

The *future* of Civil Society



International Center for Not-for-Profit Law

Annual Report | July 2006 - June 2007

Letter from the Chair



While I was thinking about writing this, my second message as Chair in the ICNL annual report, I got to musing about the source of strength of the organization.

Objectively, ICNL has achieved a high level of success whether we measure by revenue, by countries we are working in or by the diversity of funding. More to the point, seldom does a month go by when we are not approached by potential funders or clients who have heard about the high quality of the work which the organization produces.

One aspect of this, in my view, is the fact that ICNL is a blend of experience and regular renewal. Douglas Rutzen and Steve Klingelhofer have been with the organization almost from the start. But we recently noted that other key staff members such as Darla Mecham, our Vice-President of Finance; Natalia Bourjaily, Vice President - Newly Independent States; Dragan Golubovic, Senior Legal Advisor; and Sylvia Staggs, Office Manager, have all passed the ten year mark.

Conversely, we are constantly adding new people, some permanent, some temporary, who bring additional expertise about various countries in which we work.

ICNL of course promotes, amongst other things, good governance for the NGO sector, both in terms of suggested legislation and in respect of organizational operations. This being the case, ICNL tries to adhere to “best practices” itself. One element of this is the use of term limits for board members. ICNL’s by-laws limit directors to two terms of three years.

I realized when thinking back over the past year that this has a bittersweet element. The Board meets four times a year, twice by telephone and twice in face to face meetings - which are particularly useful. It is at these meetings that we get to know each other and can exchange ideas without serious time constraints. Social contact and friendship, not to mention camaraderie, have become a hallmark of the ICNL Board.

In mid-2006, the term limit provisions resulted in the loss of two long-valued board members, Aroma Dutta from Bangladesh and Miklos Marschall from Hungary. The saving grace from our point of view is that both will continue to be on our Advisory Council.

And so renewal continues at the Board level. We have added Aubrey Webson from Antigua who brings some unique perspectives to the Board. And we welcome back Lindsay Driscoll who had been a board member before leaving to become one of the two legal commissioners at the Charity Commission of England and Wales.

I anticipate that ICNL will continue to go from strength to strength given the extraordinary staff which we have, and given the experience and diversity of the Board which is now active in helping to make key policy decisions, while being able to leave normal operational decisions in a very strong professional group led by Douglas Rutzen.

Arthur Drache, Chair

Letter from the President

The legal framework for civil society is no longer an esoteric subject. It has become front page news and the subject of high-level diplomacy. Civic space is vigorously debated in international fora, national legislatures, and community meetings. We are confronting a contest of ideas that will influence the future of civil society.

To contribute to these discussions at the *international* level:

- ICNL briefed 23 presidents and prime ministers attending the UN General Assembly on the legal framework for civil society;
- ICNL testified before the European Parliament on civil society issues; and
- Working with the Dalai Lama, Vaclav Havel, Archbishop Tutu, and others, ICNL and the World Movement for Democracy launched a project to safeguard civic space.



At the *national* level, ICNL served as a resource to civil society leaders and government officials. We undertook projects in countries as diverse as Afghanistan, Bahrain, Peru, Rwanda, and Russia. We also addressed issues in the United States. In total, we worked in over 75 countries last year.

At the *community* level, ICNL focused on legal reform, participation, and civic engagement. In the South Pacific, we are working with partners to develop a legal framework for civil society that reflects village customs and written law. In Mexico, we assisted a working group that traveled throughout the country to identify tax and fiscal issues constraining civil society. In Afghanistan, we co-organized a quiz show to introduce key civil society concepts to the public-at-large.

Indeed, much of ICNL's work has a future-oriented *educational* focus. Complementing civic education initiatives, we are working with universities on five continents to introduce NGO law into their curricula. Education and empowerment are inextricably linked, and our programs seek to educate future generations on the importance of civic space.

To be successful, we recognize that our work must be truly international in perspective. Fortunately, we can draw upon the skills and expertise of our Board, Council, and staff. They come from 40 countries, speak 25 languages, and reflect the diversity that makes civil society so dynamic. Together with our partners around the world, they constitute the cornerstone of ICNL's success.

Of course, none of this would be possible without the support of our donors and partners. During the past year, we received funding for expanded activities in Africa, Asia, Latin America, Central Asia, and the Middle East. We thank the numerous development agencies, civil society organizations, corporations, and individuals supporting our values and goals. Working together, I'm confident that we'll overcome current challenges, helping to forge a vibrant future for civil society.

Douglas Rutzen, President

Who is ICNL?

