



Quarterly Report

January 1, 2006 – March 31, 2006

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During the past quarter, ICNL engaged in a number of activities to protect the freedom of association around the world. Among other activities:

- ICNL prepared a draft report surveying NGO legal restrictions worldwide, which was used as the basis for the a report submitted to the US Senate;
- ICNL worked intensely with the Center for the Development of Democracy and Human Rights and other partners to address the restrictive NGO law in Russia;
- ICNL engaged with Tajik authorities, persuading them to postpone consideration of a regressive draft Law on Public Associations modeled on the Russian example; and
- ICNL was asked to produce overnight comments on an extremely restrictive draft NGO law that was expeditiously moving forward in Iraq without public consultation; ICNL's comments have been credited with preventing passage of this law to date.

ICNL's profile also increased during this past quarter. ICNL's Vice President for the NIS, Natasha Bourjaily, testified before the US Helsinki Commission on the Russian NGO law. In addition, ICNL's President was frequently quoted in newspapers on the current backlash against civil society, and ICNL was among the first groups to speak out against the restrictive NGO law in Iraq.

From a financial perspective, we continue to diversify our funding base, with new grants from New Zealand's International Aid and Development Agency, CIVICUS, Open Society Foundation for Albania, and others. In the past quarter, we closed our books for 2005. It was a record year: ICNL and its affiliates raised over \$5.3 million in new projects, and our unrestricted assets nearly doubled (from \$89,500 to \$176,766). We remain on a similar pace this quarter, raising over \$1 million in new projects since January 1.

USAID Evaluation: USAID commissioned a comprehensive evaluation of ICNL's activities in Central and Eastern Europe (CEE) over the past eleven years. The evaluation team met with civil society leaders, government officials, and other stakeholders. The evaluation was extremely positive; a few highlights are excerpted below:

ICNL has clearly been a key actor in the development of legislation in the region over a long period of time. ICNL affiliates, ECNL and BCNL have become important contributors to the resolution of 'second generation' legal issues. Their involvement has been viewed as extensive, objective, expert, and sensitive to local conditions. ICNL experts bring a comparative overview and international weight that is valued by all sides in discussions.

Interviews with respondents who have worked with ICNL stress that ICNL does two things very well. First, it 'educates and informs' by bringing relevant world wide experience and best practices to bear on legal development issues, not just the American experience. Second, it actively develops relationships with all key players in the legislative process, NPO leaders, government officials and

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parliamentarians. ICNL's approach recognizes that simply providing informed commentary is only the first step in achieving results.

While ICNL may be described as an active partner, it has a reputation of never imposing or forcing solutions on its clients. Rather, it uses its authority and persuasiveness to lead local leadership to an acceptable solution that, in the end, will be theirs. This stress on local ownership and responsibility was repeatedly stated by key informants.

The entire evaluation is available in the news section of ICNL's website (<http://www.icnl.org/knowledge/news/index.htm>).

Program Highlights

The following are select highlights from recent program activities, compiled with the assistance of ICNL staff:

Afghanistan: ICNL continued to support the implementation of the new NGO Law (enacted June 2005) and to build the capacity of key stakeholders in the government and the NGO sector. ICNL disseminated the new NGO Law throughout Afghanistan, reaching the governors, ministerial departments, courts, and attorneys general in all of Afghanistan's 34 provinces. ICNL conducted a survey of the re-registration process to learn more about implementation practices. The re-registration process, which was required by the new Law, was completed in early February. Interestingly, the Government terminated more than 1600 NGOs due to a failure to apply for re-registration. Many observers believe that most of these NGOs were not operating as NGOs (but rather as for-profits) and were not reporting to the Government. Significantly, the Ministry denied no re-registration applications. In addition, ICNL worked with Counterpart International to prepare a nationally televised program designed to raise awareness of civil society among the public, which will be aired in April. ICNL prepared an *NGO Registration Brochure*, which will be published in the coming weeks and made widely available. Finally, ICNL is working to prepare an NGO seminar, to educate members of the new National Assembly on the importance of civil society.

