

Strengthening Laws to Support Civil Society

Analysis of INSPIRES Flexible Response Funding

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Results for Development (R4D)

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About INSPIRES

The USAID-funded Illuminating New Solutions and Programmatic Innovations for Resilient Spaces (INSPIRES) program, led by Internews, has undertaken work to increase the understanding of the drivers of closing civic and political space and to strategically respond to the growing trend of closing civic and political space. Since launching in October 2018, the INSPIRES consortium (Internews, International Center for Not-for-Profit Law (ICNL), DevLab at the University of Pennsylvania, PartnersGlobal, and Results for Development (R4D)) has undertaken work to contribute to three complementary objectives:

1. Develop Innovative Analysis to Deepen Understanding of Civic Space Drivers and Inform Programmatic Priorities for Civil Society
2. Test Resiliency+ Framework Interventions
3. Empower Local Partners to Address Civic Space Threats Effectively (Flexible Response Funds)

As the third objective of INSPIRES, the Flexible Response Funds (FRFs) provide support on emerging and urgent needs and opportunities for civic space protection and enhancement. The FRFs provide USAID missions and partners with easily accessible and flexible support in the form of technical assistance and subgrants to local organizations. It is intended to be both proactive, as warning signs of closing space begin to emerge, and reactive, as civic space begins to shift. The effort is built around ICNL's longstanding and successful Legal Enabling Environment Program (LEEP) but has been expanded under INSPIRES to encompass a broader array of common civil society needs in challenging environments, including capacities around information, finances, connectivity, and resilience. Since 2018, INSPIRES has led more than 75 FRF activities in 51 countries. The majority of FRF interventions have been between \$10,000 to \$70,000 over a period of up to 18 months, but there is flexibility to adjust those parameters based on identified need.

Strengthening Laws to Support Civil Society

One of the most common types of civic space obstacles that INSPIRES sought to address was repressive laws that would restrict the rights of civil society. There are many laws that govern civil society actions, including laws related to rights of assembly and association, non-profit registration, and financial practices. While these types of laws can be important means of supporting effective civil society activity, they can also be used by governments who wish to remove or restrict freedoms from individuals and organizations that they see as a threat to their own power. Financial and technical support from FRFs can help domestic civil society actors and their international allies to revise or defeat laws that deliberately or inadvertently put restrictions on civic freedoms.

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As part of an evaluation of FRF activities, we undertook additional data collection for 46 FRFs (those completed before April 2023); twelve of these FRFs were designed to improve drafted or enacted laws affecting civil society. Data were collected using quarterly surveys, key informant interviews with consortium partners, local partners, and other key stakeholders, and documentation produced as part of the FRFs (including legal analysis, research, and training materials). We utilized qualitative analysis to answer three key questions:





- What **strategies** did partners apply to strengthen laws?
- What **outcomes and outputs** did partners achieve as a result of FRF activities?
- What did stakeholders cite as **helping and hindering factors** in strengthening laws?

It is important to note that the results shared in this brief are based on subjective data and thus reflect the perceptions and experiences of FRF stakeholders rather than objective data that can prove attribution between activities, outcomes, and factors. However, the large degree of independent verification for these results provides strong evidence of the validity of the outcomes and factors shared.

Structure of the brief

The remainder of this brief presents Results from each of the three key questions shared above (Strategies, Outcomes and Outputs, and Helping and Hindering Factors), followed by a Discussion of results and learnings.

Figure 1. Fast facts on law-focused FRFs

	FRF Countries	11
	Laws successfully changed	8
	Civic Space Dimensions	Legal
	Consortium Partners leading FRFs	ICNL and Internews¹

¹ The majority of FRFs that focused on legal changes (11 of 12) were led by ICNL; Internews undertook one FRF that targeted media-related laws in Tanzania.

Table 1. Geographic distribution of Legal FRFs

<ul style="list-style-type: none"> • Georgia • Guatemala • Jordan • Libya • Mauritania • Mongolia 	<ul style="list-style-type: none"> • Mozambique (2) • Nigeria • Paraguay • Philippines • Tanzania
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Results: What strategies did partners apply?