We are people dedicated to the promotion of a legal environment that strengthens civil society, advances freedom of association, and enables public participation around the world. We come from virtually every continent, but we share a common vision – one in which individuals are empowered to improve their everyday lives.

In all our work, we keep the following core values in mind:

- Reform should result from an indigenous and transparent process;
- Our assistance should be professional and non-partisan;
- Programs should incorporate public participation; and
- Activities should support, and not displace, local expertise.

The following pages highlight some of our activities from July 2006 – June 2007.



*ICNL and partners
at the Global Forum,
November 2005*

How Does ICNL Work?

“Working with ICNL was a great experience. They are very attentive to the cultural and geographic sensitivities of law reform, and supported my research every step of the way.” *Hoshyar Malo, Kurdish Human Rights Watch (Iraq)*

Hoshyar Malo’s comments reflect ICNL’s core methodology of working with local partners to support indigenous law reform initiatives rather than supplanting or directing their work. Nowhere is ICNL’s dedication to this method more important than in the Middle East and North Africa, where local expertise is plentiful but resources and comparative materials are lacking.

ICNL’s Middle East Senior Research Fellowship, now in its second year, is a centerpiece of our commitment to support local experts as they research topics of their own choosing. This year we selected two Fellows: Hoshyar Malo, Director of Kurdish Human Rights Watch in Iraq; and Marc Makary, Co-Founder of the Youth Coalition for Electoral Reform (Cha’en) in Lebanon.



Marc Makary, Kareem Elbayar, Hoshyar Malo and Catherine Shea

In June ICNL’s *Foundations for Civil Society Law Reform in the Gulf Region* conference focused on law reform processes in the Arab Gulf region, and included participants from Bahrain, Jordan, Oman, Saudi Arabia, and Yemen.

During their month-long stays the Fellows utilized ICNL’s resources and met with senior academic, NGO, and government leaders. Marc Makary’s research focused on the history and application of Lebanon’s “notification” system of incorporation for NGOs versus the “registration” system of incorporation used throughout much of the Arab world. In order to suggest a new path forward, Hoshyar Malo compared two competing versions of a draft NGO law under consideration by the Iraqi Parliament.

ICNL will continue to work with both Marc and Hoshyar to finalize the papers and publish their research broadly. In addition, our follow-on small grants project will help the Fellows implement targeted projects on civil society law reform in their home countries.

National Quiz Show

On March 19, 2007, three hundred students from Kabul gathered in a large conference hall at the National Radio and TV station for the very first Student Competition on Civil Society in Afghanistan. They came to learn more about the value of civil society and law, and represented a variety of schools from throughout the city.

Announcers queried the students and audience with questions such as:

- What is the role of civil society in development in Afghanistan?
- Are civil society organizations protected by the Afghan Constitution?
- Who was the first elected female governor in Afghanistan, and in which province?

After the contestants answered, responses were delivered to all participants. To ensure full audience attention, the competition also included a session where the audience members were quizzed on the same issues. The event was the first in a series of student competitions organized by ICNL under the *Initiative to Promote Afghan Civil Society (I-PACS)*. The project aims to raise awareness among young adults and also the broader public. The competition was subsequently edited and broadcast on national TV to a national audience.

ICNL also published a brochure with the 50 questions and answers, and is disseminating 3,000 copies to students throughout Afghanistan. ICNL plans to conduct as many as nine additional competitions, including two in Kabul and seven in other provinces.



Lights! Camera! Action!



ICNL has been invited back to a second year of collaboration with the University of Pennsylvania Law School.

ICNL will be working with the University to teach a course on International and Comparative Civil Society Law.

International Engagement

- In September 2006 ICNL met with 23 world leaders attending the **UN General Assembly** to brief them on constraints confronting civil society worldwide. Participants included the presidents/prime ministers of Afghanistan, Georgia, Guatemala, Italy, Liberia, Morocco, Iraq, Malaysia, the United States, and elsewhere. ICNL was called upon to provide global context for the discussion. The President of Liberia, Ellen Johnson-Sirleaf, then delivered a statement about the value of civil society, and a moderated discussion followed. ICNL was tasked with compiling and forwarding concrete ideas on cooperative steps democratic countries might take to support civil society globally. Six other NGOs participated in this meeting, including organizations from Egypt, Russia, the U.S., Uzbekistan, Venezuela, and Zimbabwe.



