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Closing Space and the Restructuring of Global Activism: Causes and Consequences of the Global Crackdown on NGOs

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In January 2011, the Egyptian uprisings against Hosni Mubarak presented an opportunity for domestic non-governmental organizations (NGOs) to leverage their knowledge and expertise to transform Egypt into a democratic state. However, just as these organizations began to take advantage of new levels of public engagement and civic freedoms, successive Egyptian governments passed laws prohibiting political advocacy and restricting foreign funding for domestic NGOs. Subsequently, international donors slashed funding for Egyptian NGOs to avoid being accused of offering them illegal support (Brechenmacher 2017), which in turn severely constrained funding for the sector. Egypt is not alone in its non-violent crackdown on NGOs. India, Bolivia, Hungary, China, Russia, and others have required that funds to NGOs be routed through state-owned banks, mandated that funds cannot be used for political purposes, or prohibited NGOs from accepting any funds from foreign sources (Carothers 2015; Dupuy, Ron, and Prakash 2015). The last two decades have seen a proliferation of laws designed to limit the influence of civil society organizations, with more than 100 countries obstructing, repressing, or closing the legal environment for civil society (see Figure 1).

This increasingly widespread crackdown on civil society is worrisome as both foreign aid and democracy assistance funds channeled towards NGOs have steadily

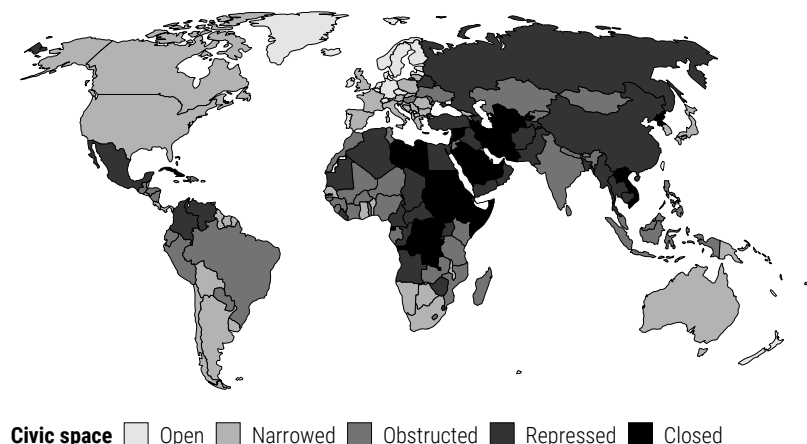


Figure 1: 2017 CIVICUS Monitor civic space ratings (CIVICUS 2017)

increased over time. In 2012 alone, USAID gave \$4.3 billion to civil society organizations globally (Tierney et al. 2011). Donors often prefer to channel funds directly through NGOs because they perceive it to be more effective than giving money directly to governments, which can create perverse incentives by relaxing governments' budget constraints and promoting rent-seeking among local elites (Gibson et al. 2005; Dietrich 2013). NGOs are not just the recipients of massive amounts of official aid—they are also the primary targets of private philanthropy. In 2016, private donors in the U.S. gave a substantial \$22 billion to NGOs (Giving USA 2017). As a result, both international NGOs (INGOs) and domestic NGOs have grown exponentially across much of the developing world (Henderson 2003; Carothers and Ottaway 2005; Reimann 2006; Murdie 2014).

While NGOs may be the preferred actor of the international community, it is becoming evident that states do not necessarily view the proliferation of NGOs as a positive development. What are the causes behind state crackdown on NGOs? What are the implications of this crackdown for the donor community, as well as for NGO programming? We show that many states are increasingly wary of the economic and political costs imposed by NGOs. They subsequently engage in strategies to constrain and repress these groups. Importantly, to avoid the negative consequences associated with violent anti-NGO crackdown, states have been increasingly relying on non-violent laws and regulations to limit NGOs in their countries. Analyzing the implications of this crackdown, we find that while official aid donors scale back on their commitments in repressive countries, we also find

that they redirect funds away from foreign NGOs and contentious causes, to domestic groups and tamer causes, respectively. Moreover, individual private donors are also responsive to the legal difficulties that NGOs face abroad, and are more likely to donate to legally besieged NGOs.

