

SASKIA BRECHENMACHER

# CIVIL SOCIETY UNDER ASSAULT

Repression and Responses  
in Russia, Egypt, and Ethiopia



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**CARNEGIE**  
ENDOWMENT FOR  
INTERNATIONAL PEACE

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# SUMMARY

The closing of civic space has become a defining feature of political life in an ever-increasing number of countries. Civil society organizations worldwide are facing systematic efforts to reduce their legitimacy and effectiveness. Russia, Egypt, and Ethiopia have been at the forefront of this global trend. In all three countries, governments' sweeping assault on associational life has forced civic groups to reorient their activities, seek out new funding sources, and move toward more resilient organizational models. Competing security and geopolitical interests have muddled U.S. and European responses, with governments divided over the value of aggressive pushback versus continued engagement.

## THE CLOSING SPACE PHENOMENON

Governments in Russia, Egypt, and Ethiopia have used a wide range of tactics to restrict civil society:

**Public vilification.** Governments rely on aggressive smear campaigns to discredit independent civil society groups, building on suspicions of foreign political meddling, fears of violent extremism, and anti-elite attitudes within society.

**Sweeping legal measures.** In addition to restrictive laws controlling nongovernmental organizations (NGOs), sweeping antiterror and antiprotest measures with vague legal definitions

enable selective and unpredictable enforcement, which reinforces fear and self-censorship among activists.

**Civil society co-optation.** Governments purposefully sow divisions between apolitical and politically oriented organizations and selectively disburse rewards to co-opt civic actors and promote pro-government mobilization.

However, there are also differences among the three cases:

- In **Russia**, the government's efforts have centered on delegitimizing and restricting foreign-funded groups and promoting apolitical and pro-government organizations as socially useful. Authorities have primarily relied on smear campaigns, relentless administrative and legal harassment, and selective criminal prosecutions to weaken, marginalize, and intimidate independent groups.
- In **Egypt**, Abdel Fattah el-Sisi's regime has used sweeping antiterrorism and antiprotest measures to institutionalize previously extrajudicial practices. Egyptian authorities have targeted human rights groups with travel bans, asset freezes, and legal harassment, while local development and civic initiatives struggle to access resources for their work. In parallel, the regime has escalated the use of enforced disappearances and detentions of activists, dissidents, and suspected Muslim Brotherhood supporters.
- In **Ethiopia**, authorities have pushed NGOs from rights-based efforts to service delivery activities and imposed onerous funding limitations. Targeted repression in the name of counterterrorism has further stifled civic activism, and the government is increasingly relying on emergency powers to suppress growing rural dissent.

## CONSEQUENCES AND RESPONSES

- **Scaling back.** Government restrictions have not only weakened human rights groups: advocacy, service delivery, and capacity-building groups have also faced funding shortages, bureaucratic hurdles, and government interference, forcing them to cut back and reorient their work.
- **Diminished societal reach.** Smear campaigns and legal restrictions have undermined both horizontal ties among civic actors and vertical ties between activists and political elites, thereby reducing activists' ability to form coalitions and influence policy debates.
- **Search for alternative funding.** Funding restrictions have pushed groups to raise resources through crowdfunding, membership fees, and income-generating activities—

often with limited success. Others have adapted by shifting their focus to less politically sensitive activities in order to qualify for foreign funding and government support.

- **Shift to new organizational models.** Complex registration, reporting, and audit requirements and the constant threat of legal challenges have spurred some activists to abandon the traditional NGO model in favor of nonregistered and informal initiatives.
- **Hesitant diplomatic pushback.** The competing security and geopolitical interests of Western governments vis-à-vis governments that restrict civil society have hindered coherent responses. As a result, civic space issues have frequently been sidelined at high-level meetings and decoupled from other areas of cooperation—resulting in incoherent messaging.
- **Tactical uncertainty.** U.S. and European governments have also faced internal divisions over the effectiveness of aggressive pushback and isolation versus continued engagement and behind-the-scenes pressure, with the latter resulting in limited tactical successes but no overall change in the closing space trend.



# INTRODUCTION

Governments around the world are narrowing the space for civil society activism. Pointing to threats of terrorism or the need to protect national sovereignty, they are erecting new barriers to the operations and funding of NGOs, harassing and discrediting civil society activists, and criminalizing dissent through expansive antiterrorism laws. An increasing number of states are also pushing back against the activities of governments and private funders that provide cross-border support to local civil society groups. This trend is widespread: it is no longer confined to a particular geographic region or type of political regime. Between 2014 and 2016 alone, more than sixty countries restricted citizens' freedom of assembly and civil society's ability to access funding.<sup>1</sup> The closing of civic space has become a defining feature of international political life.

