Gallus, “International Investment Treaty Protection of Not-for-Profit Organizations,” *The International Journal of Not-for-Profit Law* (Vol. 10, Iss. 1, December 2007), <http://www.ijnl.org>.

<sup>44</sup> See Section I. 3 *supra*.