Local partners utilized a range of strategies to implement their FRFs. These strategies served as the primary activities highlighted in the monitoring surveys. Legal analysis and the development and/or sharing of materials to support civil society organization (CSO) advocacy efforts were the most frequently applied strategies for legal FRFs. These strategies were often augmented by other activities, including additional technical assistance and facilitating engagement between CSOs and other stakeholders. FRFs that did not utilize legal analysis as a strategy often leveraged close substitutes to provide information about the proposed or enacted laws, such as regular monitoring of legal changes. In a smaller subset of FRFs, consortium partners also undertook direct advocacy and outreach to government officials and/or international actors. This section presents all strategies undertaken by partners, and the blue dots below represent the number of FRFs in which the strategy was used.

●●●●● Legal analysis

Half of the law-focused FRFs undertook analysis of a law as a core strategy and generally involved the review of an enacted or draft law to identify text that does not align with international standards and best practices and to provide information to stakeholders on how the law could be revised in response. In the majority of FRFs, this analysis was not a single product; instead, legal analysis was often developed for multiple drafts of the same law and/or multiple laws being considered at the same time.

●●●●● Materials to support CSO advocacy

In addition to legal analysis, the most frequently used approach to support legal reforms was the development and dissemination of materials and resources that CSO partners could use to advocate for more progressive laws. These resources took several forms, including talking points related to Financial Action Task Force (FATF) guidelines and checklists for CSOs to support non-profit organizations in their own outreach to improve registration and financial reporting requirements.

●●●●● Technical assistance

Consortium partners provided training or as-needed technical assistance to CSOs and other local partners in almost half of legal FRFs, often paired with resources and materials to support advocacy. In many cases, this technical assistance focused on legal topics and best practices that local partners could then leverage for both their own advocacy as well as to train other stakeholders in their country working on similar issues.



Results: What strategies did partners apply?

● ● ● Facilitating civil society engagement

In several FRFs, consortium partners used the strategy of facilitating CSO partner interaction with other stakeholders on legal reform issues, including engagements with both state actors and international bodies to put pressure on governments to improve laws.

● ● Consultations with US Government stakeholders

Beyond facilitating CSO engagement, consortium partners also engaged directly with US State Department and USAID mission representatives to both raise awareness of legal issues in the country and encourage actions to support legal reform.

● ● Direct advocacy and outreach

While more FRFs used strategies to support CSO advocacy on legal issues, consortium partners also undertook their own advocacy and outreach activities in two FRFs, focusing on media law reform (Tanzania) and legal changes made during the COVID-19 pandemic (Georgia).

● ● Consistent monitoring and analysis

In two FRF cases related to legal changes being made in relation to the COVID-19 pandemic, activities included the development and implementation of mechanisms to consistently monitor proposed and realized legal changes happening at the national and sub-national level.

● Stipends for journalists

Finally, for one FRF that focused on media freedom laws, consortium partners provided financial support to journalists to report on the implications of restrictive media laws on the lives of people around the country.

"We did an analysis of the state civil society policy and shared it with our partners. It had a lot of general principles about association best practices and international law ... So, it was a useful foundation for partners to read and receive and useful for the draft legislation."

"Our partner developed a tracker which monitored not just national laws, but also those at the state level. And they have managed to maintain it throughout, even beyond the funding duration. Another local partner also monitored and used information to compile policy briefs which they then submitted to relevant state institutions, including policymakers. Those have been used by state, national, and international actors."



Results: What outcomes were achieved?

FRFs focused on legal reforms are distinct from many other FRFs in that they have one common discrete outcome they are seeking to achieve – the passage of a more progressive law(s). The majority of FRFs that we analyzed (66%) were able to contribute to positive legal changes, including the passage of a more progressive law and/or the rescinding or tabling of a restrictive law. However, these are not the only outcomes that legal FRFs were able to achieve, with several activities contributing to changes such as increased capacity, awareness, and other actions that could improve the legal environment for civil society in the future. In this section, we share these outcomes, with the blue dots below representing the number of FRFs in which this outcome was reported.

