

**Enabling Environment
for Philanthropy**
An international
convening of WINGS

Meeting Proceedings
Calouste Gulbenkian Foundation

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MARCH 10 – 11, 2016



WINGS
WORLDWIDE INITIATIVES
FOR GRANTMAKER SUPPORT

On March 10–11, 2016, 35 representatives of philanthropy infrastructure organizations from Africa, Asia, Europe, North America and South America met to discuss the current situation regarding the enabling – or disabling – environment for philanthropy; the role of philanthropy support organizations in addressing barriers, and possible approaches and strategies to address these barriers and improve the environment for philanthropy.



The meeting was precipitated by three main concerns:

1. Civil society organizations worldwide are dealing with heightened control and excessive, unwarranted restrictions on funding. Research conducted by the International Center for Not-for-Profit Law revealed that since 2012, 98 laws limiting freedom of association or assembly have been proposed or enacted worldwide, many of them introducing restrictions on foreign funding or philanthropy more broadly.
2. Governments are adopting increasing restrictions on foreign funding to civil society organizations. Azerbaijan, Mexico, Pakistan, Russia, Sudan and Venezuela have all passed laws in the past four years affecting NGOs that receive foreign funds. Around a dozen more countries plan to do so, including Bangladesh, Egypt, and Malaysia. NGOs focused on democracy-building or human rights are the most affected, but the crackdown is also hitting those active in other areas as well.
3. Grantmakers and the groups they seek to support are faced with additional, onerous obstacles and administrative requirements or, worse yet, outright bans on the receipt of foreign funding by civil society organizations.

Participants had the opportunity to discuss a complex and troubling situation—the increasing restrictions on funding and freedom of civil society organizations and its consequences on philanthropy – from a global perspective. They took this time to reflect on what individually and collectively could be done to influence the forces framing this issue and improve the environment for philanthropy. The focus of the meeting was on philanthropy infrastructure organizations, with additional participation FROM partners in international law and civil society.

1 The Current Scenario for Global Philanthropy: Barriers and Opportunities

The meeting started with presentations on the state of civil society and the philanthropic environment, exploring trends and barriers in the current environment for philanthropy from global, international and regional perspectives. There is common agreement that in order to thrive, philanthropy needs an enabling environment that is fit for purpose today and for many years to come. Yet recent legislative trends have thrown up greater restrictions on the flow of philanthropic funds and obstructed the creation of effective cross-border partnerships.

Philanthropic freedom and civic space more broadly are under attack. The restrictive environments for giving target both domestic and foreign funding. Many states are using terrorism and security as pretexts for restrictions. There is also a trend in which some nations have been “inspired” by other countries’ restrictive laws and regulations in respect TO philanthropy and civil society and are using those laws as models. For instance, the Russian Foreign Agents Law has been copied by Kyrgyzstan and similar laws that impose discriminatory treatment on foreign donations are being drafted in Israel and parts of Eastern Europe and Central Asia

The excessive and burdensome provisions are often codified in organizational laws, tax laws, regulations applied to civil society entities and other laws related to counter-terrorism, foreign exchange regulations, and political activities and lobbying. These barriers to funding and restrictions on the operations of civil society organizations (CSOs) adversely affect entities of varying mandates and missions, and not just those that take on politically sensitive issues such as alleged human rights violations or anti-corruption activities.