There are multiple *drivers* of this phenomenon. After a decade of rapid expansion in the 1990s, democratic progress has stalled in many parts of the world.<sup>2</sup> Authoritarian regimes that had been weakened in the initial post-Cold War period have stabilized and now assume a more assertive role on the world stage. The shift in relative power from established Western democracies to non-Western actors has spurred a renewed emphasis on sovereignty norms and a pushback against perceived external interference.<sup>3</sup> In addition, illiberal regimes increasingly fear the power of civic activism. Over the past decade, popular uprisings throughout the Middle East and the postcommunist world have exposed the vulnerability of seemingly entrenched political elites. These movements sparked a wave of preemptive measures aimed

at deterring future popular mobilization and bringing foreign funding flows to civil society under greater state control.<sup>4</sup> In a number of countries, the rise of populist leaders has fed the demonization of civil society organizations as cosmopolitan elites and enemies of the people. In addition, global concerns about terrorist financing and transnational crime have provided an excuse for governments seeking to suppress civic actors.<sup>5</sup>

The closing of civic space has started to attract significant international and scholarly attention.<sup>6</sup> Yet substantial gaps in knowledge persist. Three questions in particular warrant further investigation.

1. What is the full range of formal and informal *tactics* used by governments to restrict civil society? While existing research has focused on the proliferation of restrictive NGO laws, we know much less about governments' implementation and enforcement of these measures and their interplay with nonlegal and extralegal measures.
2. What *impact* do these measures have on affected civil society organizations and on civil society as a whole? In countries where civic space has narrowed, state actors have reshaped patterns of NGO emergence and activity as well as citizen mobilization more broadly. By examining how civic actors have adjusted to legal and political restrictions, we can bring to light sources of both vulnerability and resilience.
3. What have been the *responses* of Western governments, and how effective have these responses been? Since the end of the Cold War, the United States and Europe have played key roles in supporting nascent civil society in difficult places. As this support has come under increasing attack, Western actors have pushed back both in public and private—raising new questions about the nature and success of their efforts.

Three country cases have been at the forefront of the closing space trend and help to address the above questions: Russia, Egypt, and Ethiopia.<sup>7</sup> All three have imposed sweeping restrictions on associational life and limited external support to civil society. As significant regional players, their respective measures to reshape civil society have set an important example within their respective neighborhoods and beyond. All three are also of strategic importance to the West—be it in the realm of counterterrorism, security cooperation, trade, or international migration management. As such, they highlight the conflicting interests that U.S. and European governments have to balance as they try to effectively support civil society activists in the face of shrinking civic space.

# DELEGITIMIZATION AND DIVISION IN RUSSIA

## TACTICS

The Russian government began tightening its regulatory control over civil society during President Vladimir Putin's second term. This effort accelerated in the wake of Putin's return to the presidency in 2012, after months of large-scale antigovernment protest.

Three key features have characterized the Russian government's efforts to reshape civil society:

- A focus on discrediting foreign-funded groups, which are portrayed as undermining Russia's national sovereignty and harming the collective good.
- A reliance on bureaucratic and legal tools to weaken independent civic actors, combined with selective prosecutions aimed at intimidating civil society as a whole.
- A related effort to fund and promote apolitical and pro-government organizations as socially useful, while at the same time maintaining tight state control over the entire sector.



## EXTENDING EXECUTIVE CONTROL

### *A Corporatist Vision of Civil Society*

In Russia, the Soviet state's monopoly over public life left a legacy of mistrust toward civic activism and autonomous organizational networks. During the 1990s, the term civil society was used almost exclusively by a small group of reform-oriented organizations supported primarily by Western donors eager to support Russia's fledgling democracy. These organizations saw their role as holding the state accountable to global norms of governance, and they rejected close collaboration with the government. Still in a nascent state, they tended to operate in relative isolation from one another and from society at large.<sup>8</sup>

When Putin first came to power in 2000, he emphasized the importance of building a strong and vibrant civil society. However, it quickly became clear that his vision of civil society was at odds with that of the growing circle of independent groups that had mushroomed after the collapse of the Soviet Union. In Putin's view, these organizations were foreign imposed and alien to Russian society and political culture.<sup>9</sup> His speeches in the early 2000s emphasized the need to integrate civil society into the Russian executive's chain of command, as a network of organizations that would represent citizen interests in state-approved public venues while simultaneously reinforcing state authority.<sup>10</sup> Far from representing a new approach in the Russian context, this vision closely aligned with the country's long-standing tradition of centralized, top-down governance.