Azerbaijan: On March 9, 2006, the Human Rights Commission of the Parliament of Azerbaijan and ICNL (in its role as part of a Civil Society Project team) co-organized a workshop on the role and purpose of NGOs in social and economic life. Ten members of the Parliament of Azerbaijan and representatives from the Ministry of Justice, Ministry of Youth and Sports and State Committee for religious affairs, as well as 40 NGO and mass media representatives attended this workshop. The workshop served as a starting point to increase dialogue among NGOs and the government by: (1) identifying potential areas of cooperation, (2) setting the stage for Azerbaijan's NGO sector to be further involved in the economic and social life of Azerbaijan, and (3) developing new legislative initiatives that will benefit Azeri NGOs.

Bosnia: The first VAT Law came into force in Bosnia and Herzegovina (BiH) on January 1, 2006, introducing major changes in the consumption tax system. To educate NGOs and government officials on the impact of the VAT system on NGOs, ICNL co-hosted a roundtable event on March 29 in Banja Luka. ICNL is planning a second such event in Sarajevo, to be held in April.

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Bulgaria: As part of the Judicial Strengthening Initiative, ICNL and BCNL worked with the East West Management Institute (EWMI) to conduct a conference on constitutional law reform on February 10 in Sofia. ICNL is also exploring the possibility of preparing a *How-To Guide on Law Reform* to support ongoing advocacy efforts around judicial reform in Bulgaria.

ECNL developed a Comparative Analysis of the European Legal Systems and Practices Regarding Volunteering for BCNL under the project "An Optimistic Look at NGOs and Domestic Resources," funded by the Trust for Civil Society in CEE. The Analysis aims to support the Bulgarian working group in developing a law on volunteering. In addition, the analysis is translated in Croatian and Macedonian to support similar initiatives in these countries. As part of the CEE Trust Project, ECNL is finalizing a comparative paper on Tax Treatment of NGOs and Tax Benefits for Donors, and is currently drafting a third paper on NGO Government funding policies and mechanisms.

China: On February 23-25, ICNL participated in the first *National Training Course for Senior Chinese Charity Officials*, which was held in Xinchang, China. ICNL was invited to address the *Financial Sustainability of the NGO Sector*.

Honduras: During the first quarter of 2006, ICNL and its local partner, the Federation of Private Development Organizations in Honduras (FOPRIDEH), co-hosted the country's first-ever Forum on Non-Profit Law. The two-day Forum helped raise the level of attention paid to not-for-profit law issues and created a venue where over 175 civil society, government, academia, and private sector representatives engaged in substantive discussions on the legal framework that governs NGO activities in Honduras. Forum participants also received an update on the content and status of the draft Honduran NGO law and FOPRIDEH's efforts to secure its passage. Invited experts from Chile, Costa Rica, El Salvador, and Venezuela also shared their perspectives on the role of NGOs and the legal framework governing NGO activities in their respective countries and spoke to advocacy activities, government/civil society relations, NGO sustainability, and the importance of international/comparative experiences. The Forum also achieved a parallel objective by enabling FOPRIDEH to develop further its institutional capacity as an advocacy organization.

ICNL also continued to provide guidance to FOPRIDEH as it worked to secure passage of an NGO law. Specifically, it prepared a memorandum detailing why adoption of a provision restricting an individual and/or organization's fundamental right to associate by disallowing registration of NGOs that would violate "the public order or good custom(s)" contravenes the major human rights conventions – to which Honduras is a signatory – protecting the right to associate freely.

Mauritius: ICNL traveled to Mauritius from March 16-30 to conduct an assessment of the NGO legal framework in Mauritius. ICNL met with a wide variety of stakeholders, from the government and NGO sectors, and is continuing its research through a National Legal Consultant. The immediate result of the assessment visit will be a preliminary assessment report to be completed in April.