With shifts in the nature of access and funding stemming from closed legal space, we show that Northern actors are no longer necessarily in the most powerful position to initiate or implement successful advocacy campaigns. Given diminishing opportunities for transnational boomerang effects and the curtailed nature of North-South partnerships, both private as well as official aid donors are empowering many Southern NGOs to work together. We are thus seeing a transcalar turn in NGO advocacy, as many global issues are now pursued via local actors, rather than international networks. Below, we first explain the conditions under which states repress NGOs, paying specific attention to the strategies that states use for doing so. We then explore the consequences of this crackdown on both official and private donors, as well as on NGO programming. Finally, we reflect on the implications of these changing political and economic conditions on the future of NGO advocacy.

Causes of state repression of NGOs

The growth and proliferation of NGOs in the 1990s prompted much scholarly and policy optimism about state-NGO relationships. Reimann (2006) argued that NGOs and states share a set of mutual goals and enjoy a “symbiotic relationship.” However, while NGOs provide a number of economic and political benefits to elites, it is only recently that scholars have started analyzing the costs that NGOs impose on states.

From an economic perspective, the foreign aid community prefers NGOs since they overcome many failures associated with channeling funds through the state (Dietrich 2013). They provide services to large parts of the population in the Global South, especially where governments are unable to do so on a consistent basis. However, Chaudhry (2016) argues that NGOs can also challenge a state’s economic interests. When development has adverse consequences and results in displacement of population, lobbying by advocacy NGOs can also impact the level of donor contributions. For example, states may find environmental NGOs costly if they perceive that such groups reduce their access to resources. Moreover, during armed conflicts and civil unrest, NGO shaming campaigns can lead to reductions in foreign aid and cutbacks in the economic benefits accrued by preferential trading agreements and foreign direct investment (Keck and Sikkink 1998; Barry, Clay, and Flynn 2013; Chaudhry 2016).

From a political perspective, NGOs can help autocrats maintain regime stability and remain in power by providing services and expertise. They also bestow international and reputation, and offset domestic institutional challenges to the ruling party (Heiss 2019). Relying on NGOs for political ends, however, poses risks for democratic, authoritarian, and transitioning regimes. State perception of NGOs as politically threatening changed in the early 2000s following the Western-coordinated overthrow of the Milošević regime and the success of the Color Revolutions in Georgia, Ukraine and Kyrgyzstan (Carothers and Brechenmacher 2014). Incumbents feared that civil society groups had the potential to organize a successful electoral opposition or even a revolutionary movement.

Recent research by Dupuy, Ron, and Prakash (2016) argues that states perceive foreign aid to NGOs as supporting political opponents. In particular, they provide systematic evidence that in the aftermath of competitive elections, governments often take new legal steps to limit these groups' funding. Similarly Christensen and Weinstein (2013) argue that governments restrict foreign funding for NGOs when they perceive the regime as being vulnerable to domestic challengers.

This recent literature has made important advances in exploring the nature of threats posed by NGOs to different kinds of governments, as well as some of the conditions under which states crack down on NGOs. However, we lack a more thorough understanding of all the repressive strategies that states use against NGOs, as well as the strategic choices involved in using them to target NGOs, which we explain below.

Strategies of state repression of NGOs

To offset the economic and political challenges that transnational NGOs pose to economic development and regime stability, states have increasingly turned to both violent and non-violent strategies to restrict the space available for civil society. Violent crackdowns, including arrests, disappearances, extra-judicial killings, and attacks on NGO offices, garner substantial press attention and are often the public face of the ongoing global crackdown on civil society. Front Line Defenders, a Dublin-based group that aims to protect human rights defenders at risk, has documented the killings of hundreds of civil society activists over the past decade, and they note that false arrests, fabricated prosecutions, and unfair trials of these activists are the most common forms of overt crackdown against such NGOs (Front Line Defenders 2016).