●●●●●●●● Changes in enacted or draft laws

Two-thirds of FRFs that we analyzed were able to successfully (if, in some cases, temporarily) contribute to a positive change related to laws being considered or already enacted. These changes have concrete impacts on the ability of civil society, non-profit organizations, and media to assemble, operate, and survive in myriad ways:



Libya – supported the temporary tabling of decree which sought to limit freedom of association and install further restrictions on civil society in the country.



Mongolia – worked with CSOs to ensure the successful tabling of a restrictive non-profit organization (NPO) registration law and develop a “dream law.”



Mauritania – contributed to improving the new law of associations (passed in 2021), which included several direct recommendations from ICNL legal analysis.



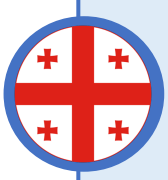
Nigeria – stalling of COVID-related repressive public health restrictions and ensuring the inclusion of international best practices in new Companies and Allied Matters Act.



Mozambique – helped to stop the passage of draft law of associations (2020) that included provisions that were not aligned with international best practices and standards.



Tanzania – contributing to the tabling of a new regressive Media Bill in Zanzibar as well as contributing more progressive language in the newly revised Media Services Act.



Georgia – contributed to the removal of COVID-related assembly laws, including achieving amnesty on leveraging fines for civil society assembly and protest.



Paraguay – updating the system of classifying NPOs to lessen financial and reporting burden to small organizations negatively affected by previous versions of the law.



Results: What outcomes were achieved?

While legal changes were the primary goals and thus outcomes of many legal FRFs, these activities achieved a wider set of outcomes that have the potential to support future legal reform, including:



Improved awareness

One challenge associated with achieving progressive legal changes is the lack of awareness of legal issues on the part of the public and other stakeholders. When actors such as the media and communities do not understand how laws affect them, policymakers may feel less pressure to change those laws. Half of the FRFs focused on legal reforms were able to achieve improvements in awareness related to the target law or legal issue, including among the public and international actors.



Improved resources for future advocacy

Two-thirds of legal FRFs that were analyzed included activities that created and disseminated resources that CSOs and other actors will be able to use for advocacy related to current and future legal reforms. These resources include talking points for international actors to increase pressure and creative, multimedia materials such as infographics and checklists that CSOs can use in their ongoing work.



Increased capacity of CSO partners

Advocating for legal reform often requires significant knowledge on technical topics such as the international norms and standards related to anti-money laundering and countering financing of terrorism. While not every FRF led to a legal change by the time of endline data collection, many of those FRFs still led to increased capacity of CSOs in countries according to key informants. This increase in capacity has the potential to allow CSOs to continue to work on legal reforms after the end of formal FRF activities.

“One impact of the FRF is making local partners more aware of how these regulations are targeting CSOs, and also generating some ideas for advocacy and how they can collaborate more on pushback on these types of things.”

“What ICNL helped with was arming local civil society with credible legal analysis that went into details about how draft bills did not help with complying with FATF requirements. This created a level playing field with the government.”



Results: What outcomes were achieved?

●●●●● Increased engagement between civil society and other actors

While civil society may ultimately seek to engage with government actors to change a problematic law, increased willingness of government and other decision-makers to engage with civil society can be a critical stepping stone to future reforms, even if they did not lead to a change in the FRF target law. Half of the analyzed FRFs reported concrete new engagements or windows of opportunity for CSOs to have a seat at the table with influential actors that had not previously existed.

●●● Other action to support future legal reform

Finally, one quarter of FRFs reported other actions undertaken by actors that informants see as important foundations for reforms in the future. These include actions taken by international stakeholders and development partners to push for future changes and actions that support the resilience of CSOs and NPOs to continue to operate as they continue to advocate for reform.