ICNL at the United Nations General Assembly Meeting, September 2006

- ICNL moderated *From Political Won't to Political Will* at the **CIVICUS World Assembly** in Scotland in May 2007. The session featured candid discussion on the backlash against civil society and the issue of political accountability. The panel was comprised of Irene Khan of Amnesty International, UN Ambassador Anwarul Chowdhury, Cobus de Swardt from Transparency International, and Mamounata Cisse of the International Trade Unions Congress.
- To highlight the role international businesses might play in promoting accountability, the **UN Global Compact** initiative hosted a meeting with the **Business Leaders Initiative on Human Rights (BLIHR)** in June. ICNL was invited to the meeting, which centered on developing standards by which companies would conduct business in countries with “weak governance.” Both the UN Global Compact and BLIHR focus on the role of corporations in the protection and advancement of rights and principles. In particular, ICNL was asked to inform the discussion on the role of the private sector in promoting NGO law reform.
- In September 2006 the **European Parliament Subcommittee on Human Rights** met to consider a new financing mechanism to support the promotion of democracy and human rights worldwide. ICNL testified before the Subcommittee, presenting our research relating to the regulatory backlash against civil society.

Listening for Change



The Bulgarian Center for Not-for-Profit Law in discussion

The Bulgarian Center for Not-for-Profit Law read every word of the questionnaire carefully. Reviewing the thoughts and suggestions of Bulgarian non-governmental organizations (NGOs) was a great responsibility. It was a task BCNL initiated hoping to create a comprehensive survey of legal issues, from taxation to volunteering, which constrained civil society throughout the country.

In the beginning it appeared overly ambitious to build a consensus from the ground-up – some might have called it unattainable. But BCNL firmly believes that every voice counts, and so it sent questionnaires to over 1,400 NGOs. Together with hundreds of partners, BCNL's staff then assembled the incoming data and transformed statistics into collective strategies.

After listening carefully, concrete proposals were drafted to improve “The Act on Non-Profit Legal Entities.” BCNL circulated the amendments nationwide for discussion and worked with partners to gather support from officials in the Ministry of Justice. The participation paid off. In October 2006 amendments were adopted which significantly improved the Act, thus enhancing the legal environment for NGOs.

Partners in **Macedonia** and **Croatia** reached out to the European Center for Not-for-Profit Law (ECNL) for assistance on the legal framework for volunteerism. ECNL conducted comparative research, provided comments to draft provisions, and supported local partners in their work to reform the laws. In 2007 ECNL and its partners' efforts culminated in the enactment of laws which clearly define volunteer relationships with NGOs and other host organizations. The revised legal framework not only enables volunteering through institutionalizing relationships, but also offers volunteers protections by enumerating their rights and obligations.

Defending Rights

A common Peruvian proverb states, “Little by little, one walks far.”

In late 2006 Peru’s Congress passed “Law 28925” amending the Law Creating the Peruvian Agency for International Cooperation (APCI). Law 28925 alarmed civil society as it contained a number of restrictions on foreign funding of Peruvian NGOs.

Domestic and international organizations reached out to ICNL for assistance. To complement existing local analyses, ICNL studied the law from an international perspective. We examined not only constraints on civil society but also implications under the Trade Promotion Agreement that Peru recently signed with the United States.



Contesting this Law involved a considerable effort, as Peru requires 5,000 signatures to challenge the constitutionality of a law. Key NGOs united to coordinate the petition and began to gather the signatories. By March of 2007 the NGO sector succeeded in gathering over 8,700 signatures, and a second petition included signatures from 30 members of Congress. This marked the first time in Peruvian history that two petitions for unconstitutionality were presented on the same issue. Soon thereafter, the Peruvian Constitutional Tribunal formally initiated an *accion de inconstitucionalidad*.

In 2007, comparative information supplied by ICNL was integrated into briefs challenging the constitutionality of the law. To better inform discussions, ICNL also dedicated a portion of our website to the issue. We collected and posted local legal opinions, NGO reactions, and our own comments on two new regulations published under the law in May.

The Constitutional Tribunal heard the case and in late summer held portions of the law unconstitutional.

Little by little, step by step, international organizations and NGOs are defending their rights.

Promoting Legitimacy



How can a citizen hold a government accountable if it doesn't listen to its electorate? How does a nation torn from conflict rebuild confidence? What role does an international treaty play at the community level?

These are some of the fundamental questions ICNL faces in our mission to promote civil society. Our South Pacific project is a multifaceted and invaluable model of how the right to associate, expressed in both law and practice, can promote legitimacy. In **Samoa, Fiji, Vanuatu**, and the **Solomon Islands** ICNL believes that building a legal framework for civil society will create a system for participatory democracy, connect government at all levels, and thus foster broader development. Through associations citizens are empowered to work with their governments, and a sound civil society sector can then provide vital services where, and how, they are needed most.