Toward the end of his first term, Putin began building the organizational and regulatory structures for a more corporatist civil society. The Kremlin used the escalating war on domestic terrorism to concentrate power in the executive branch.<sup>11</sup> Following the 2004 Beslan school hostage crisis, Putin created the Public Chamber of the Russian Federation, an advisory body of 126 appointed individuals from various social and professional domains tasked with providing expert input on legislative proposals.<sup>12</sup> Parallel bodies were established at the regional level and within various government agencies.<sup>13</sup> However, their role remained limited: whenever an advisory council broke through the boundaries of acceptable political discourse, its members were quickly demoted.<sup>14</sup> The Public Chamber at times openly challenged government policy, but it lacked independent resources and investigative powers to follow up on its recommendations. Russian authorities encouraged civil society organizations to interact with the chamber rather than directly with government officials, but always in a consultative role and without exerting actual reform pressure on state institutions.<sup>15</sup> Many independent groups dismissed these initiatives as a smokescreen for the executive's increasing centralization of power and refused to cooperate.<sup>16</sup>

## *The First Wave of Restrictions*

In the mid-2000s, the environment for NGOs critical of government policy started deteriorating. In response to the so-called color revolutions in Georgia and Ukraine, Russian officials stepped up their verbal attacks on foreign-funded groups and began imposing legal constraints on civil society.<sup>17</sup> The 2006 NGO law gave authorities the power to deny registration to any organization whose goals and objectives “create a threat to the sovereignty, political independence, territorial integrity, national unity, unique character, cultural heritage, and national interests of the Russian Federation.”<sup>18</sup> It also implemented new burdensome reporting requirements for groups receiving foreign support and expanded the power of government authorities to interfere in the creation and operation of NGOs.<sup>19</sup> The government justified the law by arguing that it was necessary to foster greater transparency in the sector and encourage the development of domestic funding sources.<sup>20</sup> In a further move to restrict foreign funding flows, Putin in 2008 issued a decree that reduced the number of foreign and international organizations allowed to give tax-free grants in Russia from 101 to twelve.<sup>21</sup>

The new legal framework hit human rights and political advocacy organizations the hardest. Many experienced repeated harassment by state officials and found that some of their activities were suddenly blocked or delayed. In several cases, Russian officials used a 2002 law on countering extremist activity—defined broadly to include vague charges such as “inciting racial hatred” and “accusing a public official of acts of terrorism”—to inspect NGOs and investigate their activities.<sup>22</sup> For example, the Moscow-based Civic Assistance Committee, an NGO that focuses on migrant and refugee rights, was subjected to a criminal investigation after a parliamentarian accused the group of giving cover to “ethnic criminal groupings.”<sup>23</sup> Organizations suddenly had to devote more time and resources to complying with onerous reporting requirements and often had to wait months before their planned activities could be resumed. At the same time, pro-government media outlets scaled up their campaign against foreign-funded NGOs, portraying them as tools of Western intelligence services working to provoke or overthrow the Russian government. The result was a definitive choking effect on independent civil society.

## A DOUBLE-DOWN ON REPRESSION

### *An Unprecedented Internal Challenge*

The crackdown on Russian civil society intensified as antigovernment protests spread following flawed parliamentary elections in December 2011. Faced with the largest antigovernment mobilization since the fall of the Soviet Union, the Russian regime used its already consolidated control over television and key newspapers to ramp up its rhetoric against civil society activists. Throughout the election campaign, Putin repeated his accusation that unspecified “recipients of foreign grants” were following “the instructions of foreign govern-

ments” and interfering with Russia’s elections.<sup>24</sup> Other officials echoed these accusations, warning of a Libya-style uprising that would throw the country into disarray.<sup>25</sup> State media outlets also tried to discredit the demonstrators by dismissing them as “well-fed” and “angry urbanites” out of touch with the rest of the country.<sup>26</sup>

This campaign of delegitimization laid the groundwork for a political and legal counteroffensive. Once reelected, Putin rapidly brought his predecessor Dmitry Medvedev’s limited attempts at modernization to a halt. United Russia’s control of the Federal Assembly proved a crucial tool in this regard: the legislature moved quickly to push through a host of restrictive

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**This campaign of delegitimization laid the groundwork for a political and legal counteroffensive.**

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measures aimed at limiting freedoms of association, expression, and assembly. These included a dramatic increase in fines for violating rules on the participation in and organization of public protests, the reintroduction of defamation as a criminal offense for media outlets, amendments that increased Internet censorship,

and changes to the criminal code expanding the definition of treason in ways that could be interpreted as criminalizing involvement in international human rights advocacy.<sup>27</sup> More than thirty people were charged with organizing mass riots and assaulting police during clashes at a rally on Bolotnaya Square the day before Putin’s inauguration—which civil society activists considered a politically motivated effort to discourage further civic mobilization.<sup>28</sup>

### *The Foreign Agents Law*

It was in this tense political climate that a new NGO law was fast-tracked through the Federal Assembly (the Russian Parliament) and came into force in November 2012. The so-called foreign agents law required all organizations engaged in “political activities” and receiving or planning to receive foreign funding to register with the Ministry of Justice as “carrying functions of a foreign agent.”<sup>29</sup> Designated foreign agents were obliged to follow a new set of burdensome administrative requirements and could be subjected to unscheduled audits. In a direct throwback to Soviet repression tactics, they were required to identify themselves in all public communications, presentations, and publications as foreign agents—a term that in Russia carries the clear connotation of a foreign spy or traitor.<sup>30</sup> According to the law, organizations that fail to voluntarily register as foreign agents risk suspension for up to six months, while failure to comply with registration, auditing, and reporting rules can be punished with fines of up to 500,000 rubles (\$8,931).<sup>31</sup> The law’s original definition of political activities was extremely vague, raising concerns that the provision could be selectively used against any organization critical of the government.<sup>32</sup>

