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Helpdesk Research Report

Restricting space for civil society

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Question

What is the recent evidence of a global trend toward restricted space for civil society? Is the trend specific to particular thematic areas? In 2-3 case study countries, what were the underlying drivers behind the restrictions; and what impacts are the restrictions having on affected organisations and the outcomes they are trying to achieve?

Contents

1. Overview

There is consensus in the literature reviewed for this rapid query that the space for civil society[1] to act has been increasingly restricted in the past decade. This is a global phenomenon – occurring in different

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[1] A guide by the Office of the High Commissioner for Human Rights (OHCHR) (2014, p.3) on civil society space defines civil society actors as 'individuals and groups who voluntarily engage in forms of public participation and action around shared interests, purposes or values. It also states a normative element in its definition stating these actors take 'action around shared interests, purposes or values that are compatible with the goals of the UN: the maintenance of peace and security, the realization of development, and the promotion and respect of human rights'. Civil society actors include: non-governmental organisations (NGOs), social movements, coalitions and networks, unions, media/journalists, citizen groups, professional groups and associations, the non-profit sector, traditional kinship networks, etc. 'Civil society space is the place civil

ways and not in all countries – but in all regions of the world. It is occurring in all regime types – not just authoritarian countries. However, at the same time, in some contexts, civil society has acquired new spaces and enabling environments.

Key findings include:

- Restrictions on civil society space come from a range of actors employing a mix of legal or quasi-legal, bureaucratic, financial, political, and security related methods. The literature explores a number of overlapping methods, including: restrictions to the formation, registration, operation and funding of civil society organisations (CSOs); restrictions of rights to freedom of assembly, expression and association; physical attacks; verbal and reputational attacks; restrictions to the enabling environment of civil society; and co-option of civil society groups by government or other actors.

- 44 percent of countries across the world have legislation specifically restricting foreign non-governmental organisations (NGOs) and/or foreign funding. This has increased over time. There have been an increasing number of physical and verbal attacks on CSOs and human rights activists. In response to large-scale civic mobilisations across the world, many governments have increased restrictions against the right to peaceful assembly. In 2014 CIVICUS documented 'significant attacks' on fundamental civil society rights of free association, free assembly and free expression in 96 countries. Freedom House (2015) found for the ninth consecutive year an overall decline in global political rights and civil liberties. The International Center for Not-for-Profit Law (ICNL) identifies that restrictions on the right to freedom have been growing in recent years across all regions and regime types in the world.

- Across thematic areas, groups are targeted most where they are seen to challenge power, corruption, or the interests of dominant political parties, national or economic actors. Mostly, governments use restrictions to target groups who they feel threatened by, or where targeting them benefits the government in some way. Civil society actors that engage in politically-sensitive activities or human rights and democracy-related activities are particularly targeted.

- General drivers are thought to include: concerns around sovereignty or foreign influence in domestic/national affairs; concerns over terrorism and extremism which have prompted states to exercise more control over CSOs; aid effectiveness principles; political elites seeing civil society as a threat to political power; and concerns over the legitimacy and accountability of some NGOs.

- General impacts are thought to include: organisations shifting to work on less sensitive issues, or to funding civil society through the government; organisations being shut down by governments or put into bureaucratic limbo; organisations shutting due to restrictions on foreign funding; organisations attempting to represent themselves differently to the host government.

- Specific drivers and impacts are examined for two case examples: Kenya and Ethiopia.

There is a large amount of **literature** that examines general issues relating to civil society and human rights organisations. The literature that particularly examines the question of this query – looking at civil society at the macro-level – is almost entirely written by a small number of policy and practitioner organisations, and thematically focussed think tanks/research centres. There is little academic literature

society actors occupy within society; the environment and framework in which civil society operates; and the relationships among civil society actors, the State, private sector and the general public' (OHCHR, 2014, p.5).

focussed at this macro level on civil society space as a recent phenomenon, instead there are some academic texts looking at the micro and country level. There is a large amount of information about recent events provided in media reports that this query does not explore. The literature tends to focus on legal restrictions to civil society, and to a lesser extent, human rights violations against activists. Findings are often disaggregated according to gender and other categories.