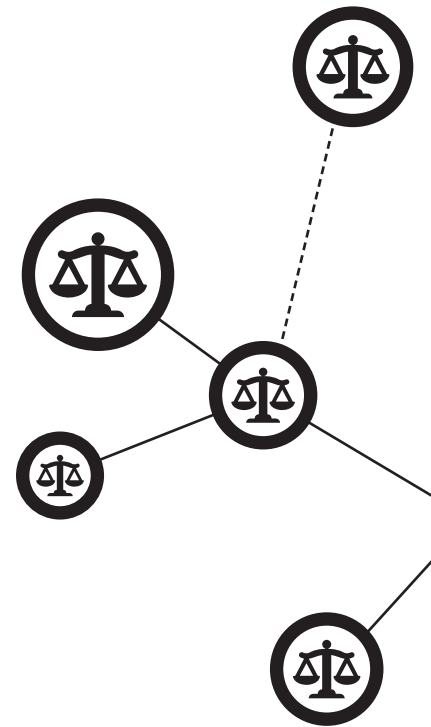
Approaches and interventions to respond to the disabling environment range from the provision of diagnostic support; advocacy; assistance and guidance with ways and means for affected groups to navigate or adapt in response to increased restrictions and barriers; the provision of protection for targeted groups and individuals; civic education; research; diplomatic engagement; funding assistance; or some combination of the above.

It is worth noting that despite this troubling situation, there are positive developments to build on, such as:

- i. The rapid increase in high net worth individuals and the fact that private philanthropy remains robust around the world;
- ii. The Community of Democracies 2016 funding initiative aimed at providing support for civil society through projects that enhance participation in civic life;
- iii. The adoption of a resolution on the protection of human rights defenders by the United Nations General Assembly, on December, 2015, signed by 127 States; and
- iv. The resolutions of the UN Human Rights Council in support of civil society and its right to seek, receive and utilize financial resources.

One of the primary learnings emerging from this discussion is that it is essential for the sector to track and document barriers to philanthropy and to measure the ease of giving. Why?

- Because the dearth of data hides philanthropy’s true impact;
- Because by identifying the barriers to philanthropy, practitioners and policy makers will be in a better position to introduce positive changes in legal and regulatory systems;
- Because by documenting the state of philanthropic freedom and civic space, those dedicated to supporting these can fashion appropriate approaches and interventions.



2 Regional Perspectives

From a regional point of view, several observations were shared related to philanthropic freedom, or lack thereof, on the African continent and in the Arab region. Despite tremendous diversity across each region, important commonalities exist in the enabling environments for philanthropy among countries and the regions themselves:



- ✔ Large youth populations: in Africa, more than half of the population is under 25, while in some states in the Arab region, 50% is under the age of 25.
- ✔ Political instability, conflict and social unrest.
- ✔ Long-standing traditions of indigenous philanthropy and giving, as demonstrated through faith-based giving, endowments, burial societies, in-kind support, volunteerism and numerous other mechanisms. These traditional forms of philanthropy have not received the recognition they deserve, particularly given their size and scope.
- ✔ Insufficient research and data on philanthropy and philanthropic giving and a lack of shared knowledge.
- ✔ Legislative and regulatory environments that are not supportive of philanthropy or are unreliable and inconsistent regarding the sector.

These factors help to shape philanthropic giving and freedom, both domestic and cross-border, as well as civil society organizations working in and on these geographic locations. Fortunately, on both the African continent and in the Arab region, a growing network of individuals, organizations and institutions are actively engaged in strengthening and supporting the philanthropic sectors in their respective locations and advocating for more enabling environments.

3 Case Studies

Two current experiences show how global cooperation can have a positive impact on restrictive environments.

The Financial Action Task Force (FATF) and NPOs engagement to change the FATF policy

Governments have been using counter terrorism as a justification to introduce certain restrictions on the NPO sector. The international key policy setter with regard to counter terrorism is the Financial action task Force (FATF), established in 1989 to combat money laundering and the financing of terrorism, currently consists of 36 member countries, 22 observers and very little NPO representation. The FATF is not a legislative body but rather a very powerful global framework setter that monitors and evaluates member states' implementation and compliance with its standards and recommendations. Specifically, Recommendation 8 states that “non-profit organisations are particularly vulnerable” for terrorist financing abuse. Yet, the reality is that the number of cases in which NPOs have aided or abetted terrorist organizations is very low. Therefore, the sector under a lead of an NPO coalition on FATF matters (see <http://fatfplatform.org/> for more information) has criticised this recommendation FOR BEING overly broad and unwarranted. There is no need to single out the NPO sector as being particularly vulnerable.