In the summer of 2012, the Russian government also moved to end all programs of the U.S. Agency for International Development (USAID) in Russia. The agency had operated in the

country since the end of the Cold War, funding a multitude of public health and judicial reform programs while also providing support to civil society organizations.<sup>33</sup> The government accused USAID of meddling in Russia's domestic politics by funding election monitoring and other prodemocracy initiatives.<sup>34</sup> The decision to expel USAID exacerbated fears among civil society activists, who anticipated dramatic funding losses.<sup>35</sup> A few months later, the Federal Assembly followed up with the Dima Yakovlev law, which allows the suspension, without a court order, of U.S.-funded organizations that participate in political activities or implement activities that represent a "threat to the interests of Russia."<sup>36</sup> Together, these new measures represented a concerted effort to limit external funding flows to Russian civil society organizations.

### *Stalled Implementation*

The foreign agents law initially relied on voluntary registration. However, Russian NGOs that received foreign funding decided almost unanimously to boycott the measure.<sup>37</sup> Some activists argued that the designation was of little importance to their work, but most felt that the label would negatively affect their public credibility and objected to the legislation as a matter of principle.<sup>38</sup> Russia's Public Chamber refused to endorse it, and the Presidential Council for Civil Society and Human Rights challenged the vagueness of the term political activities. There was also evidence of dissent within the Russian establishment—particularly among the technocratic wing of the Russian ruling elite that had been promoted by Medvedev.<sup>39</sup> The Ministry of Justice appeared hesitant to enforce the law.<sup>40</sup> Justice minister Aleksandr Konovalov cautiously signaled his opposition, arguing in a speech to the State Duma (the lower house of the Federal Assembly) that the law did not give him the authority to register organizations against their will.<sup>41</sup> However, the Constitutional Court upheld the law, arguing that there were no reasons to believe that the term foreign agent had negative connotations from the Soviet era.<sup>42</sup>

Once it became clear that civil society organizations would not register voluntarily, the Kremlin's tactics shifted. Prompted directly by Putin, the prosecutor's office in March 2013 began an unprecedented wave of NGO inspections.<sup>43</sup> Teams of prosecutorial, judicial, and tax officials visited the offices of more than 500 groups in forty-nine regions, under the pretext of checking for "compliance with the laws of the Russian Federation."<sup>44</sup> Eager to gain influence within the regime, the prosecutor's office pursued its task aggressively, casting its net far beyond the government's typical adversaries. The inspections were often highly disruptive and seemed aimed at intimidating the targeted organizations. At times, the inspection teams included agents from the Federal Security Service who claimed to have been alerted that the organization in question was involved in "extremist" work.<sup>45</sup>

The inspections created an atmosphere of constant unpredictability. Given the vagueness of the law's provisions, activists no longer knew which activities were in fact prohibited, whether the investigative officials' actions complied with federal rules, and how law enforcement agencies and the courts would interpret key concepts.<sup>46</sup> State officials themselves did not necessarily know what they were looking for or what should count as a political activity. As a result, the inspections and subsequent penalties took different forms in different regions.<sup>47</sup> Dozens of groups received notices that they were or could be violating the foreign agents law as well as myriad other regulations, including fire codes and sanitation rules. Groups across the country went to court to challenge the fines, warnings, and notifications they received as a result of the inspections, but court hearings were frequently postponed and cases dragged on.<sup>48</sup>