2. Trends

Historic trajectory

There is consensus in the literature that the space for civil society to act has been increasingly restricted in the past decade. Historically, the literature points to the **1990s**, when there was an **'associational revolution'** (Rutzen, 2014, p.1) and a global NGO expansion (Dupuy, Ron and Prakash, 2014). The number of NGOs, their funding and their influence increased significantly, particularly in developing countries after the Cold War (Dupuy et al., 2014). Scholarly thinking at that time highlighted the demise in power of the state vis-à-vis civil society. Others, however, argue this was 'an overestimation of the power of civil society' (Dupuy et al., 2014). At the same time, in the 1990s, a body of literature emerged that was critical of NGOs, particularly foreign funded NGOs in developing countries. Common criticisms included the emergence of 'briefcase' (or fake) NGOs; inequalities between NGO workers and the local populations; foreign funding undermining accountability to local people etc (Dupuy et al., 2014).

By **2004,** the **global associational counterrevolution** had begun, argues Rutzen (2014),[2] as governments began to increasingly pass laws to regulate and limit civil society actors. This trend has continued since. In **2010** after the Arab Spring, Rutzen (2014) identifies a 'second wave of legislative constraints'. There has also been an increase of harassment and violence directed at civil society groups and activists in many countries. These phenomena indicate 'a renewed period of contestation about the acceptable bounds of civil society' (Sriskandarajah in CIVICUS, 2015, p.2). In a widely cited paper for the Carnegie Endowment for International Peace, Carothers and Brechenmacher (2014) argue that these trends are likely to continue.

At the same time, in some contexts, civil society has **acquired new spaces and enabling environments**. It has gained more power at the international level on global processes like the Busan Partnership for Development Effectiveness (Hayman, Lawo, Crack, Kontinen, Okitoi & Pratt, 2013). New technologies have increased the scale, speed, and scope of civil society activities (INTRAC, 2012). However, these aspects are not often explored in the literature on civil society space.

Type and extent of restrictions

There is consensus in the literature that a wide range of restrictions are increasing for civil society. There is also a consensus that this is a global phenomenon – occurring in different ways and not in all countries – but in all regions of the world (e.g. Carothers & Brechenmacher, 2014).

It is occurring in all regime types – not just authoritarian countries. Thomas Carothers from the research centre, Carnegie Endowment for International Peace, highlights this as 'a very good indicator of how

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[2] See - Douglas Rutzen & Cathy Shea, "The Associational Counter-Revolution," Alliance, September 2006, http://www.alliancemagazine.org/en/content/associational-counter-revolution. Cited in Rutzen, 2014.

serious and how evident this problem is' (expert comment). Notably there are a number of countries that have retained a stable and high level of restrictions over this time (e.g. Syria, Eritrea, Saudi Arabia, Cuba, Laos) (Rutzen, 2014).

Restrictions on civil society space come from a range of actors – different levels of state actor (central, regional, local); security forces; businesses; organised crime; religious groups etc (CIVICUS, 2015). A variety of **methods** are used, including legal or quasi-legal, bureaucratic, financial, political, and security related methods. A number of overlapping methods identified in the literature include (Rutzen, 2014; ICNL et al., 2012; Carothers & Brechenmacher, 2014; CIVICUS, 2015):

- Restrictions to the formation and registration of CSOs.
- Restrictions to the operation of CSOs.
- Restrictions to funding and/or resourcing of CSOs (especially international).[3]
- Restrictions of rights to freedom of assembly.
- Restrictions of rights to freedom of expression (e.g. speech, advocacy, public policy engagement).
- Restrictions of rights to freedom of association (e.g. communication, cooperation with others).
- Physical attacks (e.g. imprisonment, harassment, disappearances, execution and impunity for perpetrators of attacks).
- Verbal attacks (e.g. intimidation, undermining of civil society's legitimacy to work on an area).
- Restrictions to the enabling environment of civil society[4]
- Co-option of civil society groups by government or other actors

A number of indexes and monitoring frameworks have been devised[5] to monitor these restrictions, their impact on the enabling environment for CSOs to operate in, and trends (ICNL, 2014).

