



International Center
for Not-for-Profit Law



EMPOWERING LOCAL SOLUTIONS

Annual Report
July 2005 - June 2006

Letter from the Chair



This is my first contribution to ICNL's annual report since succeeding Richard Fries as Chair. Richard left ICNL in a strong position, and I hope to be able to merit following in his footsteps.

While it is almost impossible to list all the achievements of the organization in the past year, one of the highlights was the very successful Global Forum on Civil Society Law held in Istanbul, Turkey from November 17-19, 2005. When the concept was first discussed, we didn't know if we were pushing the envelope when we proposed to call the conference a "global forum." In the end it was just that: more than 150 participants attended from more than 60 countries. The presentations were excellent, exceeded only, in my view, by the quality of the interchanges between the attendees. I would be remiss if I didn't thank TÜSEV, the Third Sector Foundation of Turkey and our partner in the endeavour, for having dealt so well with the organization of the conference. The staff of ICNL (from all its offices) also did a spectacular job and merit our thanks.

One unfortunate development in the civil society sector is the fact that in many countries the environment of third sector work has become more challenging. Legislative initiatives in Russia which create problems for the sector are well-known and well-publicized. In countries such as Belarus and Uzbekistan (to name but two) the dangers are not only legislative, but for many working in the field, personal. Several years ago, the development of civil society in jurisdictions that had apparently shed the yoke of totalitarianism brought much optimism. Now this confidence is being tempered. As there is no indication that this trend will abate in the near future, ICNL is working on various initiatives which involve operating in these politically unreceptive environments.

On a happier note, by any measure ICNL continues to thrive. It is working in and with more countries than ever before. Its funding is increasingly diverse, an indication that ICNL's work is recognized more broadly than was the case in early years. ICNL's overall financial position has been strengthening from year to year, giving the organization much more flexibility in terms of organizational planning. Indeed, ICNL's various new initiatives, such as the work dealing with hostile environments, are generating significant interest from many parties around the world.

I'd like again to thank our former Chair, Richard Fries, for having laid the ground work for the current successes. Finally, these achievements would also not have been possible without the dedication and superb work of the staff of ICNL under the leadership of President Douglas Rutzen.

Arthur Drache, Chair

Letter from the President

In the following pages you will read about ICNL's work to improve the Russian NGO law, to support civil society in the Middle East, and to advance NGO legal reform in South Africa. You'll also read about our engagement in countries as diverse as Afghanistan, Belarus, Algeria, and Mexico. These are a but a few highlights; last year alone, ICNL worked on projects involving more than 75 countries.

To provide the intellectual basis for this work, ICNL significantly increased its research activities. Among other initiatives, we researched NGO law in post-conflict situations, the legal framework for NGO/government relations, and the tension between custom and written law in the South Pacific. We also undertook research on the "associational counter-revolution," informing the work of the European Parliament, the U.S. Helsinki Committee, CIVICUS, and others.

In ethos and action, ICNL remains committed to supporting — and not supplanting — local expertise. For example, this year we launched a fellowship program to enable scholars from the Middle East to pursue research agendas of their own choosing. In addition, our European affiliates are staffed exclusively by experts from Europe, and partners in Africa, Asia, Latin America, and the Middle East lead our projects in those regions. We also convened the first-ever Global Forum on Civil Society Law to ensure that global leaders could share experiences across countries and cultures.

During the past year, ICNL's donor base increased substantially. We received support from human rights organizations, development agencies, corporations, foundations, and individuals. This diversity enables ICNL to stand as an independent, sustainable, and mission-driven organization. In the past year, we were also able to double our unrestricted net assets, which gives us greater flexibility to meet the emerging needs of our partners.

Finally, I pay tribute to ICNL's Board, staff, and partners. Whether it is providing late night comments on the Russian NGO law or providing *pro bono* assistance to partners in Venezuela, you have demonstrated great dedication, perspective, and skill. Many have said that ICNL achieved more in the past year than ever before, and I recognize that credit for this success rests firmly with you.

Douglas Rutzen, President



What is ICNL?



The International Center for Not-For-Profit Law (ICNL) is an international not-for-profit organization that promotes an enabling legal environment for civil society, freedom of association, and public participation around the world. Since our founding in 1992, ICNL has worked in over 100 countries.

ICNL's work incorporates several important core values:

- Reform should result from an indigenous and transparent process;
- Sustainability should be achieved through capacity-building;
- Programs should incorporate public participation;
- Activities should support, and not displace, local expertise; and
- ICNL should serve as an independent, professional source of information.

