

The Disconnect: U.S. Doesn't Follow the State Department's "Guiding Principles on Non-Governmental Organizations"

In December 2006, the State Department launched an initiative to support the work of human rights defenders throughout the globe. Part of the initiative was the "Guiding Principles on Non-Governmental Organizations" (Principles), intended to guide the U.S. government's treatment of nonprofits and to assess the actions of other governments. However, there are glaring discrepancies between these Principles and the counterterrorism laws and policies applied to U.S. nonprofits by the federal government. This chart briefly compares existing U.S. counterterrorism measures to the Principles.

Guiding Principles on Non-Governmental Organizations Dept. of State Bureau of Democracy, Human Rights, and Labor December 14, 2006	
<p>Preamble: Recognizing that non-governmental organizations (NGOs)* are essential to the development and success of free societies and that they play a vital role in ensuring accountable, democratic government,</p> <p>And recalling the right to freedom of expression, peaceful assembly and association enshrined in the UN Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the UN Declaration on Human Rights Defenders,</p> <p>We hereby pledge our commitment to the following principles and our determination to work for their full implementation throughout the world:</p> <p><small>*As used here, the term NGOs includes independent public policy advocacy organizations, non-profit organizations that defend human rights and promote democracy, humanitarian organizations, private foundations and funds, charitable trusts, societies, associations and non-profit corporations. It does not include political parties.</small></p>	
Text	Commentary
1. Individuals should be permitted to form, join and participate in NGOs of their choosing in the exercise of the rights to freedom of expression, peaceful assembly and association.	National security programs have been used for surveillance of U.S. groups that openly dissent from the administration's policies.
2. Any restrictions which may be placed on the exercise by members of NGOs of the rights to freedom of expression, peaceful assembly and association must be consistent with international legal obligations.	The excessive use of watch lists, which often have no standards for how people are placed on a list and no real process for them to be removed, interferes with NGOs working in countries where governments use such lists to suppress political opposition. The Council of Europe has said the lack of standards and due process for watch lists violates basic human rights. (http://assembly.coe.int/ASP/APFeaturesManager/defaultArtSiteView.asp?ID=717)
3. NGOs should be permitted to carry out their peaceful work in a hospitable environment free from fear of harassment, reprisal, intimidation and discrimination.	Treasury's <i>Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S. Based Charities</i> interfere with U.S. NGO operations by imposing inappropriate procedures that place charities in the role of government investigators. This can put the lives of international aid workers at risk.
4. Acknowledging governments' authority to regulate entities within their territory to promote the public welfare, such laws and administrative measures should protect – not impede – the peaceful operation of NGOs and be enforced in an apolitical, fair, transparent and consistent manner.	Because Treasury has the power to seize and freeze NGO assets without notice or meaningful appeal, the Guidelines have an intimidating effect, where NGOs fear reprisals if their operations do not align with U.S. government political objectives.
5. Criminal and civil legal actions brought by governments against NGOs, like those brought against all individuals and organizations, should be based	U.S. nonprofits can be shut down and have their funds frozen, records and assets seized without notice based on secret evidence, and have no right to

on tenets of due process and equality before the law.	present their own evidence in court or get independent review of Treasury action. Treasury has even denied them access to their funds to pay for legal counsel for legal challenges.
6. NGOs should be permitted to seek, receive, manage and administer for their peaceful activities financial support from domestic, foreign and international entities.	Donors, including individuals and grantmaking foundations, are fearful of prosecution for supporting terrorism if they donate to a charity that is legal now but may be shut down at some future time because it is providing services in conflict areas of the world.
7. NGOs should be free to seek, receive and impart information and ideas, including advocating their opinions to governments and the public within and outside the countries in which they are based.	Some U.S. nonprofits, including academic institutions, have been unable to sponsor public forums and events because the government has denied visas for foreign speakers that are critical of its policies. Denial of visas has also affected the ability of universities to hire foreign faculty members.
8. Governments should not interfere with NGOs' access to domestic- and foreign-based media.	Government scrutiny of Internet sites has generated surveillance of groups that dissent from administration policies and even resulted in criminal prosecution of a nonprofit volunteer webmaster (who was acquitted).
9. NGOs should be free to maintain contact and cooperate with their own members and other elements of civil society within and outside the countries in which they are based, as well as with governments and international bodies.	Executive Order 13224 makes it illegal to be "otherwise associated with" any person or entity on the Specially Designated Nationals terrorist watch list. In addition, the USAID has starting requiring grant applicants to collect detailed personal information on its staff and partner organizations overseas to be submitted to government for "vetting." This puts grantees in the role of government spies and threatens the integrity of civil society relationships.
10. Whenever the aforementioned NGO principles are violated, it is imperative that democratic nations act in their defense.	Congress has failed to provide adequate oversight of the impacts counterterrorism measures have on U.S. nonprofits, and the courts have failed to provide nonprofits with fundamental constitutional protections.

The Principles are online at <http://www.state.gov/g/drl/rls/77771.htm>.

Chart from the OMB Watch report *Collateral Damage: How the War on Terror Hurts Charities, Foundations, and the People They Serve* July 2008 online at <http://www.ombwatch.org/node/3727>