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[3] Common ways to limit international support and funding for civil society include (Rutzen, 2014, p.10):
'(1) requiring prior government approval to receive international funding;
(2) enacting "foreign agents" legislation to stigmatise foreign funded CSOs;
(3) capping the amount of international funding that a CSO is allowed to receive;
(4) requiring that international funding be routed through government-controlled entities;
(5) restricting activities that can be undertaken with international funding;
(6) prohibiting CSOs from receiving international funding from specific donors;
(7) constraining international funding through the overly broad application of counterterrorism and anti-money laundering measures;
(8) taxing the receipt of international funding, including cross-border philanthropy;
(9) imposing onerous reporting requirements on the receipt of international funding; and
(10) using defamation laws, treason laws, and other laws to bring criminal charges against recipients of international funding'.
[4] CIVICUS (2013) identify key aspects of the enabling environment to be: legitimacy, transparency and accountability; connections, coalitions and solidarity; the policy and legal sphere; government, politics and relations with civil society; public attitudes and participation; corruption; communications and technology; resources.
[5] Examples include (ICNL, 2014, p.2-3): Comparative Nonprofit Sector Project, CIVICUS's Civil Society Index, the World Bank's ARVIN Assessment Framework, the Charities Aid Foundation's World Giving Index; Freedom House's annual Freedom in the World and Nations in Transit Reports; Transparency International's Corruption

Legal, quasi-legal and regulatory restrictions

While more traditional forms of repression still occur in civil society (e.g. imprisonment or execution), governments are reportedly becoming 'more subtle' in their efforts to limit the space for civil society, often opting for legal and regulatory measures (ICNL, World Movement for Democracy Secretariat & NEL, 2012, p.3).

ICNL tracks restrictive legislation impacting civil society by country and by theme (such as counter-terrorism law, foreign-funding, elections, assembly and protest, internet freedom, and more). They have tracked a large rise in restrictive legislation in recent years, and it is evident that countries of all regime types are copying legislation targeting the sector.[6]

Graph 1 by Dupuy et al. (2014, p.5) shows that 44 percent of countries (86 of 195) across the world have legislation specifically restricting foreign NGOs and/or foreign funding. This has increased over time. From 1955 to 1994, 17 of 195 countries examined passed more restrictive laws on the operations of foreign NGOs and foreign funding. From 1995 to 2012, an additional 69 countries worldwide did so.

Graph 1: percentage of countries that have passed more restrictive NGO laws worldwide (cumulative), 1955-2012
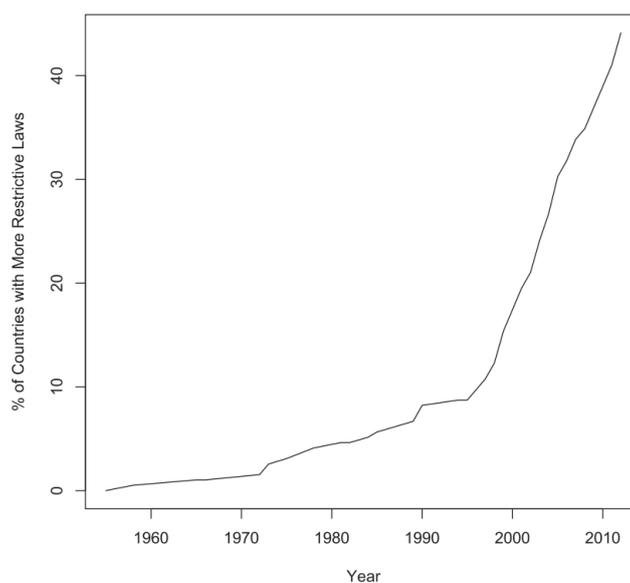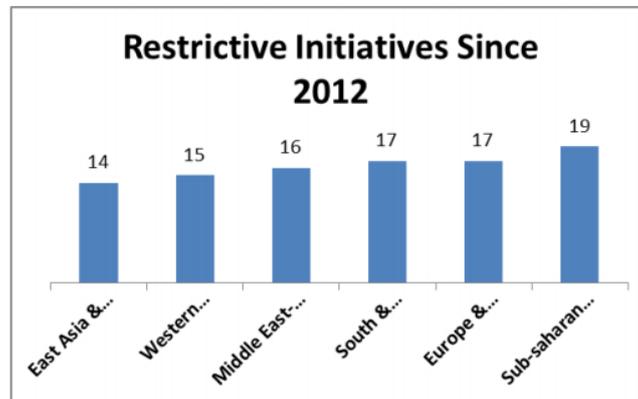

Source: Dupuy et al., 2014, p.5

Based on ICNL's tracking data, Rutzen (2014) shows in Graph 2 that in certain regions it is more common to introduce restrictions on civil society, but mainly that it is a global phenomenon.

