

Civil Society Follow Up to the Summit of the Americas

Assessment of the Implementation of the Quebec Plan of Action:

United States

Findings



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Key Findings

The United States has a long history of respect for democracy and civil liberties, as reflected in its laws and political culture. But weaknesses exist and not all groups and individuals benefit equally from the rights and privileges associated with democracy in this country. A strong democracy must be strong for all its members. As civil society organizations, we must work at the local, national, and international levels to make democratic practices and institutions more effective and available to all.

Access to Information—

In the Quebec Plan of Action, the region's governments pledged to facilitate access to public information with the goal of increasing transparency and good governance in public institutions. To assess the state of access to information in the United States, Partners looked at legislation and practice.

Since 1966, the Freedom of Information Act (FOIA) has guaranteed the right of "any person" to access federal agency records and information. The nine exemptions to FOIA specify categories of classified and other sensitive material that may not be released to the public. A request for information may be denied if an agency believes the requested material to be exempt. Requesters may challenge refusals, but sanctions applied to agencies for noncompliance are weak, or "toothless and useless," as one expert informant characterized them. In addition, a lack of resources dedicated to processing requests for information under FOIA has created backlogs that result in delays and, sometimes, nonfulfillment of FOIA requests.

Increased secrecy by the Bush Administration since September 11, 2001, has been a concern for civil society organizations such as the National Security Archive, the Reporters Committee for Freedom of the Press, and others. In October 2001, Attorney General John Ashcroft directed federal agencies to consider the implications for national security of the disclosure of information under FOIA. A 2003 General Accounting Office study surveyed 183 FOIA officers from 23 federal agencies and found that, while close to half of the FOIA agents have seen no change in the tendency of their agency to release information, around 30 percent reported a decrease in the likelihood of their agency to disclose information since receiving Ashcroft's memo.

Since passage of the USA Patriot Act in October 2001, CSOs including the National League of Cities and the Lawyers Committee for Human Rights are worried about compromised rights to privacy and decreased respect for civil liberties. With the goal of more effectively combating terrorism, the Patriot Act expands the powers of law enforcement officials to monitor personal communications in order to facilitate the apprehension of suspected terrorists within the United States.

Freedom of Expression—

In the Quebec Plan of Action, the governments agreed to "ensure that national legislation relating to freedom of expression is applied equitably to all." To assess the status of this commitment, Partners investigated the laws governing free expression, impediments to its practice, and the capacity of citizens to express themselves.

Over time, judicial interpretations have clarified and specified limits to free expression in the United States, including a ban on “legally obscene” material and “time, place, and manner” restrictions on public assembly. Even so, the right to free expression is well-respected and longstanding, going back to the ratification of the First Amendment to the Constitution, which protects the free exercise of religion, speech, press, assembly, and petition.

When compared with other countries in Latin America and the Caribbean, the U.S. population is well disposed to take advantage of the right to free expression. The United States has a high level of literacy (about 97 percent) and access to communications technologies such as the Internet (half the population) and telephone (67 percent). Among primary and secondary schools, 52 percent are wired to the Internet.

While the people in the United States generally exercise the right to free expression, barriers do exist. Market domination by large media agglomerations makes it difficult for independent media sources to access the market. For example just 10 companies own over 51% of the nation’s newspaper circulation. In 1975, the FCC prohibited cross-ownership (when a company owns more than one kind of media source in the same community), but 17 instances of cross-ownership were allowed in 2002.

Since the 1996 Telecommunications Act, the number of television stations that one company can own may correspond to as much as of 35 percent of the population. A study by the Project for Excellence in Journalism found that highly concentrated ownership of media sources has a negative impact on the quality of television newscasts. In a move that has met with opposition, the Federal Communications Commission recently proposed to increase the limit for television station ownership to 45 percent of U.S. households, claiming this number is in line with the goals of promoting competition, diversity, and localism.