What makes our South Pacific project uniquely challenging is the bridge that must be crossed between local/village customs and central government leadership. Taking traditional norms and practices into consideration, ICNL brings government officials, tribal chiefs, village leaders, and NGOs together. Initiating dialogue about the nature and value of NGOs is not an easy task. Governments frequently lament that associations are not partners but rather interferences. To build trust between the two, ICNL supports reforms focusing on NGO governance and accountability, as well as laws that expressly take into account customary structures. In every country, we hope to use local solutions to develop the civil society sector and advance government-NGO partnerships.

ICNL's activities include conferences and research, legislative analysis, comparative information, and university courses. Slowly, ICNL is helping citizens answer for themselves the question of how to protect the right to associate.

Walking the dusty streets of Port Vila, the government minister said, "I'm troubled about strengthening associations because then they will begin to tell us in government what we ought to be doing."

Promoting Legitimacy in Africa | In May an EU-funded organization approached ICNL to undertake an NGO-government cooperation project in **Namibia**. We turned first to our regional partner and expert to lead the project. In **Ghana** we provided technical support for the on-going NGO law reform in partnership with the Charity Commission for England and Wales. Additionally, **Rwanda** introduced a packet of new legislation covering domestic and international NGOs as well as religious organizations. At the urgent request of our partners, ICNL evaluated the regulations for potential impacts on civil society.

Enabling Partnerships

In the Kustanay province in Kazakhstan a local governor wished to support NGOs focusing on issues such as HIV/AIDS, other communicable diseases, and drug abuse. Unfortunately his efforts to fund the organizations were thwarted because of a provision in the 1995 Constitution. The provision stated simply that state financing for public associations was prohibited. Beginning in 2001 the resourceful governor awarded contracts through the government procurement process, thus sidestepping the provision. But a new governor took office and abruptly canceled the program, again citing the Constitutional provision. Even the subsequent adoption of a Law on State Social Contracts failed to convince the governor that the program could be resumed. The provision thus hung like a Sword of Damocles over government-NGO partnerships.



From the beginning there were two principal problems with the provision, both interpretive: the law defined neither “public association” nor “financing.” In Kazakhstan there are 15 different legal forms for NGOs; the financing prohibition could potentially cover direct grants, social contracting, tax benefits, and so on. No guidance was provided by the Constitutional Council or any other authority.

After six years of uncertainty, in 2001 the situation began to change. ICNL helped facilitate the adoption by the Government of the “State Support of NGOs” concept paper in 2002 and a detailed implementation plan in 2003. For the next four years ICNL provided ongoing comparative research and technical support. With our assistance the

Law on State Social Contracts passed in 2005, and in 2006 amendments to the Tax Code were enacted. Momentum was gathering.

In early 2007 a drafting group chaired by President Nazarbayev considered Constitutional amendments to safeguard the operation of NGOs in Kazakhstan. A week later a conference was held and ICNL presented amendments proposing to limit the scope of the financing provision as well.

In May the Kazakh government repealed the provision entirely. The repeal eradicates a significant barrier to government-NGO relations and opens the door to state support of social services.

Since 1995 the provision prohibiting state financing of public associations hung like a Sword of Damocles over government-NGO partnerships.

After years of uncertainty the situation began to change.

Research



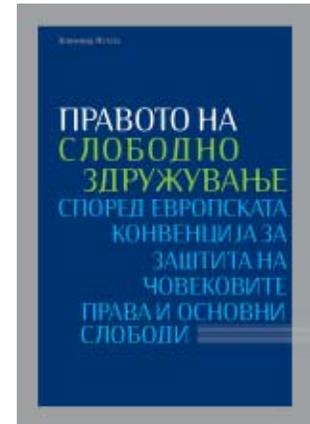
Eminent Persons Report | [Archbishop Desmond Tutu](#), [His Holiness the Dalai Lama](#), [Vaclav Havel](#), [Madeleine Albright](#), and [Saad Eddin Ibrahim](#) are some of the “Eminent Persons” on an exciting project ICNL is implementing in conjunction with the World Movement for Democracy. ICNL is preparing a report on the barriers impeding civil society around the world, as well as principles to protect the sector. It is hoped that the luminaries’ endorsement of the report will bring momentum to the adoption of the principles, as well as strengthen international solidarity among international civil society activists.