Perceptions Index; Global Integrity's Global Integrity Report; the Bertelsmann Stiftung; Foundation's Sustainable Governance Indicators and Transformation Index; the Economist Intelligence Unit's Democracy Index; Indices of Social Measurement, etc.

[6] See - http://www.icnl.org/

Graph 2: restriction initiatives against civil society since 2012

Restrictive Initiatives Since 2012

East Asia &…	Western…	Middle East…	South &…	Europe &…	Sub-saharan…
14	15	16	17	17	19

Source: Rutzen, 2014, p.8

Physical and verbal attacks and intimidation

While much of the narrative around closing space for civil society focusses on legal restrictions targeting CSOs, the literature highlights an increase in closing space by increased physical and verbal attacks on CSOs and human rights activists.

There have also been a number of high profile **large-scale civic mobilisations** across the world – some have been accompanied by repression (e.g. anti-racist protests against the police in the US were accompanied by a violent response from the state) while other mobilisations have opened the space for civil society (e.g. the Scottish referendum on membership of the UK). In many examples governments have responded to protests with an increase in restrictions against the right to peaceful assembly, among other measures (CIVICUS, 2013).

Relations between civil society and other actors

Based on a survey of members of the Affinity Group of National Associations (AGNA), a peer-learning network of national-level CSO networks convened by CIVICUS, CIVICUS (2015) found that of the 22 responses, 21 reported that **relations between governments and CSOs are getting worse.** Only in Poland were government-CSO relations reported to be improving (p.70). Increased political polarisation in countries like Venezuela has contributed to strained relations between oppositional civil society and political actors (CIVICUS, 2013).

Freedom of association, assembly and freedom of expression of civil society

In 2014, CIVICUS documented 'significant attacks' on fundamental civil society rights of free association, free assembly and free expression in 96 countries (CIVICUS, 2015, p.6). The UN Special Rapporteur on the rights of freedom of peaceful assembly and of association argues the world is experiencing a 'democratic recession' – an increasing gap between government and public expectations of democracy (CIVICUS, 2015, p.77).

Freedom House (2015) found for the ninth consecutive year an overall decline in global political rights and civil liberties; they analyse civil society as part of their indictors. Nearly twice as many countries suffered declines as registered gains (61 to 33) across geographical regions (more declines than gains

occurred in the Middle East and North Africa, Eurasia, sub-Saharan Africa, Europe, and the Americas. There was an even split in Asia-Pacific).

The ICNL quarterly publication Global Trends in NGO Law summarises developments in legal and regulatory issues affecting NGOs. It identifies that restrictions on the right to **freedom of expression** in violation of international law have been growing in recent years across all regions and regime types in the world. They include, in particular laws on criminalising national betrayal; preventing extremism and terrorism; regulating the media; governing information and communications technology, including the internet; prohibiting defamation and libel; and restricting specific categories of content (ICNL, 2015, p.5).

Threats and restrictions on freedom of expression of the **internet** are of increasing importance. Online harassment and cyber security attacks on activists have increased (particularly related to women's and LGBTI rights) (Freedom House in CIVICUS, 2015). Although it is becoming more common that freedom of expression and association on the internet are targeted by state and other actors (e.g. Ethiopia), there are examples where governments have protected this space (e.g. in Brazil) (CIVICUS, 2015, p. 101).

Responses

In 2014, ICNL mapped the responses of civil society to these trends at the national, regional and international level. ICNL found increasing activity at the international level in documenting the trend, standard-setting, advocacy, and diplomatic efforts. There was much less activity at regional and national levels, with some action to challenge foreign funding restrictions either unilaterally (Egypt, India) or in coalition, using litigation, advocacy and campaigning (Israel, Kenya, Kyrgyzstan, and most recently, Sierra Leone, Uganda and Pakistan). (Ariadne, European Foundation Centre, and International Human Rights Funders Group, n.d.).