ICNL has earned the trust and respect of civil society organizations, scholars, government officials, and the business community as a leader in effectively addressing not-for-profit law issues and challenges to civil society.

The following pages outline some of ICNL's activities from July 2005 – June 2006. It is a report with several dimensions; we speak of ICNL's research on cutting-edge issues, the value we place on creating networks and building capacity, and the alarming trend of democratic backsliding.

Remaining constant, however, is the importance of ICNL's core values. From tax reform to defending rights, ICNL strives to **empower local solutions**.

Participation and Education

The challenge is to reach the unreachable. Afghanistan is a country of 29 million people, of whom two-thirds live on less than \$2 per day, making it the world's poorest country outside of Africa. Only 36% of the Afghan population is considered literate. Travel outside the capital, due to the poor physical infrastructure and deteriorating security situation, is difficult and often dangerous. In such circumstances, education of the public on the new law governing NGOs presents a nearly overwhelming task. Yet ICNL is rising to meet that challenge.



Mr. Naim Salimi, head of the Coordination for Afghan Relief (CoAR), speaks during a vibrant discussion on civil society in Afghanistan

Educating the Public, Nationwide | ICNL worked with Creative Associates and Counterpart International to produce and broadcast a roundtable on civil society to a nationally televised audience. The program highlighted the value of civil society; the activities, accountability and transparency of the sector; and the new NGO law. The impact was tremendous-- the CEO of Afghanistan's largest NGO umbrella group called the program "the first initiative in 25 years highlighting NGO activities as civil society actors."

Educating NGOs and Government Officials Outside Kabul | ICNL and Creative Associates launched a regional training series intended to reach all 34 of Afghanistan's provinces. Topics focus on media and image issues and participants' rights and responsibilities under the NGO law.

Educating the New Parliament | In cooperation with Counterpart International and local partners, ICNL conducted a seminar on the NGO law and the NGO code of conduct. Participants included 14 members of the National Assembly and ministry officials.

Mr. Sultanzoi, member of the National Assembly, pledged transparency in reviewing the NGO Law and invited the input of ICNL and the NGO community.

ICNL also has developed a strategic partnership with the University of Pennsylvania Law School where we will introduce a course on international civil society law. This is the first initiative of its kind at any of the U.S.'s "Ivy League" universities. Penn joins ICNL's network of over 30 universities around the world teaching NGO law.



Defending Rights

In March 2006, Belarussian citizens braved the vicious cold to take a stand against the current regime and its manipulation of the elections. Their efforts did not prevent the re-election of President Lukashenko. Nevertheless, the largest civil demonstrations in Belarus in years brought the plight of her citizens to the attention of the international media. Elena and her fellow lawyers in ICNL's Lawyer Network in Belarus were on the front lines of this struggle.

Elena is no stranger to intimidation from the Belarusian government. Since 1994, her organization has assisted hundreds of NGOs and civil society activists to defend their rights. As soon as Lukashenko came to power, the government began harassing Elena. She has been ordered to stop representing "disloyal" NGOs and civic leaders or risk losing her lawyer's license. In 2004, her first NGO was liquidated by the government. ICNL has supported Elena's NGO with funding and technical assistance. ICNL also has helped establish contacts with international regional workshops, bringing together lawyers from Russia and Ukraine.

The Police are watching my apartment...

On March 18th, Lubov called the Hotline because her apartment was being watched by the police, and she was afraid to leave. Lubov had reason to be afraid: her husband had been sentenced for posting a placard of an opposition candidate the previous day. ICNL's network of lawyers assisted her in drafting a complaint and contacting the appropriate authorities. In the end, due to the Hotline's advice Lubov was not arrested.



During the past two years, ICNL's trained lawyers stationed throughout **Central Asia** have provided legal assistance to over 4,000 NGOs and civil society leaders. ICNL's network of trained lawyers has helped NGOs to defend themselves against intimidation and even closure. Tax and registration authority harassment and government termination of organizations are common dangers for NGOs. Central Asian governments traditionally target the most influential and vocal advocacy groups, and the termination of such high-profile, active NGOs would seriously undermine civil society throughout Central Asia.

“I am trying to accomplish things and change conditions in my own limited capacity in Algeria for a long time. For me this project was an opportunity to put my efforts to fight for democracy on another level... I have shared a great experience with a great team.”

- Chafika Kahina Bouagache, Algeria

When an opportunity arose to allow activists from the Middle East to study civil society topics of their own choice, ICNL paved the way for their local research. The result was the ICNL Middle East Senior Research Fellowship, a program that enabled four highly qualified Arab civil society activists - Ziad Abdel Samad (Lebanon), Sa'ed Karajah (Jordan), Mohamed Elagati (Egypt), and Chafika Kahina Bouagache (Algeria), to carry out cutting-edge research to advance reform of laws affecting civil society at home and abroad.