Backlash against Civil Society | Governments have increasingly turned to the law to constrain freedom of association. This backlash affects an array of NGOs, from those engaged in democracy promotion to those providing health services. ICNL therefore undertook research to help inform discussion. In the past year ICNL published *Safeguarding Civil Society in Politically Complex Environments* and *Recent Laws and Legislative Proposals to Restrict Civil Society and Civil Society Organizations*. We also commissioned experts to write a seminal piece on the protections bilateral investment treaties offer to NGOs. In late 2006 the National Endowment for Democracy, with ICNL’s assistance, published *The Backlash Against Democracy Assistance*, and ICNL’s article, *The Associational Counter-Revolution*, was featured in *Alliance Magazine*.

Freedom of Association | The European Convention for Human Rights and Fundamental Freedoms, adopted in 1950, is lauded as one of the greatest successes of the Council of Europe. In 2006 ECNL published the *Handbook on Freedom of Association under the European Convention for Human Rights and Fundamental Freedoms (ECHR)*. Authored by Zvonimir Mataga, advisor to the European Court of Human Rights and former ICNL intern, the *Handbook* examines restrictions and responsibilities under the ECHR, among other topics.

IJNL | Called a “vanguard of change,” ICNL’s *International Journal of Not-for-Profit Law* completed another seminal year studying civil society. Articles included a piece on the regulations of charitable fundraising, the role of civil society in the Arab region, and an examination of the ways in which information technologies are creating an increasingly connected society.

Philanthropy | ICNL is in its seventh year of partnership with the Council on Foundations on the [United States International Grantmaking \(USIG\) Project](#). In total, 33 “Country Notes” assist grantmakers and their advisors to meet IRS requirements when making grants abroad.



ECHR Handbook

2006-2007 Board of Directors & Advisory Council

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Global Reach

This year, ICNL and its partners engaged in projects involving the following countries:



Afghanistan	Fiji	Lithuania	Saudi Arabia
Albania	France	Macedonia	Serbia
Algeria	Georgia	Malta	Slovakia
Angola	Germany	Mauritius	Slovenia
Argentina	Ghana	Mexico	Solomon Islands
Armenia	Guatemala	Moldova	South Africa
Australia	Honduras	Mongolia	Tajikistan
Azerbaijan	Hungary	Montenegro	Tanzania
Bahrain	India	Morocco	Turkey
Belarus	Indonesia	Namibia	Turkmenistan
Bosnia-Herzegovina	Iraq	New Zealand	Uganda
Brazil	Israel	Nigeria	Ukraine
Bulgaria	Japan	Oman	United Kingdom
Canada	Jordan	Palau	USA
China	Kazakhstan	Peru	Uzbekistan
Croatia	Kenya	Philippines	Vanuatu
Cyprus	Kosovo	Poland	Venezuela
Czech Republic	Kyrgyzstan	Romania	Vietnam
Egypt	Laos	Russia	Yemen
El Salvador	Latvia	Rwanda	
Estonia	Lebanon	Samoa	

Financial Overview

STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS FOR THE YEARS ENDED DECEMBER 31, 2006 AND 2005

	2006			2005
	<u>Unrestricted</u>	<u>Temporarily Restricted</u>	<u>Total</u>	<u>Total</u>
PUBLIC SUPPORT AND REVENUE				
U.S. and Other Government	-	5,174,098	5,174,098	2,538,440
Foundation and Corporation Grants	2,011	-	2,011	180,135
Individual Contributions	7,900	-	7,900	7,462
Interest	9,171	-	9,171	4,014
Other	1,267	-	1,267	28,248
Net Assets Released from Restrictions	<u>2,724,710</u>	<u>(2,724,710)</u>	<u>-</u>	<u>-</u>
Total Public Support and Revenue	<u>2,745,059</u>	<u>2,449,388</u>	<u>5,194,447</u>	<u>2,758,299</u>
EXPENSES				
Program Services	2,140,388	-	2,140,388	1,834,266
Management and General	<u>547,339</u>	<u>-</u>	<u>547,339</u>	<u>617,325</u>
Total Expenses	<u>2,687,727</u>	<u>-</u>	<u>2,687,727</u>	<u>2,451,591</u>
De-obligation of Funding	-	(501,813)	(501,813)	(143,122)
Changes in Net Assets	57,332	1,947,575	2,004,907	163,586
Net Assets at Beginning of Year	<u>181,528</u>	<u>2,960,747</u>	<u>3,142,275</u>	<u>2,978,689</u>
Net Assets at End of Year	238,860	4,908,322	5,147,182	3,142,275

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