In response to the drivers around economic interests, business and human rights activists have pushed at the international level for the development of new commitments, norms and mechanisms; argued in favour of the business case for human rights, and of corporations as champions of freedom of association; and used investment agreements to safeguard the enabling environment for civil society (e.g. bilateral investment treaties). However, mostly ICNL activists at the national level are 'unprepared and under-equipped' to employ effective responses. (Ariadne et al., n.d.).

A number of multilateral organisations and donors already fund and have prioritised and scaled up their activities to support civil society actors. For example, the UN has issued resolutions, the US has a campaign "Stand with Civil Society"[7] and the Swedish government has contributed funds (Rutzen, 2014). Many have also raised concerns vocally in international fora, formal reports and media about these trends.[8] The Donor Working Group on Cross-Border Philanthropy[9] was established in 2014 to support human rights donors to develop a strategic response (Ariadne et al., n.d.). Carothers and Brechenmacher (2014) argue that the response is 'inadequate', highlighting that 'the roots and full scope of the phenomenon remain poorly understood and responses to it are often weak'. International action in this area can be counterproductive and put the civil society and/or international actors at danger.[10]

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[7] See - https://www.whitehouse.gov/the-press-office/2014/09/23/fact-sheet-us-support-civil-society
[8] E.g. the UK. See - https://www.gov.uk/government/publications/human-rights-and-democracy-report-2014/human-rights-and-democracy-report-2014
[9] See - https://ihrfg.wordpress.com/2014/10/20/closing-space-for-civil-society-and-cross-border-philanthropy/
[10] See - https://ihrfg.org/sites/default/files/Cross-Border%20Philanthropy%20Interview_16Oct2014.pdf

3. Thematic focus of restrictions

Across thematic areas, groups are targeted most where they are seen to **challenge power**, corruption, or the **interests** of dominant political parties, national or economic actors (CIVICUS, 2015). The attacking, harassment or imprisonment of journalists commonly occurs when they work on issues including: corruption; connections between politicians, officials, police, organised crime and businesses; economic interests; national security; public protests; and radical Islam. The Committee to Protect Journalists finds 96 percent of murdered journalists are local reporters (CIVICUS, 2015, p.98-99).

Poonam Joshi from the Fund for Global Human Rights UK argues the 'main commonality is that **governments** are using restrictions to **target the groups who they are either most threatened by** (thorn in the side) or where targeting them **benefits the government** in some way (convenient scapegoats)' (expert comments). In a journal article drawing on fieldwork in China, Spires (2011) similarly finds that authoritarian regimes tolerate civil society groups 'as long as particular state agents can claim credit for any good works while avoiding blame for any problems' Joshi provides the following examples of the types of groups that tend to be targeted (expert comments):

- Justice and accountability groups: e.g Kenya – threat of International Criminal Court (ICC) investigation; and Sierra Leone – anger at being held to account for misuse of Ebola funds;

- Groups who challenge and are seen as blocking or undermining the government's political or economic agenda or interest: e.g. Canada – oil sands tar expansion and audit of environmental groups; and India – the ruling Bharatiya Janata Party government targeting resource rights and anti-nuclear/genetically modified foods activists;

- Groups who use restrictions to target groups viewed as being at odds with their traditional values/morality agenda – e.g. Uganda and Nigeria – lesbian, gay, bisexual, transgender and intersex (LGBTI) groups; and Morocco – women's rights, which also plays well with anti-women and anti-LGBTI populism.

Civil society actors that engage in **politically-sensitive activities** are often targeted across all types of regimes from the more autocratic (e.g. Russia) to the more democratic (e.g. the US). Politically-sensitive activities are context specific, and include activities in areas like corruption, transparency, and accountability,[11] as well as activities around formal political institutions, parties and ideologies. Rutzen (2014) identifies patterns in autocratic countries where some allow CSOs to operate as long as they stay away from politics, while others co-opt CSOs and shut down those that resist (especially those receiving international funding). In desk based research on civil society space, Hayman et al. (2013, p.2) find that 'service delivery seems to be an accepted and often expected role for CSOs but when they are perceived as engaging in more politically-sensitive areas, they are more likely to experience clamp-downs on their operations. They may be identified as political opponents and subject to attacks and harassment.'