Governments are also increasingly use legislation to repress NGOs. However, it is important to note that not all NGO-related legislation is necessarily aimed at restricting NGOs. Laws and regulations establish standards for appropriate organizational behavior and set penalties for violations (North 1990), produce convergent

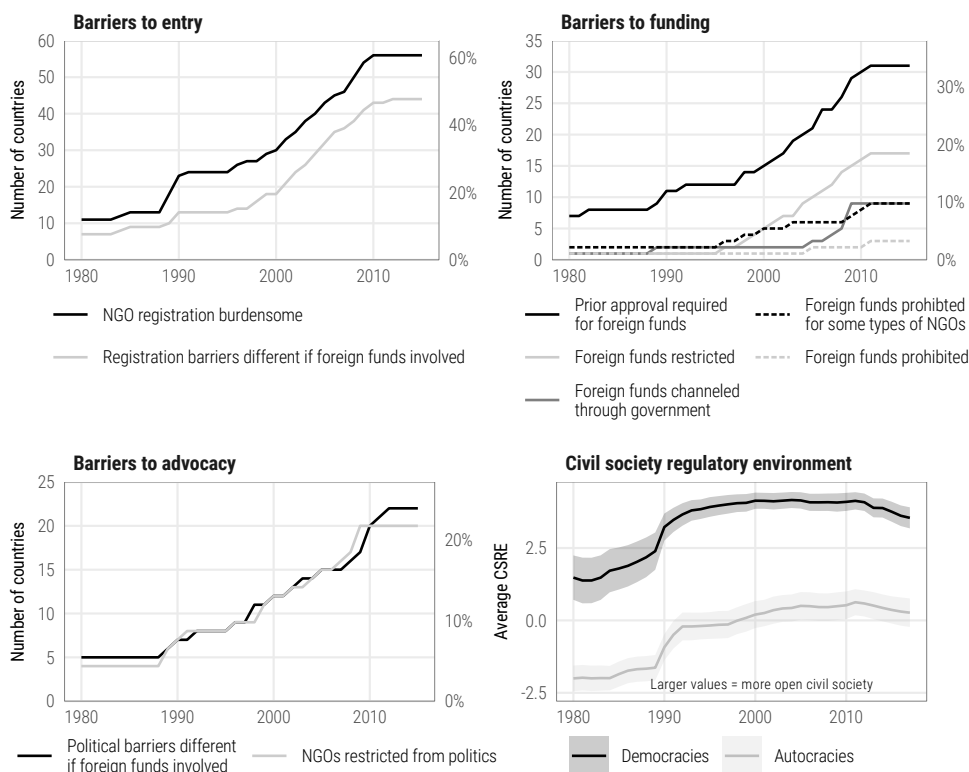


Figure 2: **Top; bottom left:** Number of legal barriers to NGO activity per country over time (*de jure* legislation; source: Christensen and Weinstein (2013), Chaudhry (2016)); **bottom right:** average civil society regulatory environment (CSRE) per country over time (*de facto* environment; source: Heiss (2017), Coppedge et al. (2018))

practices, and prevent malfeasance that threatens to undermine confidence in the entire NGO community (O’Neill 2009; Bloodgood and Tremblay-Boire 2016). However, here we focus primarily on the impact of restrictive or anti-NGO laws. Unlike benign regulations, these laws are intended to have a negative impact on the NGO community, creating barriers to their entry, funding, and advocacy.

Barriers to entry include using the law to discourage, slow down, or prohibit the establishment of NGOs. Instead of having straightforward universal registration requirements, many states have prohibitions against unregistered groups, burdensome registration or incorporation requirements, and restrictions on the formation of new groups by imposing difficult-to-reach minimum thresholds for funding, offering arbitrary grounds for denying registration, and establishing stricter entry requirements for international organizations.