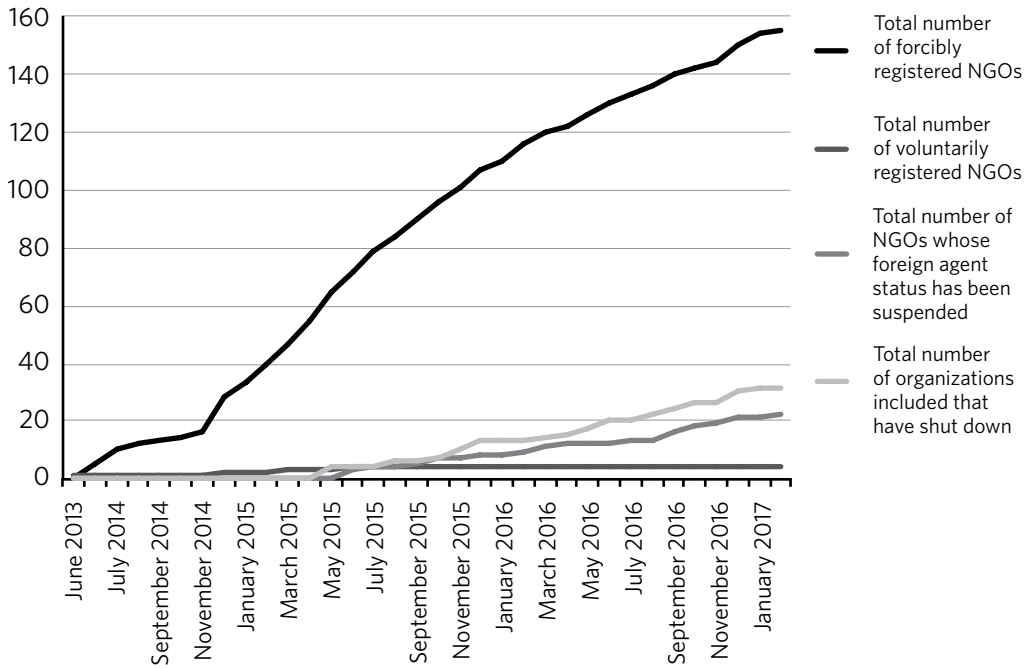
At the same time, foreign-funded civil society and human rights organizations continued to be targeted by an extensive propaganda campaign in the state media, which portrayed them as national traitors and a fifth column acting on behalf of foreign powers. The NGO investigations themselves had significant propaganda value: in Moscow, representatives from the state-owned channel NTV repeatedly joined the prosecutorial teams and broadcast reports on the inspections.<sup>49</sup> State media outlets also singled out specific organizations, such as the election-monitoring group Golos, and targeted them with undercover investigations meant to discredit their work as corrupt and harmful to Russian society.<sup>50</sup> The regime's aggressive rhetoric fed anti-Western sentiments among pro-government activists and movements. The offices of several international NGOs, including Transparency International and the U.S. Russia Foundation for Economic Advancement and the Rule of Law, were picketed and vandalized by pro-Kremlin youth groups, adding to the general atmosphere of intimidation.<sup>51</sup>

### *Intensified Enforcement*

Over the past three years, the Russian government has ramped up its campaign of administrative and judicial harassment. In a significant step, the Federal Assembly amended the foreign agents law to allow the Ministry of Justice to register groups as foreign agents against their will (see Figure 1).<sup>52</sup> This amendment, which came into effect in May 2014, triggered a new wave of investigations by the ministry and public prosecutors. For example, the Executive Office initiated mass inspections of NGOs involved in HIV prevention—even though the law formally exempts public health organizations.<sup>53</sup> These unannounced checks typically led to administrative charges against organizations that had failed to register, followed by involuntary entry in the foreign agents registry.<sup>54</sup>

During this period of intensified enforcement, authorities applied an extremely broad definition of political activities.<sup>55</sup> For example, in the eyes of law enforcement officials, providing information to the United Nations (UN) regarding Russia's compliance with interna-

**Figure 1. NGOs Listed as Foreign Agents, Cumulative Number, 2013-2017**



Source: Human Rights Watch, "Government vs. Civil Society: The Battle Chronicle," February 21, 2017.

tional treaties, disseminating public opinion data, and holding roundtables on government policies could be deemed political work.<sup>56</sup> By June 2016, at least 108 organizations had faced administrative proceedings for failing to register voluntarily, which led to fines ranging from 100,000 to 500,000 rubles (\$1,765 to \$8,828).<sup>57</sup> Despite these intensified enforcement efforts, not a single organization that was forcibly included in the registry accepted the foreign agent designation. Instead, all affected groups vowed to continue challenging the decision in court or—if unsuccessful—to give up their formal status.<sup>58</sup>

Since mid-2015, the government's focus has increasingly shifted toward sanctioning those groups that have already been designated foreign agents—for example, by pursuing administrative proceedings against NGOs that have refused to label their materials as required. By doing so, Russian authorities have turned the foreign agent law into a highly effective weapon of administrative attrition. Every report, website, or presentation that fails to identify its author as a foreign agent can trigger further fines—a powerful tool to deplete organizations that are already starved for funding.<sup>59</sup> Rather than defending civil society organizations' from executive overreach, Russian courts have generally sided with federal agencies and exercised their discretion primarily to determine the amount of the fine.<sup>60</sup>

## *A Widening Net of Legal Constraints*

Russian authorities have also widened the net of legal constraints. First, in response to widespread complaints, the Ministry of Justice produced a more precise definition of the term political activities, supposedly to reduce the scope for arbitrary enforcement. However, far from narrowing the scope of the law, the resulting amendment defined the political activities of NGOs so broadly that they encompass almost any advocacy, public outreach, or research activity.<sup>61</sup> A further amendment has ensured that even funding received from a domestic

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NGO can be considered foreign funding if the donor organization in question has previously received external support—a measure that has dramatically broadened the circle of potential foreign agents.<sup>62</sup>

Russian authorities also moved to restrict international donors themselves. In June 2015, a new federal law came into force that allows the prosecutor general to declare any foreign or international NGO “undesirable” if it is deemed to represent a threat to