The conclusions of their research were in many cases controversial and provocative. For instance, Ziad Abdel Samad's analysis of the causes for civil society's relative weakness in the Arab world found that the legal, political, and social environments all played an adverse role. However, he also identified weaknesses within civil society. Mohamed Elagati, writing about Egypt's civil society law, issued a strong indictment of the Egyptian state security apparatus. Sa'ed Karajah goes so far as to argue that the “concept” of civil society simply does not exist in some countries, and suggests a draft civil society law for his home country. Once completed, the research papers of all four Senior Fellows will be made widely available to reformers in the Arab world and internationally.



South Pacific “Custom and the Law” | In an island village a group of young women formed a club for “self-improvement.” They knew of the strides in women’s rights, and they saw themselves as accomplished. But their group – and its very purposes – were illegitimate in the eyes of the village leadership. In the end, the group disbanded. The conflict between traditional, customary practices and “universal rights” – assembly, association, speech, belief – is strong in many parts of the world, not least the South Pacific. Finding ways to make custom and law compatible in order to serve the communal, village-based populations in the region constitutes a central feature of ICNL’s Pacific Civil Society Law Programme (funded by New Zealand AID). Seminal research on this tension is now underway, and it is hoped a compromise between the universal rights endorsed by those nations and customary law can be found.

Politically Challenging Environments

"ICNL was the leading international non-governmental organization providing advice on the Russian NGO law. ICNL's expert, nonpartisan information served as the basis for many important changes in the law." Darya Miloslavskaya,
Russian NGO law expert



From the date the draft law "On Introducing Amendments to Certain Legislative Acts of the Russian Federation" ("NGO law") was registered in the Duma in late 2005, it caused considerable apprehension throughout Russian society and the international community. The NGO law as introduced would have given the Government significant oversight of NGO formation, funding, and operations.

Following the release of the draft, Russian government officials issued statements claiming the new NGO law was comparable to best practices in G8 and other European countries. Immediately ICNL began receiving calls from anxious Russian civil society, human rights and international organizations, all requesting our legal insight and assistance.

In response to our local partners and the international community's calls for help, ICNL prepared an analysis of the draft law provisions. We identified the divergencies with Russia's obligations under international law and other international standards.

Despite the campaign against the NGO Law by Russian NGOs and the international community, the NGO Law was signed by the President on January 10, 2006. However, due to advocacy campaigns and ICNL's technical interventions, many of the restrictive provisions had been removed. The law came into effect on April 17, but the full ramifications remain to be seen. Much will depend on how it is implemented. In cooperation with our Russian partners and with support from international donors, ICNL has developed a comprehensive plan of support. We will continue to assist, and lead, efforts to monitor the government's implementation and to help NGOs navigate the new law.

Venezuela served as another prominent example of the use of restrictive laws to constrain civil society. The proposed "Law on International Cooperation" features restrictions on foreign financing of NGOs and the creation of a new agency to regulate the receipt and distribution of international cooperation funds. ICNL provided *pro bono* assistance to Venezuelan partners to address these challenges.

- “You almost contained the ‘world in one room’ discussing and empowering each other on civil law of different nations across the world.” In November 2005, ICNL convened the first-ever [Global Forum on Civil Society Law](#), drawing together 150 leaders from a cross-section of stakeholders, representing over 60 countries. The Forum introduced participants to a vast network of field experts, both to share cutting-edge research and to develop strategies for NGO law reform worldwide.



[Strengthening Civil Society in the Arab Region](#) | In July 2006, ICNL convened Arab activists from 12 countries to consider strategies for advancing the right to free association and an appropriate framework to support civil society. Participants had the opportunity to hear from Arab reformers who had successfully championed law reform initiatives and to collaborate with their colleagues from other countries on common legal challenges. ICNL is proud to have played a role in bringing these experts together.

Continuing our networking efforts, ICNL and our local partner in [Honduras](#), FOPRIDEH, co-hosted Honduras’ first-ever Forum on Not-for-Profit Law. This two-day event brought together 175 civil society, government, private sector, and university representatives. The event fostered the budding network between Honduran civil society and NGO law experts from the Latin America region and served as a forum for discussion of Honduras’ new draft NGO law.

