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## **Who's Afraid of the Activists? 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 out of concern that they would be 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 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 through

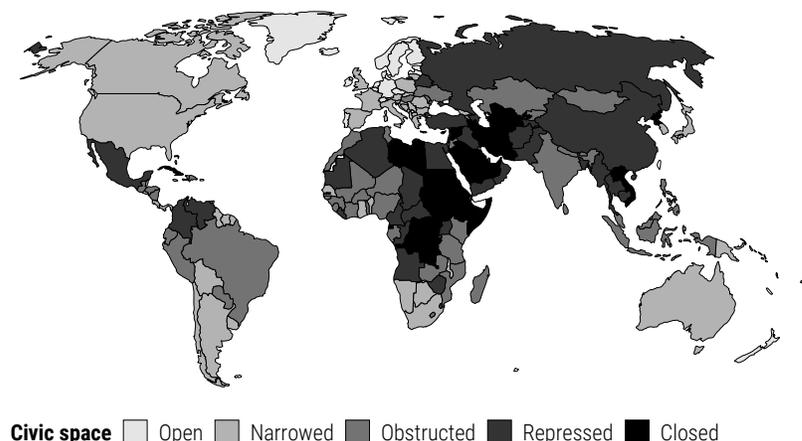


Figure 1: 2017 CIVICUS Monitor civic space ratings (CIVICUS 2017)

nongovernmental organizations because they perceive it to be more effective than giving money directly to governments. This is because direct transfers to recipient governments 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 and the greater diversity of actors in transnational advocacy as a necessarily positive development. Despite numerous structural changes that have provided increased political power to Southern actors in the transnational arena, there has been increasing state crackdown on NGOs over the last two decades. What are the causes behind this crackdown, and what strategies are states using to repress NGOs? What are the implications of this crackdown for the donor community and NGO programming? How does this closing of civic space impact transnational advocacy and challenge existing theory?

## Causes of state repression of NGOs

The growth and proliferation of NGOs in the 1990s and early 2000s 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, the costs they impose on states are also becoming clearer over the last two decades.

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. The health, development, and education services that NGOs offer allow governments to allocate their budgets towards other categories of spending. However, Chaudhry (2016) argues that the presence of 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 may 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).

NGOs also pose political benefits and costs for states. These organizations can help autocrats maintain regime stability and remain in power by providing services and expertise, bestowing international legitimacy and reputation, and offsetting domestic institutional challenges to the ruling party (Heiss 2019). Relying on NGOs for political ends, however, poses substantial risks for repressive governments. At the end of the Cold War, the international aid and pro-democracy movements turned their attention from reforms in Latin America towards newly independent post-Soviet countries. This new wave of NGOs worked on various aspects of institutional development, helped establish electoral processes, trained independent media, strengthened civic advocacy groups, and attempted to reduce ethnic conflict (Mendelson and Glenn 2002). NGOs therefore began to be seen as a necessary precondition for democratic transition and consolidation. These organizations would protect against authoritarian overreach and hold governments accountable (Linz and Stepan 1996; Hulme and Edwards 1997).

These pro-democracy programs challenged authoritarian stability, but throughout the 1990s, dictators were able to limit their influence. For instance, the rush of pro-democracy funding into Russia created a “professionalized realm of NGOs,

inaccessible to most local groups and compromised by its links to a neoliberal vision of development” (Hemment 2004, 215), which effectively neutered the sector and allowed the state to both benefit from the appearance of having Western NGOs operate in the country while avoiding the consequences of their proposed reforms. However, the perception of transnational advocacy NGOs as benign actors 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 given the resources, civil society groups could organize a successful electoral opposition or even a revolutionary movement. State elites, consequently, began to be suspicious of the democracy promotion agenda and the NGOs implementing these goals and instead turned to formal regulation and legislation designed to reduce the political and economic costs imposed by civil society.

### **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). However, states are generally more reticent to employ violence against NGOs, because as Chaudhry (2016) shows, states cannot use violence against all NGOs, despite its effectiveness against activists posing immediate threats to stability. 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. Overt violent crackdowns 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. It is important to note that not all NGO-related legislation is necessarily

aimed at restricting NGOs. Laws and regulations establish standards for appropriate individual or organizational behavior and set penalties for violations (North 1990). Governments frequently use regulations to routinize the behavior of NGOs—regulations produce convergent practices and reduce uncertainty in the future 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 2012b, 2012a, 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.