In some countries, Recommendation 8 has had an adverse impact on civil society. It has resulted in the promulgation of overly broad civil society regulations in some instances and a decrease in funding to CSOs in some regions. In response, the NPO Coalition has called for a revision of Recommendation 8 and its interpretative note. The Coalition is also advocating for (i) more transparency and accountability standards for the FATF and (ii) an increase in NPO representation and engagement in the deliberations and processes of the Task Force.

With regards to FATF, WINGS and its member organizations should:

- 📍 join the NPO Coalition and encourage others to do so;
- 📍 disseminate information about FATF, Recommendation 8 and their impact on the sector;
- 📍 research, alert and report; and
- 📍 advocate at the national and global levels.

fatfplatform.org



Civic Space and Philanthropy Law in Russia

The Foreign Agent Law of 2012 was enacted in response to the government's concerns about perceived foreign influence in Russian politics. It requires Russia-based foreign-funded non-commercial organizations engaging in “political activities,” which in this context is defined very broadly, to register as “foreign agents.” To date, approximately 120 entities have registered as foreign agents.

The Law on Undesirable Organizations, passed last year, applies exclusively to foreign organizations operating in Russia. The legislation allows for the immediate termination of foreign organizations' activities in the country and imposes large fines and criminal liabilities. As a result, the MacArthur Foundation and others have closed their offices and the Mott Foundation left Russia in anticipation of being banned under the terms of this law.

Given the general negative attitudes towards (i) foreign philanthropies and CSOs operating in the country and (ii) Russian CSOs that receive foreign support, it appears that international advocacy could be counter-productive. It may only serve to reinforce prevailing suspicions, incorrect though they may be, about the existence of sinister, interfering foreign interference in Russian politics. Accordingly, for now, Russian philanthropies and CSOs may have to wage the campaign for less restrictions and a more enabling environment on their own.

4 Targeted Responses to Diverse Environments

Participants were divided into three groups organized around challenges to philanthropic freedom and civic space in (i) mostly democratic societies; (ii) stable transitioning societies and (iii) developing/transitioning societies facing increasing restrictions. The groups discussed strategies, tactics and approaches in use or under development to counter restrictions and disabling environments; concrete achievements and set-backs and the actions that led to them.

Positive cases and achievements described include the defeat of proposed restrictive legislation in Indonesia and the Ukraine and recent advocacy successes in Brazil, Pakistan and India.

Set-backs and cautionary tales pointed to the need to be cautious and strategic with regard to litigation in the context of philanthropic restrictions and closing space. Losing these cases could set bad precedents and adversely affect the sector for years. There was also discussion about the challenges of bringing different opinion-holders together and the skill, political savvy, acumen and energy needed to hold these disparate parts together.

Although the circumstances in each country are very different, and the situations in (i) democratic societies, (ii) stable transitioning societies and (iii) societies facing increasing restrictions vary greatly, what is striking is that, when brainstorming about strategies and approaches, all three groups had very similar suggestions and recommendations with respect to protecting philanthropic freedom and civic space.

It was recommended that philanthropy infrastructure organizations:

- ☑ Engage, collaborate and consult with government officials and legislators, including the FATF conversations
- ☑ Improve arguments in support of philanthropy by countering negative narratives with positive case studies, and creating own narratives with evidence and data
- ☑ Improve research and data, assessing the philanthropic environment across nations and demonstrating the contribution and impact of philanthropy
- ☑ Advocate, network and act collectively to influence policy development and advance philanthropy by building trust, inspiring giving and supporting civil society; and,
- ☑ Expand the group of partners and allies to work with.