Macedonia: ICNL continued to work closely with the Ministry of Justice to help move forward the process of enacting amendments to the NGO law. In response to requests from the Ministry, ICNL participated at a roundtable discussion on the draft amendments

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and prepared comments to the latest draft law. In addition, ICNL provided comparative perspective on the three topics incorporated in the draft amendments: the right of NGOs to engage directly in economic activities; the right of legal entities to form associations, and the introduction of the public benefit status.

Furthermore, ECNL continues to implement activities under the USAID funded Civil Society Strengthening Project, led by the Institute for Sustainable Communities. In addition, ECNL was contracted to provide expertise to the Macedonian Government in drafting and adopting a Strategy for Cooperation with NGOs. The project is led by a Dutch consulting firm, COWI, and is funded by the European Agency for Reconstruction.

Mexico: ICNL provided comments on a draft regulation which would accompany the State of Campeche's "Transparency and Access to Public Information Law." The law, as drafted, defines NGOs as "public bodies" and, as such, would subject them to a litany of transparency requirements.

ICNL and its local partners, ITAM, and Incide Social, are participating in an ongoing strategic planning process designed to identify short, medium, and long-term project activities and goals. Specifically, the group is deciding collectively how best to: strategically position itself to propose additional changes to the fiscal framework governing authorized donees and other NGOs in Mexico; and maintain and capitalize on positive and productive working relationships established with SAT, other government, and sector representatives.

Middle East/North Africa: ICNL is preparing to welcome in April and May three fellows funded by the State Department's Middle East Partnership Initiative (MEPI) program. We are planning a conference in June that will feature presentation of the fellows' research.

Romania: ECNL is part of a consortium led by World Learning, which is implementing the two-year Civil Society Strengthening Project funded by USAID. In March, ECNL, in partnership with local NGOs, hosted a roundtable event entitled "Romanian Civil Society and the Structural Funds." Representatives from the Government and NGOs took part in this discussion. The event provided an opportunity to discuss the current state of affairs in Romania while preparing the National Development Plan and preparing the Structural and Cohesion Plans. NGOs and Government representatives discussed the necessity for inclusion of NGOs in the planning process. In addition, experts from Hungary, Poland and Czech Republic shared their experience regarding participation and the involvement of NGOs in programming, implementing and monitoring the operational programs and accessibility of Structural Funds for NGOs. ECNL presented an overview of policy issues and principles regarding direct public funding of NGOs that the Government and NGOs could consider in developing the mechanisms for implementation of the Structural Funds and in revising the general public funding framework.

Russia: With the new Law on NGOs scheduled to come into effect in April, ICNL, in cooperation with the Center for the Development of Democracy and Human Rights and other Russian partners, has been assisting the few open-minded government officials engaged in drafting implementing regulations. ICNL has prepared comments to the draft regulations, provided in person consultations to the drafters, and will seek to mitigate the

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potential harm of the new law by working to improve the implementing regulations. ICNL is also preparing a methodology for monitoring the effects of implementation of the new law, which will help to determine the extent of its impact on Russian civil society. In addition, ICNL assisted the Russian Ministry of Economics with drafting a concept on endowments in Russia, and the Russian Ministry of Finance with drafting the Concept on Special Tax ("Tax-exempt") Regime for NGOs. ICNL also prepared extensive analyses and comments on the NGO Law, which are available on our website.

Serbia: ICNL provided ongoing technical assistance in the development of the draft Law on Associations and the draft Law on Volunteerism. It is anticipated that both laws will be finalized and submitted to the Serbian Parliament by June 2006. ICNL's impact on both laws has been pivotal, building on our years of work in Serbia.

South Africa: Work continues in partnership with our local partner, the Non Profit Consortium (NPC), on both tax reform proposals and amendments or companion legislation to the Companies Act to simplify registration of NGOs.