Access to Justice—

In the Quebec Plan of action, the region’s democratically elected heads of state promised to “support public and private initiatives and programs to educate people about their rights relating to access to justice, and promote measures that ensure prompt, equal, and universal access to justice.” In the United States, Partners investigated the legal framework supporting access to justice and the extent to which this framework applies equally to all.

Equal treatment under the law is guaranteed for all citizens in the Bill of Rights of the U.S. Constitution. Still, knowledge of legal rights is moderate to low, and not all groups in the United States do, in fact, receive equal treatment. Public legal aid for low-income groups exists, but the quality and availability tend to be low. In particular, non-English speakers are often unable to access public legal services because of language barriers. Moreover, the American Civil Liberties Union and Human Rights Watch report that police mistreatment of minorities is a serious problem.

Local Government and Decentralization—

As the Quebec Plan of Action states, “local governments are closest to the daily lives of citizens.” For this reason, citizen participation and representation at the local level are essential. Nothing in the U.S. Constitution addresses local governments. Instead, state statutes define the powers of the more than 35,000 city governments in the United States. For this reason, the forms and practices of local government in the United States vary widely, both between and within states. Partners spoke with local government officials and CSO representatives throughout the United States about city governments and about opportunities for citizen participation at the local level.

In general, cities provide local services such as water, fire, and police, and are responsible for local zoning decisions. Cities may also engage in special projects, including the revitalization of a downtown area and the promotion of affordable housing. Cities commonly raise money through the collection of fees for services, fines for noncompliance with local ordinances, and property taxes. In interviews conducted by the National League of Cities, local government officials from cities around the United States reflected a decreased capacity of cities to generate revenue, both because of federal and state limits and because of the impacts of suburbanization and an increasingly globalized economy.

All cities have regular elections for a representative body, usually a city council. Most cities also elect mayors, although mayors are sometimes appointed by the council. Sunshine laws in almost all states require local government records to be public. Many cities use the newspaper and the Internet to provide information to citizens. Almost all cities now have a website including contact information for city officials and departments and the city code of ordinances. Many cities also use their websites to highlight specific projects and to “sell” their city to businesses and families.

Opportunities for citizen participation at the local level vary. In most cases, citizen participation is limited to advising and, outside of voting, does not include decision making power. Most cities have open council meetings and hold special public hearings on major issues. Cities may solicit information from citizens through surveys, workshops, or public hearings. City councils often include citizens in the work of special committees on specific issues. In some cities, neighborhood councils propose projects to the council, in others citizen engagement with the local government does not go beyond public meetings.

Civil Society Participation—

In the Quebec Plan of Action, the governments affirmed the “important role of participation by civil society in the consolidation of democracy and that this participation constitutes one of the vital elements for the success of development policies.” Partners wanted to know more about the composition of civil society, government support for the sector, and the level of public knowledge of civic values and practices.

Civil society organizations with a wide range of missions have been active throughout U.S. history. Currently, there are over one million registered nonprofit organizations in the country, with about 30 percent of their funding coming from government sources. Of these million organizations, approximately 54 percent work in health; 18 percent engage in education and

research; 12 percent provide social and legal services; 9 percent are religious organizations; 3 percent are civic, social, or fraternal; 2 percent focus on art and culture; and 1 percent are foundations.

A well established legal framework provides registered civil society organizations in the United States with benefits as nonprofit agencies. CSOs must register at the state level and may also register at the national level. As registered nonprofit organizations, CSOs receive tax-exempt status at the federal level. States also provide tax exemptions for CSO “earnings” and may also exempt CSOs from property and sales taxes and provide them with other benefits, such as discounts on state government equipment.

A strong tradition of philanthropy in the United States supports CSOs. Charitable donations may be deducted from income taxes, and individual and foundation contributions account for almost 20 percent of CSO funding. The government provides 30 percent of funding for CSOs, and other revenue comes from dues, fees for products and services, and investment and interest income.

Many CSOs participate in public policymaking, although their role is unofficial and usually takes the form of educating and lobbying elected officials. Some of the factors that affect the amount of influence CSOs have on policy are the political party in power and the name recognition, reputation, and resources of the organization itself.