Participants were then asked to broadly identify strategies and tactics that can be used to guide future action. The results of this discussion are summarized below:

- **Put forward a positive message:** narratives are important and they must be targeted and tailored for different audiences that include, amongst others, the general public, the media, policy makers and diplomatic sources.
- **Look beyond the usual suspects:** it is necessary to work with unlikely partners such as businesses and corporations that are, or should be, concerned about excessive and prohibitive laws and regulations imposed on giving. There was overall agreement on the need to be more inclusive and reach out to new elites, private sector actors, governmental officials and others.
- **Base our strategies on evidence, data and analysis:** we need data on the contribution of civil society and philanthropy to the economic and social well-being of countries and to reinforce the message that philanthropy and civil society are essential and positive influences. Research and data-gathering on philanthropy needs to be supported and undertaken.
- **Develop short and long term strategies:** we need to understand the core causes of the closing space and develop short and long term strategies to address them.

As a global network of philanthropic infrastructure organizations, WINGS is well positioned to facilitate and support the strategies above, and contribute to building constituencies and solidarity in the sector.

5 Elements of Effective Advocacy in Action

This session shared successful experiences of effective advocacy on behalf of philanthropy in the U.S., Pakistan and Brazil undertaken by the Council on Foundations, the Pakistan Center of Philanthropy and IDIS respectively. These three presentations centered on a number of components essential to waging successful campaigns – amongst others, the need to:

- develop focused and targeted messages - one key message can be very powerful!;
- cultivate partners and allies within government;
- build coalitions;
- create messengers and champions for political change;
- engage on-line, in-person and through group meetings,
- support groups and lobbying;
- quantify the impact of the sector; and
- keep track of intermediary steps and achievements reached while on the path to the ultimate goal.

6 Action Steps

The final session of the meeting explored the question “what is next? ”. Below is an emerging ‘road map’ for the global philanthropy community, with special relevance to support organizations and associations. The expectation is that individuals and organisations will be motivated by these discussions to take up the themes most appropriate to their sphere, and create working groups to devise plans of action. Some actions will be needed that are internal to an organization or to our sector, such as working on policy decisions with governing boards. Others call for collective outreach to legislative bodies, private sector champions, or new community partners. WINGS will undertake to keep communication and information flowing as this work moves forward.

SUSTAINABILITY:

Develop Short Term Tactics and Longer Term Strategies

- ☑ Have a prior plan in place to navigate new obstacles and survive when necessary
- ☑ Be prepared to accommodate future uncertainties
- ☑ Learn from peers about workarounds when barriers are present
- ☑ Mobilize new sources of funding for advocacy and policy work
- ☑ Build capacity of the sector, especially of philanthropy infrastructure organizations, offering ‘tool kits’ and peer learning
- ☑ Cultivate the media as part of educating the broad public on the positive impact of philanthropy as well as concerns around the closing space for civil society
- ☑ Build awareness that philanthropy is about ideas and participation – not just money
- ☑ Mainstream the concerns of a vibrant civil society into all types of grantmaking



CONNECTIVITY:

Building Constituencies

- ☑ Develop and maintain on-going good relationships (credibility) with policy informers, public officials, law-makers, governments
- ☑ Seek out new allies such as parties, interest groups, professional associations, banks and credit unions, legislative assistants, public intellectuals
- ☑ Engage additional global voices, using the SDGs and FATF, and partner with OECD, ICNL, Funders’ Initiative for Civil Society, CIVICUS, etc.
- ☑ Adopt thematic/issue based approaches when beginning work locally
- ☑ Build trust through engagement and a public service mindset
- ☑ Do more to enlist younger philanthropists and understand their perspectives
- ☑ Enlist faith-based philanthropy in advocacy, in places where they carry moral authority
- ☑ Improve the effectiveness of coordination, collaborations and partnerships without deflecting from the core mission of each entity
- ☑ Share resources and knowledge within and across sectors: successful interventions, tools for fundraising, models of self-regulation