Importantly, these forms of *de jure* legislation do not always reflect the *de facto* implementation of these restrictions. Actual laws can lie dormant until needed for repression. For instance, Russia passed its Undesirable Organizations law of 2015 in order to expel foreign-connected NGOs it deemed dangerous. One of the law’s sponsors, Aleksandr Tarnavsky, described the law as a preventative measure that would not affect the majority of NGOs working in Russia. Rather, the law would be a “weapon hanging on the wall that never fires” and stand as a warning to potentially uncooperative NGOs (Kozenko 2015). Similarly, from 2002–2017, domestic and international civil society in Egypt was regulated by Law 84 of 2002, which included a range of formal legal options for limiting entry, funding, and advocacy. However, the government exercised wide latitude in the implementation of this law, using minor administrative violations to selectively expel only those NGOs it

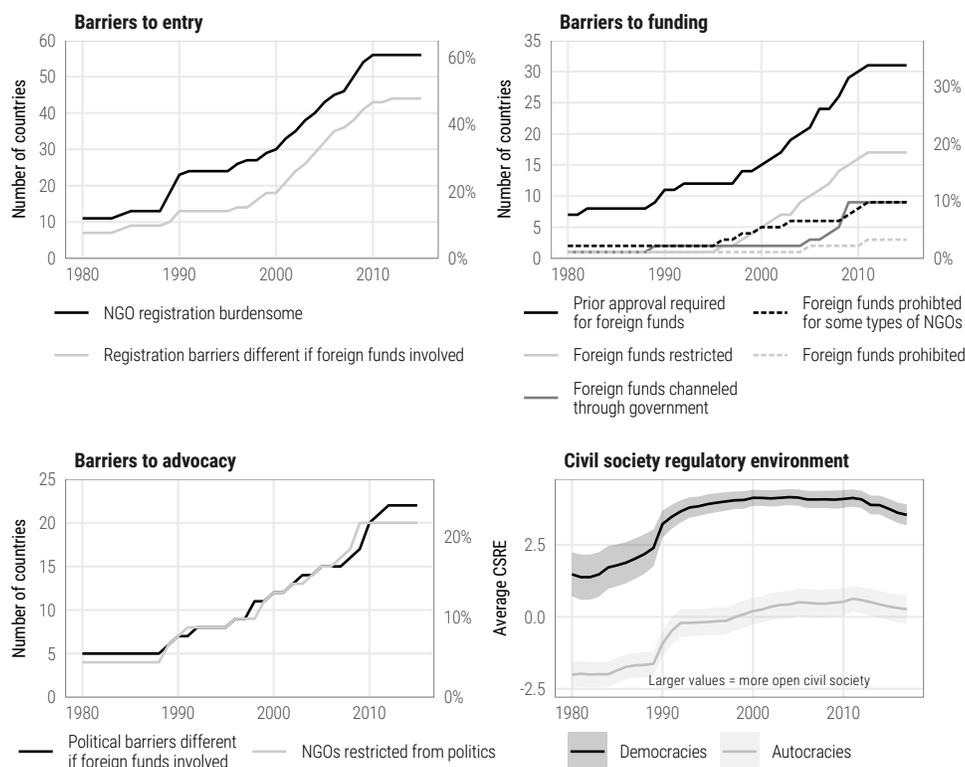


Figure 2: **Top; bottom left:** Number of legal barriers to NGO activity per country over time (*de jure* legislation; source: Christensen and Weinstein (2013)); **bottom right:** average civil society regulatory environment (CSRE) per country over time (*de facto* environment; source: Heiss (2017),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

deemed dangerous (Heiss 2017). 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). As seen in the bottom right panel of Figure 2, which shows the average CSRE between 1980–2017, democracies have had a more open and permissive legal environment for civil society, while non-democracies are more restrictive. The ongoing crackdown on civil society is also

apparent, with the CSRE constricting substantially in both types of regimes after 2010.

### **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. 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. Additionally, using original data on civil society restrictions across 140 countries from 1981–2013, we 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 demonstrates 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.

Overall, these findings point to a worrying trend of reduced official aid for transnational advocacy networks in the wake up of increasing legal restrictions. This 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 local 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). This final point is particularly crucial, since as Bush (2015) points out, in order to maintain access to their target countries many democracy-assistance NGOs actually engage in easily measurable, non-confrontational, and tame pro-

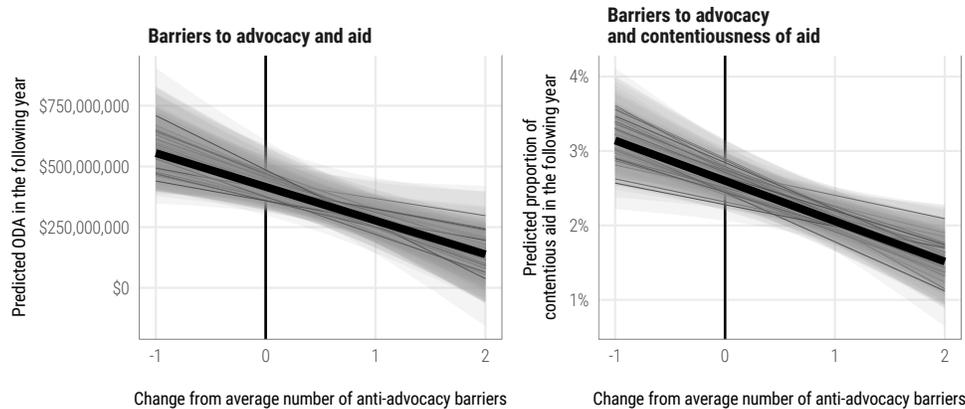


Figure 3: Predicted ODA and proportion of contentious aid across a range of differences from the average number of anti-advocacy laws in a typical country; dark line shows average of 500 draws from posterior distribution

gramming. Even when domestic donors wish to donate to NGOs working in contentious areas, they 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).