Higher level changes

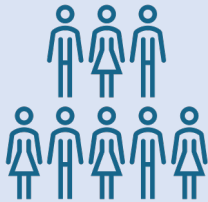
Beyond legal reforms and the changes that support these outcomes, several informants highlighted different and, in some cases, higher level changes. While we are not able to make statements about the degree to which FRFs led to these changes, they provide a valuable insight into the diverse array of changes to which informants see these activities contributing. These include:

- Improvements in CSO safety and ability to operate securely.
- Development of regional models for reforming laws across multiple countries.
- Improvements in the ability of international partners to operate in a country.
- Development of sustainable tools for tracking legal changes and new ideas for supporting progressive legal reforms.

Where FRFs stop short. It is also important to note that several informants highlighted instances in which FRF activities were not able to achieve all of their desired outcomes. In at least one case, the initial tabling of a problematic law was later changed, and the draft law is again being debated. While this can be seen as a negative development, informants in this case also noted that even the temporary tabling of the law allowed CSOs and international actors alike to have time to strategize and prepare for how they could continue to operate if the law resurfaced. In other cases, events such as elections and COVID-19 limited the progress made by FRF partners in their legal reform efforts; however, in all cases, informant noted that they were able to achieve several outputs and outcomes that put them in a better place to continue their advocacy efforts when reform windows re-open.



Results: What outputs were achieved?



4,400 +

estimated minimum reach of products and media produced as part of legal-focused FRF activities



48

journalists awarded stipends for legal reporting



35

trainings or learning events organized



33

briefers and other materials for outreach produced



What helped and hindered these changes?

In addition to collecting data on activities and outcomes, INSPIRES asked informants to answer a second learning question: **What factors helped to improve the effectiveness of FRF activities – and what factors hindered their effectiveness?**

The analysis of factors for all FRFs completed by April 2023 resulted in a four-component framework that may support or inhibit flexible and rapid response programming:

People Direct – Factors involving individuals and organizations directly engaged in the activities.



Local
Partners



Consortium
Partners



Donor
Characteristics

People Indirect – Factors involving individuals and organizations external to activities.



Government
Characteristics



Community or
Public

Political
Factors



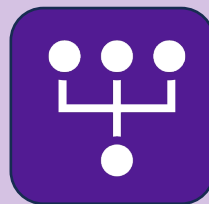
Other Events
and Timing



COVID-19
Factors



Other
Context



Place – Factors involving the context in which activities are taking place.

Program Structure
and Resources



Process – Factors involving the FRF structure and resources.

In this section, we share helping and hindering factors that emerged as especially critical for legal-focused FRFs conducted as part of INSPIRES.



What helped and hindered these changes?

People: These factors refer to characteristics and behaviors of individuals or organizations involved in or affected by the design, implementation, and funding of FRFs. Specific factors in this component include: Consortium Partners, Local Partners, Donors, Government and Public/Community.

Number of FRFs
Reporting the Factor

Helping Factor

● ● ● ● ● ●

Local partner relationship with government. Positive relationships with government offices and/or specific government champions helped to move the needle for legal changes in half of the FRFs analyzed.

● ● ● ●

Expertise of consortium partner. Informants highlighted the critical role of having access to international legal experts to provide analysis, talking points, and support for legal reform advocacy.

● ● ●

Wide local partner network, ensuring that advocacy and outreach for legal reforms reached a larger number of audiences and brought in additional CSO partners.

● ●

Local partner media connections. For FRFs that focused on media law as well as those focused on other legal issues, the ability to quickly engage media as supporters played an important role in multiple FRFs.

Number of FRFs
Reporting the Factor

Hindering Factor

● ● ● ● ● ●

Lack of government engagement including slow or nonexistent responsiveness and a general absence or negative disposition towards civil society led was cited as a challenge in half of FRFs that were analyzed.

● ● ●

Limited local network of consortium partner. In some cases, informants noted that legal reform efforts could have been more effective if the consortium partner had a wider network of local CSOs to engage as part of the outreach process.

● ●

Delays in local partner responsiveness. While local partner characteristics were largely seen as helping FRF results, a small number of cases noted that a lack of responsiveness from CSO partners hindered the effectiveness and timeliness of activities.