Russia’s defense, constitutional system, or national security.<sup>63</sup> All activities of undesirable organizations on Russian territory are automatically prohibited. The vague wording of the law and the lack of required judicial review once again open the door to arbitrary or selective enforcement. After the law was passed, 156 out of 170 members of the upper house of the Federal Assembly voted to create a “patriotic stop-list” of twelve organizations believed to pose a potential threat to Russia and tasked the prosecutor general, the Foreign Ministry, and the Ministry of Justice with investigating whether they should be declared undesirable.<sup>64</sup> Two years later, the list of undesirable groups includes seven primary U.S. funders, including the National Endowment for Democracy, the National Democratic Institute, and the International Republican Institute.<sup>65</sup>

In addition, Russian lawmakers in June 2016 passed the Yarovaya law, a set of legislative amendments purportedly aimed at combating terrorism that imposed new restrictions on freedom of speech and data privacy.<sup>66</sup> The law forces cellular and Internet providers to store all communications data for six months and help the government access encrypted messages. It also tightens restrictions on the activities of religious groups in the name of fighting extremism.<sup>67</sup> At the moment, the Internet remains one of the few domains in which Russian citizens can voice dissenting opinions, mobilize, and forge coalitions around common causes. This new wave of restrictions indicates that the government is shifting its focus accordingly. It opens the door to selective enforcement aimed at intimidation and may therefore lead to further self-censorship.

## *Selective Prosecution*

Rather than engaging in sweeping and systematic repression, Russian authorities have used this widening net of restrictive laws to selectively prosecute activists, dissidents, and ordinary citizens. These test cases generally have not involved the most prominent human rights defenders and organizations. Instead, they signal that every organization or individual is potentially at risk, which serves to discourage broader civic mobilization. This logic has been particularly evident in Russian authorities' enforcement of antiprotest regulations. For example, in 2014, eight ordinary Russians arrested during the 2012 Bolotnaya protests were convicted and sentenced to two and a half to four years in prison following a highly publicized trial.<sup>68</sup> The defendants seemed to have been picked at random from the more than 500 people briefly detained on the day of the protest. The trial thus sent a clear message: anyone participating in an unauthorized protest can face criminal prosecution.

The selective prosecution of individual activists and organizations also serves as a reminder that escalating repression remains possible. Several recent cases have caused widespread alarm among civil society activists.

In 2016, Valentina Cherevatenko, chair of the human rights and peacebuilding organization Women of the Don, became the first person to face criminal (rather than administrative) charges for “maliciously evading” the 2012 foreign agents law. Cherevatenko was accused of refusing to register her organization as a foreign agent and setting up a parallel foundation to circumvent the law.<sup>69</sup> In another threatening move, the Ministry of Justice, after a formal investigation, accused the Human Rights Center Memorial of undermining the country’s “constitutional rule”—a serious charge that could also result in criminal penalties.<sup>70</sup> While the prosecutor’s office has yet to act on the ministry’s finding, it could press criminal charges at any point in the future. These cases, while still isolated, demonstrate that efforts to evade civil society restrictions can potentially result in serious criminal charges.<sup>71</sup>

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## *Violent Repression and Harassment*

Russian civil society actors have also faced physical violence and informal harassment by both state security forces and nonstate actors. Threats of violence and physical attacks have primarily targeted activists working on highly sensitive issues, such as electoral fraud, LGBTQ (lesbian, gay, bisexual, transgender, and queer) rights, government corruption, and human rights abuses in the North Caucasus. Investigative journalists covering the annexation of Crimea and Russia’s involvement in eastern Ukraine also face heightened pressure. Intimidation takes different forms. Security officials have arbitrarily detained, interrogated,



and threatened activists. This type of harassment initially escalated following the December 2011 parliamentary elections, when police officials summoned numerous activists for interrogation or held them in administrative detention.<sup>72</sup> In some cases, official harassment has driven activists to flee the country—as was the case with environmental campaigner Evgeniya Chirikova, who left for Estonia in fear that her children would be taken away by child services.<sup>73</sup> In addition, civic activists face violence by unidentified assailants whose identity and ties to political authorities often remain opaque. In some cases, ultranationalist groups have been suspected of being behind the attacks, as in the case of Igor Sazhin, a human rights defender in Russia's Komi region who was assaulted in February 2014.<sup>74</sup> LGBTQ activists in particular have been repeatedly attacked by far-right groups. Such incidents, while isolated, contribute to an atmosphere of fear and intimidation, especially since prosecutors have often been reluctant or slow to open criminal investigations.<sup>75</sup>