When faced with legal restrictions, many NGOs may close up and leave. 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.

However, instead of simply scaling back when faced with repressive legislation in target countries, we also find that in many cases, donors—both state and private—actively work to find solutions and develop responses to help besieged local NGOs in the Global South. Further, as Carothers points out, scaling back is sometimes only visible with the actual departure of funders from the country (2015, 15). For instance, following the 2015 Undesirable Organizations Law in Russia, a large number of funding organizations such as the MacArthur Foundation and the National Democratic Institute were asked to leave the country. In cases that do not have as high a profile, it is more likely that we should observe subtle changes in the form of supporting less contentious causes, or channeling more support towards local than international advocacy actors.

We find that the United States Agency for International Development (USAID), in particular, channels more aid to domestic over foreign NGOs in order to assuage concerns about foreign NGOs acting as a vehicle for external interference in domestic politics. Since previous research has documented that governments often perceive foreign NGOs as external interference in domestic politics, boosting aid channeled to domestic NGOs is likely to address these fears. This finding also reflects USAID's perception that increasing assistance to respected local NGOs can help the regulatory environment from worsening, as these local NGOs can help both diplomatic and lobbying efforts, as well as spark domestic outrage against restrictive legislation. Therefore, USAID earmarks specific support for besieged NGOs under its Stand with Civil Society initiative (United States Agency for International Development 2014, 2015; Redacted 2016). Beyond these justifications, Heiss (2017) finds that it is often more convenient for foreign donors to deal with domestic partners when facing strict registration requirements, and shifting to more domestic partners is a common response to more difficult regulations.

#### 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 to them. Public vilification of civil society organizations and the use of negative public rhetoric by government officials towards these organizations has been frequently employed. 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.

Negative rhetoric, in addition to actual legal crackdown towards foreign NGOs, may also decrease charitable donations by citizens towards these organizations. To test 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

private donors in the US 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, the global crackdown on civil society has influenced the strategies of NGOs themselves. Increasingly restrictive legal space for programming poses a difficult dilemma for NGOs. Mitchell and Schmitz (2014) argue that international NGOs face dual constraints on their behavior and must simultaneously balance their normative social mission against the instrumental demands for organizational survival. This conflict between mission and money, or “principled instrumentalism,” is exacerbated by NGO legislation. Heiss (2017) argues that authoritarian states typically impose two forms of anti-civil society laws, each aimed at a part of the principled instrumentalism challenge. 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.

Program capture laws, on the other hand, 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.

Our survey experiment on the effect of legal crackdowns on individual private philanthropy also has some implications for NGO advocacy strategies (Chaudhry and Heiss 2018b). First, NGOs may benefit from publicizing government crackdown on such organizations. 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 human rights NGOs with suspicion. 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 governmental funders, raising funds through them 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 CSOs. 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 and placing punitive measures on associational 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 domestic NGOs.

This has profound implications for our understanding of state-civil society relations and the role of NGOs in political life. Implicit in much scholarly work on international norms and transnational advocacy networks is an idealized picture of a seemingly linear march towards universal respect for human rights and compliance with international treaties, as norms regarding respect for human rights spread throughout the international community. However, the empirical realities discussed above show that instead of continual improvement, many countries lack significant support for human rights and civil society, despite the growth of transnational advocacy networks and cascading norms (Risse and Sikkink 1999; Keck and Sikkink 1998; Sikkink 2011).

However, there is still reason to be optimistic that linkages between transnational advocacy actors and domestic civil society organizations can prevent further deterioration of civic space available to NGOs. In a number of countries, domestic NGOs have been able to ally together and stop repressive government actions. For instance, in Kenya, in December 2013, NGOs successfully pressured parliament to not adopt a newly proposed law that capped foreign funding contributions 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. Activists, international NGOs, and international donors have intervened against similar legislation, including a 2011 law in Cambodia and a 2016 law in Kyrgyzstan (Lelik 2016). In some cases, NGOs have even been able to proactively shape their regulatory environments. Article 19, an international NGO focused on freedom of expression issues, consulted with Tunisian MPs as the country wrote its new post-revolutionary constitution, leading to formal protections for expression and associational rights (Heiss 2018). In spite of the ongoing global crackdown on civil society, there is hope for a robust international civil society.

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