What helped and hindered these changes?

Place: These factors refer to aspects of the external environment (enabling or restrictive) that affect the design, implementation, and/or success of FRF activities in achieving their intended results. Specific factors in this component include: Political Factors, Other Events and Timing, COVID-19, and Other Context.

Number of FRFs Reporting the Factor	Helping Factor
● ●	International pressure , including statements made by development partners and the diplomatic community supporting FRF views on the target legal reform.
● ●	Timeliness of the issue , including a focus on the target law connected to elections and other movements for reform.
● ●	New leadership . In some cases, the transition to a new government helped to catalyze the legal reform process.
Number of FRFs Reporting the Factor	Hindering Factor
● ● ● ● ● ●	COVID-19 challenges , including the need to move to virtual engagement and outreach due to lockdowns during the height of the pandemic.
● ● ● ● ●	Changes in legislative timelines , leading to consortium and local partners needing to frequently shift priorities and strategies to align with changes in debates and voting for laws.
● ● ●	Political instability and changing dynamics . Beyond elections, several countries in which legal FRFs took place faced instability that made work on legal reforms for challenging.

Process - these factors refer to the structure, resources, and policies of FRF programming itself that affect the design, implementation, and/or success of FRF activities in achieving their intended results. Factors in this category have been combined into a single factor: Program Structure and Resources.

A smaller number of Process factors emerged as important to legal FRFs. However, informants did note one key helping factor (the flexibility of FRF programming, noted in 3 cases) and one key hindering factor (limited time for big legal changes to take place, noted in 7 cases).

Discussion

A major takeaway of the analysis of FRFs seeking to contribute to legal reforms is that the mechanism appears to be an effective strategy for supporting the passage of laws that strengthen civic freedoms and stopping laws that restrict these same freedoms. While we are not able to compare FRF approaches to others targeting similar goals, the high success rate (66%) of these activities with limited funds and timelines suggests that this mechanism has been quite effective in supporting legal reforms.

While strategies undertaken as part of these FRFs are diverse, the majority of FRFs that contributed to concrete legal changes utilized a bundle of strategies which include analysis (such as one-off legal analysis of draft laws and the development of tools to consistently monitor legal changes) and outreach by consortium partners, local partners, and/or other stakeholders. While analysis alone led to legal changes in a limited number of cases, informants noted that the evidence-informed advocacy and pressure placed on policymakers was often the activity that triggered bigger changes.

FRFs cannot always be expected to contribute to legal changes during a relatively limited time period; however, the results of those FRFs that were not able to secure tangible legal changes are also encouraging. All FRFs showed evidence of contributing a diverse set of outcomes, including many that can serve as a foundation for future legal reforms on a range of laws affecting civic freedoms. Increased capacity, awareness, and positive engagement with domestic government and international actors all have the potential to be leveraged by local partners after the completion of FRFs to continue reform efforts.

Despite these positive results, it is also critical to acknowledge – and to design programs to address – the limitations to time-constrained FRFs. Even when FRF activities were able to prevent backsliding during the duration of the programming, this backsliding was temporary in some cases. Especially in the case of tabled laws, newly-elected government actors or existing officials facing new political pressures can reintroduce laws that CSOs and INGOs have fought to remove from consideration. While it is tempting to see these instances of backsliding as failures, even the temporary removal of restrictive legislation can provide space for civil society to operate effectively and achieve important milestones, including improving their resilience for future crackdowns.

Beyond outcomes and results, understanding the factors that help and hinder legal FRFs to achieve their goals can provide actionable guidance for INGOs, CSOs, and donors to continue to make these types of activities more effective. An analysis of factors for this brief highlights the importance of political windows of opportunities in achieving legal changes; by closely monitoring changes in government officials as well as public interest and engagement on a particular topic, partners can be well-placed to utilize mechanisms like FRFs to respond quickly to civic space openings and closings alike. Further, hindering factors such as an INGO's limited networks of local partners can be strengthened outside of the FRF timeline to ensure that there is a strong network in place when one of these political windows of opportunity opens.