Governments have particularly increased restrictions on civil society actors working on **human rights and democracy-related activities** (ICNL, World Movement for Democracy Secretariat & NEL, 2012). Across countries, activists working on women's and LBGTI issues come under particular threat (CIVICUS, 2015). Some countries have established restrictions to ensure that national actors are the predominant actors working on rights and democracy issues (e.g. in Ethiopia from 2010 onwards) (Dupuy et al., 2014).

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[11] See - https://ihrfg.org/sites/default/files/Cross-Border%20Philanthropy%20Interview_16Oct2014.pdf

Counter-terrorism approaches and laws have increased the scrutiny, powers of arrest and control of governments. Laws to target terrorist financing (set by the Financial Action Taskforce - FATF)[12] have established a prohibitive administrative burden for CSOs – including requiring: monthly reporting on large donations; information disclosure about donors; and signing up to a public record before soliciting donations.[13] Meanwhile, in many cases the counter-terrorism agenda has been used opportunistically to crack down on civil society (expert comment) (e.g. Ethiopia, see below). In a number of countries governments have capitalised on genuine fears about terrorism (e.g. Kenya and Uganda) and honed in on NGOs as easy targets that enable governments to demonstrate their toughness on security threats (expert comment).

Carothers and Brechenmacher (2014) find that while rights and democracy related organisations were initially the focus of targets, hostility towards and attempts to restrict activities are now targeted at civil society groups working on a **wider range of developmental** issues. **Humanitarian NGOs** are also targets.[14]

4. General drivers and impacts

Drivers

Governments often cite concerns around **sovereignty, foreign influence** in domestic/national affairs, or porous borders, with language used evolving nationalism and anti-foreign ideas (e.g. in particular Russia, China, India, but almost every example will have some element of this). This grew as a driver particularly after the 'colour revolutions' in east Europe in the 2000s (Ukraine and Georgia). These so-called national interests can spread very widely from an anti-LGBTI focus in places like Uganda to an anti-environmental one in Canada depending on local circumstances (Carothers, 2015a forthcoming).

Counter-terrorism or extremism is often evoked as a reason to justify foreign funding restrictions, shutting down organisations due to alleged connections to terrorists, or persecuting NGOs under anti-terrorism laws. This emerged with the war on terror from 2001 onwards, particularly as associations were made between civil society and terrorism, and civil society with former US President Bush's so-called Freedom Agenda (Rutzen, 2015, p.6). Examples range from Egypt, and a number of South Asian countries, and even countries that are not traditionally seen as threatened by terrorism (e.g. Cambodia)[15] (Carothers, 2015a forthcoming).

The **aid effectiveness agenda's principles** of country ownership, coordination and harmonisation, and focus on budget support as a preferred modality, moved much focus and funding to governments rather than civil society (Carothers, 2015 forthcoming; Rutzen, 2014; Dupuy et al., 2014). Governments commonly cite the need for transparency and accountability in the civil society sector and aid effectiveness and coordination when justifying restrictions on foreign funding for civil society (Rutzen;

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[12] The NGO community has formed a platform to engage FATF on the issue, see - http://fatfplatform.org/and also http://www.charityandsecurity.org/

[13] See - https://ihrfg.wordpress.com/2014/10/20/closing-space-for-civil-society-and-cross-border-philanthropy/

[14] See - https://ihrfg.org/sites/default/files/Cross-Border%20Philanthropy%20Interview_16Oct2014.pdf

[15] See - https://www.cambodiadaily.com/news/hun-sen-touts-ngo-law-as-bulwark-against-terrorist-financing-81441/

2014). Also, a decade after the end of the Cold War onwards donors had fewer incentives to support civil society where many countries have already undergone political transformations (Rutzen, 2014).

Political elites can see civil society as a threat to their political power. International and local NGOs have becoming increasingly engaged in challenging governments with rights based advocacy (Dupuy et al., 2014). Dupuy et al. (2014) identify that 'governments are more likely to pass restrictive laws during, or shortly after, competitive legislative or executive elections'.