In July 2006 more than 600 NGO stakeholders from around the world gathered in Moscow to attend the International Forum of Non-Governmental Organizations “[Civil G8-2006](#).” Held to address G8 priority issues, the Forum also afforded Russian NGOs a platform to network with international experts. Within this network NGOs and experts worked together to develop strategies to respond to the Russian government’s new repressive NGO law. Several experts affiliated with ICNL, including Arthur Drache, Chair of ICNL’s Board of Directors; Lindsay Driscoll, Commissioner of the Charity Commission for England and Wales and former ICNL Board Member; Michael Ernst-Porksen; and Natalia Bourjaily, Vice-President NIS at ICNL, participated in the event.

Over the past year ICNL and CIVICUS have strengthened their partnership endeavoring to synergize minds and causes. ICNL serves on the Advisory Group of Civil Society Watch and moderated the “political justice” session at the 2006 World Assembly.

NGO Sustainability

ICNL partners with the Council on Foundations to promote international grantmaking through the [United States International Grantmaking \(USIG\)](#) project. The USIG project facilitates grantmaking to foreign NGOs, assisting grantmakers and their advisors. “Country Notes” are available at <http://www.usig.org> to help foundations meet IRS requirements when making grants abroad. The site displays 32 Country Notes, and thousands view the Notes each month. After the original contract expired in 2006, the Council on Foundations reviewed a number of proposals and awarded ICNL with a contract to continue this work.



Many nonprofit organizations in [South Africa](#) undertake essential activities but often struggle with financial sustainability. Tax reform in 2006 includes a loosening of restrictions on NPOs’ ability to sustain their primary activities through business operations, thanks in part to ICNL-assisted research conducted by the Non-Profit Consortium (NPC) in Cape Town.

- ▶ For the first time human rights organizations in [Mexico](#) are allowed to receive tax deductible donations. In the fall of 2005 the Mexican Congress enacted changes to the Mexican Income Tax Law to give human rights organizations “authorized donee” status. The change represents the achievement of a top priority of ICNL and its Mexico partners: the Autonomous Technological Institute of Mexico (ITAM); Incide Social; and the Mexican Center for Philanthropy (CEMEFI).

With funding from the Hewlett Foundation and USAID, ICNL provided ongoing technical assistance to the working group as it advocated for this change. Specifically, ICNL prepared a legal overview of the treatment of tax donations to human rights organizations in select countries throughout the world. ICNL and its Mexico partners also compiled research focusing on the specific challenges that non-profit organizations faced in Mexico operating within the existing legal and fiscal framework.

- ▶ **Post-Conflict Environments** | In Iraq, Afghanistan, Kosovo, and Serbia, civil society organized to meet the enormous human need that followed the conflicts in each of these places. The laws in some instances facilitated civil society's efforts and in others did not. ICNL draws upon its experience in these and other countries in a study of the impact of law reform in post-conflict environments. The study sheds light on how law reform can be most effective in a post-conflict setting.
- ▶ **State/Civil Society Cooperation** | With funding provided by the British Council, and with critical research support from the Third Sector Foundation of Turkey (TÜSEV), ECNL supported Turkey's efforts to improve cooperation between the public sector and civil society. The *Assessment of the Legal Framework for Cooperation Between CSOs and the Government in Turkey* was submitted in March 2006 and disseminated throughout Turkey.
- ▶ **Canada's Voluntary Sector** | While much of ICNL's work is focused on transitional countries, countries such as Canada have also found ICNL's expertise helpful. In fall 2005, the Audit and Evaluation Directorate in Social Development Canada commissioned ICNL to write on approaches to evaluate the legal and regulatory component of Canada's Voluntary Sector Initiative.
- ▶ **Politically Challenging Environments** | *"We are witnessing a marked increase in the use of restrictions on NGO formation, operation, and financing by foreign governments."* ICNL noted this disturbing trend in its ground-breaking research in politically challenging environments. ICNL's research informed the work of the National Endowment for Democracy, the U.S. Helsinki Committee, the Senate Foreign Relations Committee, CIVICUS' Civil Society Watch, and others. In addition to this survey, ICNL has prepared a summary of possible approaches to safeguard civil society in these environments.
- ▶ **International Journal of Not-for-Profit Law** | Called a "vanguard of change," ICNL's *International Journal of Not-for-Profit Law* enters its ninth year with nearly 2,000 subscribers from all over the world. The quarterly journal addresses current topics in civil society, NGOs, philanthropy, and the law. Articles include "The Power Shift and the NGO Credibility Crisis," "Philanthropy in Russia Society Today," and "Tax Incentives and Transparency of NGOs in Indonesia."