In the North Caucasus, the environment for human rights defenders and NGOs has long been dangerous, as local authorities and militants operate in a context of almost blanket impunity for abuses. The few human rights practitioners who provide legal aid and monitor abuses in the region face constant threats to their work. For example, in June 2015, the Grozny office of the Committee Against Torture was attacked and ransacked for the second time in the span of several months.<sup>76</sup> In March 2016, twenty masked men attacked representatives from the human rights NGO Joint Mobile Group who were traveling with journalists from Russia, Sweden, and Norway in Ingushetia.<sup>77</sup> Russian authorities investigated the attack as a case of “hooliganism,” even though it was the fourth such attack on the organization within fifteen months. As a result of routine violence, human rights defenders in Chechnya in particular have developed extensive risk management strategies, such as always traveling in groups and with recording equipment and never staying in one place for more than a few months.<sup>78</sup>

### *Creation and Co-optation of Civic Actors*

As governmental restrictions on foreign-funded and foreign civil society organizations have multiplied over the past several years, the Russian government has continued to encourage a tightly regulated civic sector comprised of pro-government and/or apolitical organizations. So-called marionette organizations are not a new phenomenon within the Russian context: they represent a continuation of institutionalized civil society actors that existed in the Soviet era. Although they often portray themselves as independent, they in fact cannot and do not challenge existing power structures and instead serve to reinforce state control.<sup>79</sup>

Russian state authorities have encouraged divisions between advocacy groups on the one hand and so-called socially oriented organizations active in the areas of education, health, and social welfare on the other.<sup>80</sup> The latter are not only celebrated in the state media, but

also benefit from targeted state subsidies. In 2016, more than \$112 million was allocated to civil society from the federal budget—three times as much than in 2012.<sup>81</sup> The Kremlin began making presidential grants available in 2006 and rapidly expanded the initiative over the past several years. Between 2013 and 2015 alone, the total amount available per year increased from 2.5 billion rubles (\$35 million) to 4.2 billion rubles (\$59 million).<sup>82</sup> Between 2009 and 2015, the Ministry of Economic Development also channeled funding to socially oriented civil society organizations.<sup>83</sup> This type of support serves multiple purposes. First, supporting NGOs that provide valuable social services helps the government fill gaps in public service delivery. In some cases, state funding has also been channeled to organizations with direct financial or family ties to those in charge of the disbursement.<sup>84</sup> On a broader level, the distinction between socially useful organizations and illegitimate foreign agents drives a wedge between civil society groups and draws those organizations that want to qualify for government funding closer to governing authorities.

The Russian government has also created and funded patriotic and pro-government organizations that serve to propagate key elements of the Kremlin's ideology, including its conservative social agenda and anti-Western stance. In the early 2000s, the Russian government began supporting patriotic youth movements with close ties to the executive. Yet these organizations never became the powerful social force they had perhaps been intended to be.<sup>85</sup> Following the 2011–2012 opposition protests and the annexation of Crimea in 2014, state authorities began encouraging and relying on a wider array of nationalist grassroots initiatives. Patriotic mobilization reached its peak during Russia's initial intervention in eastern Ukraine. Yet Russian authorities quickly moved to reestablish top-down control once they perceived local activism to be spiraling out of control. They have since shifted their support back to groups that operate strictly within the limits set by the state.<sup>86</sup> A report by the Center for Economic and Political Reform found that the Orthodox Church has been the biggest beneficiary of presidential grants given over the past several years; organizations close to the church received at least sixty-three presidential grants worth 256 million rubles (\$3.6 million) between 2013 and 2015.<sup>87</sup> Among other large recipients of government grants are pro-Kremlin youth organizations, including the Young Guard of United Russia, Rossiya Molodaya, and the Eurasian Youth Union.<sup>88</sup>

## DRIVERS

The closing of civic space in Russia represents one element of a broader process of democratic backsliding that has defined Russian politics over the past decade and a half. In the early 2000s, Putin began reversing the fragile democratic gains made after the collapse of the Soviet Union by systematically eliminating genuine political competition and further centralizing political authority in the executive branch.<sup>89</sup> As the Kremlin gradually marginal-

ized the political opposition, independent civil society organizations emerged as an increasing threat to state authority. Two factors accelerated the government's efforts to renationalize civil society organizations and assert greater government control: the fear of post-Soviet color revolutions spreading to Russia in the middle to late 2000s and the desire to prevent further popular mobilization following the 2011–2012 protest movement.

## FEAR OF WESTERN POLITICAL INFLUENCE

A central driver of civil society restrictions in Russia has been the fear that Western democracy assistance could help incite a popular uprising against the Putin regime. Russian authorities voiced their concern about the destabilizing role of U.S.-funded NGOs as early as 2000, when the protest group *Otpor!* along with a host of other civic and political actors helped unseat the Slobodan Milošević regime in Serbia.<sup>90</sup> The color revolutions in several former Soviet republics in the mid-2000s deepened the Kremlin's suspicions of international civil society aid. The Russian government interpreted these popular uprisings in stark geopolitical terms. It considered Western support to activists in these countries to have functioned as a soft form of U.S.-led regime change aimed at preventing Russia's reemergence as a regional and global geopolitical power.<sup>91</sup> The 2006 NGO law and public statements delegitimizing foreign-funded organizations represented a direct response to this perceived threat. As Putin consolidated his power, he took further measures to renationalize Russian civil society—first through the 2012 foreign agents law and later through the undesirable organizations law and other related foreign funding restrictions.