Barriers to funding include laws that restrict the ability of NGOs to secure financial resources for their programs. States restrict NGO finances based on the origin of funds, how those funds are channeled, and which issues these funds can be used towards. Restrictions against foreign funding or against regime-threatening programs like democracy promotion have become the most pervasive form of legislative crackdown, and much research has looked specifically at funding regulations (see Jalali 2008; Mikail 2013; Dupuy, Ron, and Prakash 2015, 2016).

Finally, barriers to advocacy include laws that prevent NGOs from engaging in public policy advocacy and impose burdens on organizational freedom of expression. These laws also enable countries to bar NGOs from working on political issues, where “political” is intentionally left vague to lend an easy cover for governments to crack down on NGOs they perceive as politically threatening.

While previous research by Dupuy, Ron, and Prakash (2016) outlines the conditions under which states use barriers to foreign funding, the strategic logic of using varying strategies of repression against NGOs remains unexplored. Chaudhry (2016) argues that states cannot use violence against all NGOs, despite its effectiveness against groups posing immediate threats to the regime. There are many reasons violence can fail: state agents may refuse to implement violent orders, violence may increase the state’s criminal liability, reduce its legitimacy internationally, and violate human rights treaties or preferential trading agreements. Violent crackdown may also result in further mobilization of the population against the regime. Rather than close civic space through violence, most states today prefer to use formal legislation and administrative rules to control, restrict, and eliminate NGO activity. These legal strategies overcome the negative consequences associated with violence and are less likely to invite condemnation from the international community.

Given that the use of laws and regulations to repress NGOs is a fairly recent phenomenon, we know relatively little about the implications of this administrative crackdown. Below, we explore the impact of anti-NGO crackdown on both donors and NGOs.

Consequences of state repression of NGOs

Restricting the space and resources available to civil society organizations has measurable consequences for state-based donor agencies, for private philanthropy donors, and for NGOs themselves.

Official aid donors

State crackdown on NGOs—whether violent or non-violent—can have numerous consequences for international donors. In particular, emerging research provides evidence that state-based aid agencies are responsive to legal restrictions on NGOs, particularly since these agencies rely heavily on NGOs for aid delivery. Dupuy and Prakash (2018) examine the effects of the adoption of restrictive NGO finance laws on foreign aid and find that while multilateral and diasporic donors do not reduce aid following the imposition of laws restricting NGO funding, there is a 32% decline in bilateral aid inflows. While their research points to the worrying trend of reduced foreign aid to countries after the passage of restrictive financing law for NGOs, important questions remain unanswered. Do aid agencies respond similarly when faced with countries enacting additional barriers to entry and advocacy? Further, many donor agencies are actively working to find solutions and help besieged advocacy networks. Instead of simply scaling back their operations, do donors respond by shifting aid allocation to different kinds of targets and issue areas?

To answer these questions, we use original data on civil society restrictions (including barriers to entry, funding, and advocacy) across all aid-receiving 140 countries from 1981–2013, and assess the impact of legal restrictions on NGOs on total flows of foreign aid, how aid is distributed, and which issues are funded. We find that donor agencies respond to domestic crackdowns on NGOs by scaling back their operations and reducing total aid commitments. More specifically, additional anti-NGO legal barriers—and barriers to advocacy in particular—decrease the amount of official development assistance (ODA) given by OECD countries (Chaudhry and Heiss 2018a). Figure 3 highlights the predictions from this model, showing how—on average—the addition of a new barrier to advocacy decreases ODA by \$100 million and reduces the amount donors give for contentious causes (i.e. democracy promotion and human rights) by a full percentage point.

However, instead of simply scaling back when faced with repressive legislation in target countries, we also find that facing additional barriers to advocacy, donors redirect funds within restrictive countries. They decrease funds for politically sensitive causes in favor of tamer issues that are more compatible with the governments of those countries. These findings support recent research that donors, in particular, democracy assistance agencies, tame their programming when confronting dictators (Bush 2015).