Methodology

Simply stated, our goal is to bolster-- and not replace -- local capacity. We build this into every program, and our methodology is recognized by partners and donors alike. As but one example, in 2005 USAID evaluated ICNL's activities in Central and Eastern Europe (CEE). Excerpts from the evaluation follow:

- ▶ 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 stated repeatedly by key informants. All agree that establishing a supporting legislative framework is a necessary, if not sufficient, condition for the development of the NPO sector.
- ▶ 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 parliamentarians. ICNL's approach recognizes that simply providing informed commentary is only the first step in achieving results.
- ▶ The impact of ICNL's assistance is clearly discernable and, in all of the country cases analyzed, may be said to have been a critical factor in the development of a supportive legislative framework for the continued development of the NPO sector and civil society in general.
- ▶ 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.



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Global Reach

In the past year ICNL has been involved with projects in the following countries:

Afghanistan	Fiji	Liberia	Samoa
Albania	Finland	Lithuania	Serbia
Algeria	France	Macedonia	Slovakia
Argentina	Georgia	Malta	Slovenia
Armenia	Germany	Mauritius	Solomon Islands
Austria	Honduras	Mexico	South Africa
Australia	Hungary	Moldova	Spain
Azerbaijan	India	Mongolia	Sweden
Belarus	Indonesia	Montenegro	Switzerland
Belgium	Iraq	Morocco	Tajikistan
Bosnia-Herzegovina	Israel	Netherlands	Tanzania
Brazil	Italy	New Zealand	Turkey
Bulgaria	Japan	Nigeria	Turkmenistan
Cambodia	Jordan	Norway	Ukraine
Canada	Kazakhstan	Palau	United Kingdom
China	Kyrgyzstan	Poland	USA
Croatia	Kenya	Portugal	Uzbekistan
Czech Republic	Kosovo	Philippines	Vanuatu
Egypt	Latvia	Romania	Venezuela
Estonia	Lebanon	Russia	Vietnam

STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS FOR THE YEARS ENDED DECEMBER 31, 2005 AND 2004

	2005			2004
	<u>Unrestricted</u>	<u>Temporarily Restricted</u>	<u>Total</u>	<u>Total</u>
PUBLIC SUPPORT AND REVENUE				
U.S. Government and other Government grants	-	2,506,770	2,506,770	2,378,944
Foundation and corporation grants	6,805	205,000	211,805	195,699
Individual Contributions	7,462	-	7,462	3,669
Interest	4,014	-	4,014	763
Other	28,248	-	28,248	-
Net assets released from restrictions	<u>2,497,090</u>	<u>(2,497,090)</u>	<u>-</u>	<u>-</u>
Total public support and revenue	<u>2,543,619</u>	<u>214,680</u>	<u>2,758,299</u>	<u>2,579,075</u>
EXPENSES				
Program Services	1,834,266	-	1,834,266	1,718,606
Management and General	<u>617,325</u>	<u>-</u>	<u>617,325</u>	<u>635,267</u>
Total Expenses	<u>2,451,591</u>	<u>-</u>	<u>2,451,591</u>	<u>2,353,873</u>
De-obligation of funding	-	(143,122)	(143,122)	-
Changes in Net Assets	92,028	71,558	163,585	225,202
Net Assets at beginning of year	<u>89,500</u>	<u>2,889,189</u>	<u>2,978,689</u>	<u>2,753,487</u>
Net Assets at end of year	181,528	2,960,747	3,142,275	2,978,689

CONTACTING THE INTERNATIONAL CENTER FOR NOT-FOR-PROFIT LAW

ICNL Washington Office

1126 16th St. NW, Suite 400
Washington DC 20036 USA
Ph. 202-452-8600
Fax 202-452-8555
infoicnl@icnl.org

ICNL Almaty Office

36 Zhandosova Street
Almaty, Kazakhstan 480057
Ph. 7-3272-50-19-50, ext 132
Fax 7-3272-50-19-49
icnl@cpart.kz

ICNL Kiev Office

24 Druzhbi Narodof St., Building 2
Apartment #42
Kiev, Ukraine
Ph./Fax 380-44-2690732
taficnl@ukrpac.net

European Center for Not-For-Profit Law (Affiliate)

Apaczai Csere Janos u. 17
1st Floor, Budapest, Hungary 1052
Ph. 361-318-6923
Fax 361-266-1479
info@ecn.org.hu

Bulgarian Center for Not-For-Profit Law (Affiliate)

6 Dobrudja Str. 1st Floor
1000 Sofia, Bulgaria
Ph. 359-2- 981-66-17
359-2-988-81-66
Fax 359-2-981-53-23
info@bcnl.org

Visit us at <http://www.icnl.org/>