INTELLIGENCE:

Using Evidence and Data

- ✔ Use research and data to tell a better story about philanthropy
- ✔ Measure the contribution of philanthropy and civil society to the national economy
- ✔ Use data to show the contribution of private capital flows to developing countries
- ✔ Increase evidence & data on the incentives & barriers to philanthropy
- ✔ Strengthen the narrative of best practices: what works in philanthropy
- ✔ Strengthen data on effectiveness, going beyond individual organizations to begin to project the impact of the sector
- ✔ Impact evaluations need to be more affordable and utilize existing data such as polls
- ✔ Make philanthropy research attractive to investments in data, analysis and storytelling
- ✔ Share resources and knowledge across sectors – to form broad coalitions that include private, public, media and civil society actors



CAPACITY:

Strengthening Philanthropy Infrastructure Organizations

- ✔ Strengthen associations to collect and utilize data for advocacy
- ✔ Map allies and partners to assist with rapid response when needed
- ✔ Adopt strategic approaches that are tailored to different places and groups
- ✔ Develop tool kits to build the capacity of philanthropy leaders
- ✔ Improve our radar: eyes, ears and minds of WINGS members to raise awareness of threats, when possible before they become realities
- ✔ Improve our impact through new approaches, including: advocacy, better accountability
- ✔ Transparency is about communication; overcome suspicion by encouraging openness about sources of funding, how grants are allocated, etc.
- ✔ Explore advantages and best practices around accreditation
- ✔ Make self-regulation a priority topic in the philanthropy community
- ✔ Raise awareness beyond the rights and peace-building organizations to reach all in the global philanthropy community: start with article or blogs in Alliance Magazine
- ✔ Organize a session on the outcomes of the Lisbon meeting at upcoming regional and national philanthropy meetings



Several concrete examples of successful advocacy for changing policies and legislation and their effects on civil society and philanthropy were highlighted in Lisbon. From those we have compiled a set of 'tips' or methods of working more effectively that can help to build collective impact. These include both aspects of preparedness inside one's organization as well as ways of conducting joint advocacy for policy change:

INTERNAL:

- ☑ Be prepared to think big and take calculated risks for important gains
- ☑ Address one manageable chunk of complex problems at a time
- ☑ Commit to what you already do best and set clear divisions of effort with partners
- ☑ Use on-line tools to magnify impact – a focused message that gets a thousand tweets may ultimately be seen by millions
- ☑ When legislation is under review, keep in close touch with key actors
- ☑ Utilize the contacts your board members have with key decision makers
- ☑ Be ready with data. Prior studies of good legislation in other places, for example, can be useful at an early stage, less so after draft laws are in circulation

COLLECTIVE:

- ☑ Find champions or allies within government agencies and cultivate relationships over time, before a crisis erupts
- ☑ Clarify issues to officials – they can't fix a problem they don't understand or know about
- ☑ Use opinion data to show legislators there is public support for your cause
- ☑ Place-based relationships are important for building trust: youth service organizations, co-ops, arts councils, chambers of commerce, etc.
- ☑ Utilize multiple channels to get messages across: quiz shows, debate clubs or competitions in universities, local radio and television talk shows, etc.

Final Remarks

WINGS is committed to facilitating the conversation, information gathering and knowledge exchanges with the goal of improving the enabling environment for philanthropy. Immediate next steps include reporting on this discussion at upcoming meetings and conferences, collecting and disseminating information on this issue, and sharing the proceedings of this meeting. Finally, WINGS will continue this conversation on the enabling environment for philanthropy at the WINGS Forum to be held in Mexico in February 2017.