Finally, facing increased barriers to funding, the United States Agency for International Development (USAID), in particular, channels more aid to domestic over foreign NGOs. Since previous research has documented that governments often perceive foreign, particularly Western, NGOs as external interference in domestic

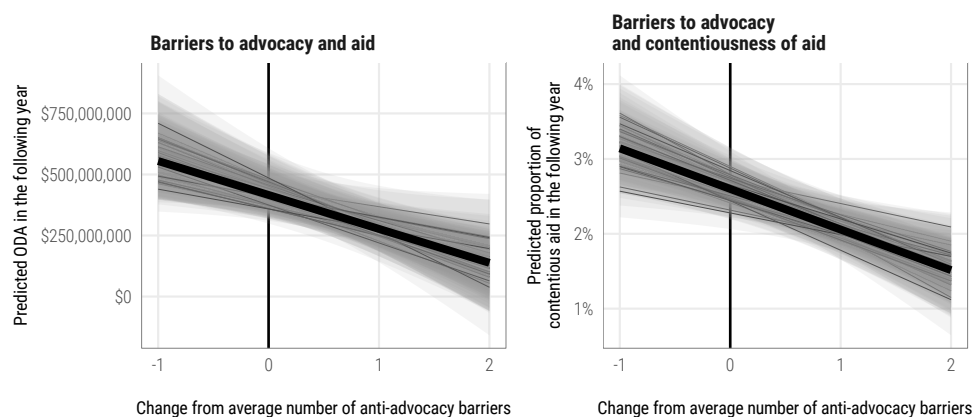


Figure 3: Predicted ODA and proportion of contentious aid across a range of differences from the average number of anti-advocacy laws in a typical country; dark line shows average of 500 draws from posterior distribution

politics, boosting aid channeled to domestic NGOs is likely to assuage these concerns. This finding also reflects USAID’s perception that increasing assistance to respected local NGOs can help the regulatory environment from worsening. This is because these local NGOs can help both diplomatic and lobbying efforts, as well as spark domestic outrage against restrictive legislation (United States Agency for International Development 2014, 2015; Redacted 2016). For instance, local activists allied together, and were trained by USAID to undertake campaigns against similar repressive legislation, including a 2011 law in Cambodia and a 2016 law in Kyrgyzstan (Lelik 2016). In cases like this, instead of a traditional boomerang, advocacy becomes more of a local response to democratic backsliding—an issue which has global significance.

These results are robust to both the passage of anti-NGO legislation¹ and the *de facto* implementation of these laws.² Thus, our findings regarding shifts in traditional patterns of transnational advocacy are generalizable to different kinds of regimes across the world. While our results join the recent wave of research look-

1. For more information on these laws, see Christensen and Weinstein (2013) and Chaudhry (2016).

2. Simply counting the number of anti-NGO laws misses the effect of their *de facto* implementation—laws can be benignly routine, dangerously dormant, or outrightly restrictive. To address this disconnect we can use newer datasets to measure the *de facto* implementation of civil society laws. The Varieties of Democracy (V-Dem) project (Coppedge et al. 2018) includes observed measures of civil society restriction and can be used to examine the effects of *de facto* administrative crackdown. For instance, the civil society regulatory environment index (CSRE) combines two indexes from V-Dem: civil society repression and civil society entry and exit regulations (Heiss 2017; Chaudhry and Heiss 2018a).

ing at official bilateral and multilateral aid responses to the repression of NGOs, there has been no attempt to systematically analyze how individual private donors act towards besieged local groups in the Global South. Below, we summarize recent events and our research addressing this question.

Individual private donors

State crackdown on NGOs can also influence ordinary citizens' perception of these organizations, their participation in them, and their patterns of charitable giving towards them. States vilify civil society organizations and frequently use negative public rhetoric against them. For instance, in Russia, Hungary, and Kyrgyzstan, many NGOs are publicly condemned as "foreign agents," which has Cold War-era connotations of being a spy or a traitor. This kind of vilification even occurs in consolidated democracies—Canadian government officials have described environmental NGOs as "radicals," "revolutionaries," "terrorists," and "adversaries" (Potter 2012). Such attacks on NGOs, in conjunction with negative media coverage of NGO activities, could encourage public suspicion of foreign NGOs and increase public distrust of these organizations. Surveying 1,473 recipients of democracy assistance, Barkan (2012) finds that 37% of the organizations receiving this aid felt that the greatest risk was being labeled an "agent" or "stooge" of outside countries. This proportion rises to almost half (48%) for respondents living in countries classified as "Not Free" by Freedom House, indicating that the fear of the consequences of being called out by host governments and the media is indeed real and warranted.