Finally, concerns over the **legitimacy** of some NGOs is considered a driver of restrictions. The often high levels of foreign funding for civil society has led to some 'briefcase' (sham) NGOs, to the dependence of many southern NGOs on northern funding, and to a disconnection of civil society actors from their local constituencies. These factors have been used by opponents to portray civil society actors as foreign agents (Dupuy et al., 2014).

Impacts

The impacts these restrictions are having on civil society are widespread and diverse. Carothers identifies some general trends (expert comment; Carothers, 2015a forthcoming):

- Some organisations have stayed in country despite restrictions, and have shifted to work on less sensitive issues, or to funding civil society through the government.

- In the worst cases some organisations have been shut down by the government (e.g. Russia, Ethiopia) or put into 'bureaucratic limbo where their registration or permits are neither accepted nor denied giving the government the ability to shut them down at will' (e.g. Azerbaijan, Egypt, China).

- Some organisations have had to shut due to restrictions on foreign funding.

- Some donors and organisations attempt to represent themselves differently to the host government. 'This can be small things from changing language on websites and materials that are sensitive to such governments with words like "political," "human rights" etc'. There are also some attempts in some cases to become more transparent in order to show host governments that such organisations have nothing to hide, though it is unclear how effective any of these strategies have been'.

5. Kenya[16]

In recent years the Kenyan government has increased legal and regulatory restrictions on civil society organisations and activities; levels of intimidation, threats and danger for activists; and increased attempts to disrupt protests (CIVICUS, 2015, p.89-90). CIVICUS (2015) notes that the conditions for Kenyan civil society have become significantly worse since 2013 (when the present government came to power).

Recent government-civil society tensions are framed by the Public Benefits Organizations (PBO) Act. In 2012 the Kenyan Parliament passed the PBO Act under pressure from a coalition of human rights NGOs (the "CSO Reference Group"), humanitarian and development organisations. Civil society supported the

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[16] For comprehensive and updated information on Ethiopia, see the ICNL's NGO Law Monitor webpage - http://www.icnl.org/research/monitor/kenya.html

PBO Act as a way of improving the existing laws governing NGOs. However, the 2013 government has refused to implement the PBO Act, while simultaneously attempting to amend it to restrict NGO activities further, including an attempt to cap foreign funding for NGOs at 15 percent of overall income (Fund for Global Human Rights, n.d.).

Drivers

Some argue this legislation emerged to silence criticisms of government and politicians, in the wake of the 2007 election violence and sensitivities around International Criminal Court cases being brought against the people in power (Migiro, 2013 in Dupuy et al., 2014, p.2; CIVICUS, 2015). The Fund for Global Human Rights (n.d.) identifies that 'recent rhetoric has blamed NGOs for hindering development, insinuating that they have stolen money and exist only to criticise the government. By several accounts, this strategy has been successful in taking control of the narrative and raising questions in the minds of the country's rural populace on the efficacy of civil society. Additionally, in late 2014 the body overseeing NGO registration, reporting, and activities publically labelled fifteen organisations as terrorist organisations and declared hundreds of others not compliant with the NGO Act. Other regulations to control NGOs emerged as part of Kenya's counter-terrorism strategy against al-Shabaab terrorism.

Impact

In regards to the PBO Act, the Fund for Global Human Rights (n.d.) highlights that the CSO reference group and other NGOs have been largely successful in opposing the amendments, so far. Their actions include demonstrations, campaigns, and lobbying with individual MPs. Despite this however, FGHR argues 'it is clear that both legislative and non-legislative attempts to close space will continue moving forward' (Fund for Global Human Rights, n.d.).

The Kenyan High Court has played an important role in overturning other government initiatives. The quickly passed Security Laws (Amendment) Act led the NGO Coordination Board to suspend 510 CSOs in 2014, many working on rights-based issues. However, it was ruled unconstitutional by Kenya's High Court and contested by national and international actors, leading to the reinstatement of 179 CSOs one month later. Despite this, CIVICUS identify that this has fostered a climate of insecurity, self-censorship and fear among CSOs (CIVICUS, 2015, p.89-90). In 2014, the Kenyan High Court also stopped the implementation of two laws to regulate broadcast media (ICNL, 2015, p.12-13).