Annex A – Top Ten Take-Aways – From the (Subjective) Perspective of the Facilitator

1. There is a problem. The increasing restrictions against philanthropic freedom, the expansion of disabling environments for giving and threats and hostilities against civil society actors and organizations are real. We are not paranoid. The recent research and data analyses conducted by entities such as CIVICUS, the ICNL, the Hudson Institute and others document this disturbing reality.
2. Interventions in a variety of forms – including law reform efforts, advocacy, media campaigns and public education – are needed at all levels: global, international, regional, national and local.
3. For those interventions to have impact, additional data, research, documentation and analyses are needed. Importantly, this research and data must be produced not only by individuals and entities in the global north, but also by individuals and institutions in the global south.
4. Ways and means of joint and collaborative advocacy need to be investigated, even while recognizing that (i) context is key and (ii) the multiplicity of realities in different locations around the world will call for varying and different approaches and responses to threats against philanthropic freedom and civic space. There is no “one-size fits all”!
5. WINGS must keep its eyes on the prize¹: In this instance, keeping its eyes on the prize has a double meaning. First, WINGS must keep its eye on the ultimate goals of achieving more supportive enabling environments for philanthropy and protecting civic space. Secondly, in the context of pursuing those goals, WINGS must keep its eye on what is most appropriate for it to do as part of these efforts. It is a membership organization brimming with diversity – in geography, mandates, size, politics, maturity and operational approaches, amongst others. As such, WINGS must keep its eye on approaches, strategies and interventions that are appropriate for it to engage and embrace.
6. The sector, that is, the philanthropic infrastructure support sector, needs to improve not only its actual transparency and accountability, but also the appearance of being transparent and accountable². In other words, we need to pay more attention to how the sector is represented in the public eye, address wrong stereotypes and replace them with more accurate representations of the power and impact of philanthropic endeavours.
7. The sector needs to create, share and disseminate broadly its own stories, its own narratives. This is crucial not only to record and document the important and vital work that it conducts and supports, but also as a way to counteract negative and false narratives such as, put very crudely and starkly: “Philanthropy leads to terrorism.”
8. The sector needs to identify and work together on short term approaches (to protect those in harm’s way and disseminate information rapidly in response to sudden changes) , and medium and long term interventions that concretely improve the climate for giving. These approaches and interventions may overlap and blend into one another.
9. Philanthropic infrastructure support organizations in particular and philanthropy in general, are part of civil society. When the space in which civil society can function shrinks, when civil society is threatened, philanthropies and philanthropic support entities are also adversely affected. A threat to one is a threat to all, but we can use our comparative advantages to work in parallel.
10. Times may be tough for civil society generally, and philanthropy and the philanthropic sector in its various forms specifically, however, the sector, and its various components and sub-sets, are strong, resilient and determined. We must remember that: “The arc of the moral universe is long, but it bends towards justice.”³

1 “Keep Your Eyes on the Prize” was a very influential protest song during the U.S. civil rights movements in the 1950s and 1960s. It was based on a classic hymn and adapted from an old spiritual song about enduring even in the face of adversity. “This song’s exact origins are unknown; however, it was adapted for the civil rights movement in [1956] by an activist named Alice Wine. She added verses and changed some lyrics to adapt it specifically to the plight of civil rights activists....The lyrics are about transcending oppression and persevering despite any struggle or obstacles that may arise in one’s path.” From folkmusic.about.com, “History of ‘Keep Your Eyes on the Prize’ By Kim Ruehl. To hear a powerful rendition of the song, go to the YouTube music video performed by Mavis Staples, “Eyes on the Prize.”

2 In legal ethics, there is a canon that admonishes lawyers to not only avoid impropriety, but also to avoid the *appearance* of impropriety. What does this mean exactly? Some conduct that is, in fact, ethical may appear to laypersons to be unethical. As a result, when laypersons witness this conduct, public confidence in the legal profession could be eroded. Similarly, philanthropies and other CSOs should not only avoid being opaque and unaccountable but, they must also do all in their power to avoid the *appearance* of being opaque and unaccountable, least they risk eroding public confidence in the sector.

3 Dr. Martin L. King, Jr.