However, given the recent nature of this phenomenon, no research has looked at whether legal crackdown towards foreign NGOs has any impact on charitable donations by citizens towards these organizations. To assess whether individuals are more or less likely to donate to legally besieged NGOs, we use a survey experiment to explore how legal crackdowns interact with NGO issue areas and funding sources (Chaudhry and Heiss 2018b). We find that overall, private donors in the U.S. respond to the legal difficulties international NGOs face abroad and are *more* likely to donate to legally besieged human rights NGOs. Additionally, respondents who are already likely to donate give substantially more to legally restricted NGOs, on average donating 25% more to humanitarian NGOs, 43% more to privately-funded human rights NGOs, and 68% more to government-funded humanitarian NGOs. These findings are only a first entrée into this question and much fruitful work remains to be done regarding private donor perceptions of NGO crackdown.

NGO programming and missions

Finally, we analyze how this crackdown and its consequent impact on donors has influenced the strategies of NGOs themselves. The possibility of reduced official aid

for NGOs in the wake of increasing legal restrictions is concerning because in many countries in the Global South, domestic donors are unreliable and inconsistent. Citizens in many countries are often too poor to support professionalized advocacy NGOs, may lack a culture of philanthropic giving, or may prefer to channel funds to groups working in non-contentious areas such as health and education (Dupuy, Ron, and Prakash 2015; Ron, Pandya, and Crow 2016; Brechenmacher 2017). Further, potential domestic philanthropists are often deterred by dismal tax incentives, threats to take away business permits, or have a general fear of retribution (Hudson Institute 2015; Baoumi 2016).

Therefore, when faced with legal restrictions, many NGOs are forced to shut down. Examining the regulatory offensive against NGOs in Ethiopia, Dupuy, Ron, and Prakash (2015) find that legislation against foreign-funded NGOs shut down a majority of the NGOs in the country's human rights sector. With fewer NGOs—and in many cases, with the disappearance of trusted NGO partners—donors may be more hesitant to channel money to remaining NGOs, especially those with whom they have not previously partnered.

Heiss (2017) argues that authoritarian states typically impose two forms of anti-civil society laws. First, gatekeeping laws are designed to limit an organization's instrumental needs, making it difficult for NGOs to obtain money, register their organizations, or ensure long-term stability in their host countries (corresponding with barriers to entry and funding). These laws are not intended to change how an organization runs—they instead make it more difficult for NGOs to survive.

Second, program capture laws target organizational principles and are explicitly designed to distort NGO missions in favor of the regime. These laws include barriers to advocacy, which force politically-oriented NGOs to cease their political missions. Program capture regulations can also be more subtle, such as China's 2017 foreign NGO law that includes a provision that all non-Chinese NGOs work with a dedicated government agency approved by the Ministry of Public Security. These supervisory agencies have the power to approve or deny many aspects of NGO programming, including contact and collaboration with other organizations (International Center for Not-for-Profit Law 2017). NGO missions are thus severely constrained by bureaucratic whims and regime preferences.

Hence the difficult dilemma facing NGOs under restriction: when facing gatekeeping regulations, NGOs must spend more time and money ensuring organizational survival at the expense of pursuing their mission; and when facing program capture regulations, NGOs must either tame their programming and shift their core mission, vision, and values to remain in compliance or run the risk of expulsion from the country, again at the expense of pursuing their mission. Heiss (2017) finds that organizations with enough programmatic and instrumental flexibility are able to protect their missions and continue their programs by creatively work around

regulations. NGOs that have substantial funding, a broad portfolio of programs, professionalized staff, and other reserves of instrumental resources are able to relocate their offices within the country prior to inspection, remove branding from buildings and vehicles, rely on domestic staff with more familiarity with the country, or even move entirely out of the country and work from abroad. In contrast, organizations that are underfunded, understaffed, or that have a limited set of possible programs tend to shut down and cancel their programming when faced with increasing regulations, as they are unable to rely on these instrumental resources to counter regulatory intrusions.