South Pacific: New Zealand's International Aid and Development Agency (NZ Aid) and ICNL have entered into a three-year regional agreement, under the direction of Advisory Council member David Robinson, Stephan Klingelhofer, and Darla Mecham. The project is being implemented in partnership with the University of the South Pacific, and will encompass legislative analysis, technical assistance in drafting new NGO legislation, capacity-building through regional and country-specific trainings and workshops on NGO law, as well as university and graduate courses. First steps are already underway, with a Government/NGO workshop planned for late May in Vanuatu, as well as ICNL participation in the revision of laws affecting NGOs undertaken by the Fiji Law Reform Commission. We anticipate additional funding for this project from other regional sources, including AUSAID and ADB, following up on 5 years of small-grant funded projects in the region.

Tajikistan: ICNL has been closely involved in the response to the Tajik government's proposal of a restrictive draft Law on Public Associations. A number of the provisions in the draft law do not comply with international legal standards governing the freedom of association. Moreover, their adoption may lead to violations of human rights and freedoms and have a negative impact on civil society in Tajikistan. Among other restrictions, the draft law would impose mandatory state registration/notification of public organizations that do not currently have the status of legal entities (public initiative groups). It would also place restrictions on the right of association for foreign nationals and stateless persons, grant the government excessive authority to monitor the activities of public organizations, and would require re-registration of all public organizations. ICNL has prepared a detailed analysis of this draft law, which has been distributed to local stakeholders and government officials.

Visiting Tajikistan in March, ICNL met with Parliament members and officials from the Ministry of Justice and obtained a commitment from them to postpone consideration of the draft law until after the upcoming elections. This will allow ICNL and other groups more opportunity to engage the government in revising the proposed draft law, and hopefully to remove or ameliorate the problematic provisions. In addition, ICNL has learned that the Ministry of Justice has also been pushing for more restrictive legislation to be adopted on registration of foreign NGOs. These are the same officials who were

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responsible for developing the new restrictive draft Law on Public Associations. As a result of ICNL's meeting, ICNL has also obtained an agreement from the Ministry of Justice that, rather than propose a new law, the Ministry, jointly with ICNL, will prepare guidelines on how to register a foreign NGO under the existing law on registration. These guidelines would explain and interpret the existing law. While the current law is far from perfect, in the current situation any new law on foreign NGOs will be a restrictive law following Russia's example. This commentary will help to avoid a new law for now, and will assist foreign NGOs in understanding and following the provisions in the current law.

Ukraine: Two years of continuous efforts by ICNL and other organizations have resulted in a significant accomplishment. The government has lifted a three year suspension on tax preferences for NGOs and their donors. The adopted Law on State Budget for 2006 reinstates the provision stating that "incomes from principle activities in the form of charitable assistance, educational, scientific, cultural, and other services for public benefit...are exempt from income tax." The law also provides that businesses can deduct donations to charities in the amount of up to 5% of their taxable income.

Cross-Cutting Initiatives

USIG

- United States International Grantmaking (USIG) is a project of the Council on Foundations in partnership with the International Center for Not-For-Profit Law. The USIG project facilitates effective and responsible international grantmaking by U.S. foundations. ICNL sits on the Steering Committee of the Project and prepared country notes to assist private foundations engaged in international grantmaking.

Website

- ICNL has also added significant resources to the online library in the past quarter. The online library currently contains over 1,600 resources from more than 110 countries. ICNL continues to add new resources every day and welcomes submissions from Board and Advisory Council members.

Research

- USAID/NGO Sustainability Index. ICNL is finishing up its second successful year working with MSI to prepare the USAID NGO Sustainability Index. We expect the 2005 Index to go to publication by the end of April.
- USAID/PVC-ASHA/Research. We have received field research from the NGO partners for our PVC research grant that covers the sequencing of NGO law reform interventions in post-conflict situations, and are proceeding with the drafting of the paper.
- Public Benefit Commissions: A Comparative Overview. In January, the International Journal of Not-for-Profit Law published a special section on Public Benefit Commissions, featuring contributions from David Moore, Richard Fries, Ilya Trombitsky, and Tatshat Stepanyan. The upcoming issue will focus on Russia, with an authoritative analysis of the restrictive new NGO law, as well as

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articles on the role of American donors in Russia's Third Sector, the laws affecting religious organizations, and the nation's historical traditions of philanthropy and civil society.