In a journal article based on 56 interviews and a workshop in Kenya between 2006 and 2007, Lind and Howell (2010) explore the impact on and response of NGOs to the Kenyan government's increased checks on NGOs as part of its counter-terrorism approach from 1998 onwards. It finds the pressures and threats for civil society disproportionately impact Muslim organisations and groups. Varying of impacts on NGOs include: the closure of suspension of several Muslim NGOs providing relief assistance in refugee camps; NGO staff being detained, interrogated and the foreign heads of organisations being deported; some organisations were allowed to re-register but then had constant monitoring and obstruction. The article notes that Muslim community civic leaders argue this crackdown on welfare-oriented Muslim NGOs caused a ripple effect impacting on the community-based organisations they had partnered with (e.g. orphanages, schools and health centres). 'The longer-term impact of the clampdown has been to cast suspicion over Muslim community groups, madrassas, local chapters of Middle Eastern charities and Muslim philanthropists' (Lind & Howell, 2010).

6. Ethiopia[17]

Hayman et al. (2013, p.15) find that space for civil society in Ethiopia has been restricted since 2009 and is 'increasingly narrow'. In particular, Ethiopia has strict NGO funding rules. From 2010 only NGOs with less than 10 per cent of funding from outside of Ethiopia were allowed to work on human rights, democracy, national equality, nationalities, gender, religion, the rights of children and the disabled, conflict resolution and reconciliation, justice and law enforcement, elections, and democratisation (Dupuy et al., 2014, p.8). In 2008 and 2009 the government passed a series of laws restricting civil society, including: the 2009 Proclamation for the Registration and Regulation of Charities and Societies; the 2008 Mass Media and Freedom of Information Proclamation; the 2008 Political Parties Registration Proclamation; and the 2009 Anti-Terrorism Law). CIVICUS (2015) notes that the Ethiopian government has used fake identities, phishing links, malware and spyware, and hackers to find the identities of activists with an aim to detain them.

Drivers

A journal article by Dupuy et al. (2014) identify a number of drivers for this behaviour. The 2005 contested national elections meant that state–NGO relations soured as the government accused civil society of supporting both the opposition and causing post-election violence. The ruling party has criticised NGOs as 'opportunists using foreign money for inflated salaries and unnecessary expenses', saying they 'lack popular support, promote foreign agendas (particularly neo-liberal ones), and are otherwise inauthentic, undemocratic, unaccountable, or locally illegitimate'. The government argues 'only civil society groups established, controlled, and funded by Ethiopians, should be allowed to advocate locally for Ethiopian political and human rights' (Dupuy et al., 2014).

Impact

Dupuy et al. (2014) find that 'Ethiopia's 2009 Charities and Societies Proclamation dramatically re-shaped the country's NGO population. Most briefcase NGOs, as well as most foreign-aid-dependent human rights groups, have disappeared, while surviving domestic NGOs have 'rebranded' their activities by abandoning their explicit interest in human rights, or 'restructured' operations into less sensitive domains. Although most international NGOs (INGOs) working in Ethiopia survived, they too rebranded and restructured' (Dupuy et al., 2014, p.2). Hayman et al. (2013, p.14-16) also found since 2009 that the number of NGOs working on human rights and governance had decreased, particularly foreign funded NGOs. However, found 'little noticeable effect' on community based organisations operating at local levels; for organisations registered and working in one region; and membership-based organisations.

The ICNL (2015, p.10-11) cite a leading observer of human rights in Ethiopia who argues that following the 2009 Anti-Terrorism Proclamation 'the independent media have been decimated by politically motivated prosecutions under the law'. E.g. in 2012 an award winning journalist and blogger, well known as a critic of the government, was convicted of conspiracy to commit terrorist acts and of participating in a terrorist organisation. In another example, laws governing NGO funding meant that Ethiopia's first independent CSO that monitored human rights, the Human Rights Council, was forced to close nine of its twelve offices in 2009 (African Union in Rutzer, 2014, p.15).

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[17] For comprehensive and updated information on Ethiopia, see the ICNL's NGO Law Monitor webpage - http://www.icnl.org/research/monitor/ethiopia.html

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