However, our survey experiment on the effect of legal crackdowns on individual private philanthropy offers some possible solutions for NGO advocacy strategies (Chaudhry and Heiss 2018b). First, given that donors do take crackdowns into account while making philanthropic decisions, NGOs may benefit from publicizing the fact that they are targets of government repression. While this may not be enough to sway the average U.S. citizen, our results show that it can convince already-likely donors to donate to give more to legally besieged NGOs. Second, our study highlights the importance of framing issue areas. Our results indicate that individual private donors are likely to view some human rights NGOs with suspicion, especially compared to humanitarian organizations. However, human rights groups undertake a variety of programs and missions, and communicating the nature of their work and specifying the main target of the organization's efforts can allay public fears. Finally, if NGOs receive a majority of their funding from nongovernmental sources and are public about it, they may be able to convince average donors that they are contributing to the organization's ability to resist the crackdown. Since private funders tend to be less known by people in recipient countries, compared to major foundations or foreign governments, raising funds through these individual donors is less likely to attract the ire of authoritarian governments.

Conclusion

Transformations in transnational advocacy over the past few decades have created new opportunities for Southern actors in the international arena, with a greater diversity of nongovernmental actors with ever-increasing political power. However, accompanying this expansion of international opportunities is an ongoing government backlash against NGOs. This global crackdown takes many regulatory forms and has had various consequences on foreign aid, private philanthropy, and NGO programming.

According to the boomerang model, NGOs can be costly to weak authoritarian leaders due to their ability to engage in naming and shaming (Keck and Sikkink 1998). However, given empirical developments over the last 20 years, this model does not fully capture the nature of state responses to transnational advocacy networks, as well as the role of local actors in them. It is not just authoritarian leaders who are limiting challenges to their rule by implementing policies that ensure demobilization of civil society groups. Over 130 states—including many democracies—have cracked down on advocacy networks due to their ability to influence electoral politics, mobilize aid, and challenge states' economic and security interests (Chaudhry 2016). Therefore, international partnerships or reaching out to international actors may no longer even be a viable option for some local NGOs.

This has profound implications for the future of NGO advocacy. Anti-NGO legislation is increasingly preventing North-South links. Laws against entry of foreign NGOs or foreign funding of local NGOs pose immense barriers to transnational networking, which inhibit traditional boomerang relationships. However, the empirical realities discussed above show that instead of simply seeing a decline in transnational advocacy, we are seeing a turn to transcalar advocacy. Many campaigns are now dominated by Southern NGOs advocating for issues of global importance. In a number of countries, domestic NGOs have been able to ally together and stop repressive government actions even against them. For instance, in Kenya, in December 2013, NGOs successfully pressured parliament to not adopt a newly proposed law that capped foreign funding contributions towards civil society organizations to 15%. The bill was defeated by a close margin of 83–73 votes and one of the reasons attributed to its defeat was the “organizationally dense coalition of international and local activists” that lobbied Kenyan MPs (Dupuy and Ron 2016). Since then, this coalition has withstood numerous other attempts by the Kenyan government to impose restrictions on civil society. Thus, instead of traditional boomerang relationships between North-South actors, we are seeing transcalar relationships between South-South actors.

Our results in this chapter also show that donors are responding to repressive laws by increasing funding to local NGOs. Thus, we are also an “inverse boomerang” effect wherein U.S. and European actors reach out to partners in lower and middle-income countries to develop networks with greater legitimacy in the eyes of both the public and target governments. While it is still too early to say whether this increased giving to local NGOs can change the balance of power between Northern and Southern actors, we see immense potential for local NGO advocacy to have global effects, even in the face of anti-NGO legislation.

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