## FEAR OF DOMESTIC MOBILIZATION

While the color revolutions gave Russian authorities the initial impetus to extend state control over civil society, these efforts accelerated following the protest movement that emerged during the 2011–2012 election cycle. The mass protests occurred after several years of limited modernization under Medvedev, during which civil society organizations gained in strength and visibility. Although Russia's established NGOs played a relatively marginal role in organizing or leading the protests, they represented a concrete threat to the Kremlin's control of the political narrative.

Not surprisingly, the government's initial response focused on limiting citizens' right to protest. However, the rush to pass the foreign agents law immediately after Putin's return to power betrayed Russian officials' fear that civic groups could emerge as a potential alternative center of power. The authorities' initial enforcement efforts targeted those organizations viewed as particularly threatening in light of the 2011–2012 protest movement. These groups included the Human Rights Center Memorial, which had documented cases of politically motivated

arrests and unlawful detentions of activists; the Public Verdict Foundation, which had established a hotline for protesters who were detained arbitrarily by security forces; and Golos, a network of election-monitoring organizations.<sup>92</sup> As Putin's grip on power tightened, the circle of potentially threatening organizations continuously widened—from election watchdogs to environmental activists, cultural initiatives, and independent research institutions.

## IMPACT

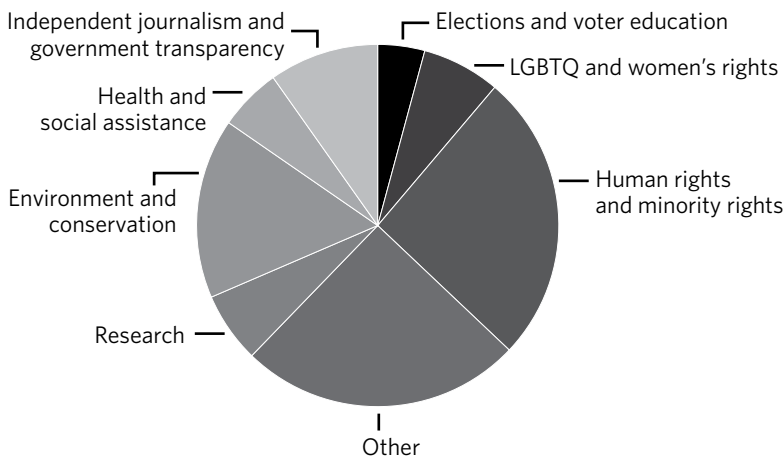
The Russian government's restrictions on civil society have decreased the number of active independent NGOs and deepened divisions within the sector. Those organizations that have survived have been weakened by continuous administrative and legal harassment and funding cuts, which have reduced their overall capacity, effectiveness, and reach. Cooperation with state authorities and other public institutions has become increasingly challenging. To survive in the current political environment, independent organizations have increasingly shifted toward domestic funding sources, exploited legal loopholes, and experimented with new organizational models.

## CONSEQUENCES OF THE CRACKDOWN

### *Weakened Independent Organizations*

Far from affecting only human rights organizations, the closing of civic space has been felt by independent Russian organizations in a wide range of fields. As of this writing (March 2017), there are 102 active organizations on the government's foreign agents register.<sup>93</sup> These groups face the bulk of administrative, legal, and informal harassment. Compared to the more than 200,000 NGOs registered with the Ministry of Justice, 102 may seem like a relatively insignificant number. However, many of the targeted organizations are among the most professional, active, and well-known organizations in the country, which have set standards for the rest of the sector and played an important role in shaping national and local public debates. They include organizations working on historical remembrance, migrant services, HIV prevention, election monitoring, prisoners' rights, public opinion research, and environmental protection (see Figure 2).

**Figure 2. Number of Designated Foreign Agents by Area, as of February 2017**



Source: Human Rights Watch, "Government vs. Civil Society: The Battle Chronicle," February 21, 2017.

It is difficult to measure the full impact that formal and informal governmental restrictions have had on these organizations' activities and their constituents. Yet across the board, civil society groups have had to spend more time, energy, and resources on fulfilling the state's complex registration and reporting requirements.<sup>94</sup> This heightened administrative burden has made it more difficult for citizens to form new organizations, as applications for registration can easily be rejected based on arbitrary grounds. Existing groups have less time to focus on substantive agendas and tasks. Unannounced and intrusive inspections disrupt NGOs' daily activities, as investigators typically require organizations to submit detailed financial and activity reports. Organizations have also spent time and resources on challenging the foreign agent label in court. Those organizations that have nevertheless been declared foreign agents face frequent penalties, which drain their already limited budgets.<sup>95</sup> They also have to submit quarterly financial reports and expensive annual audits, adding approximately 284 hours to their workload.<sup>96</sup>

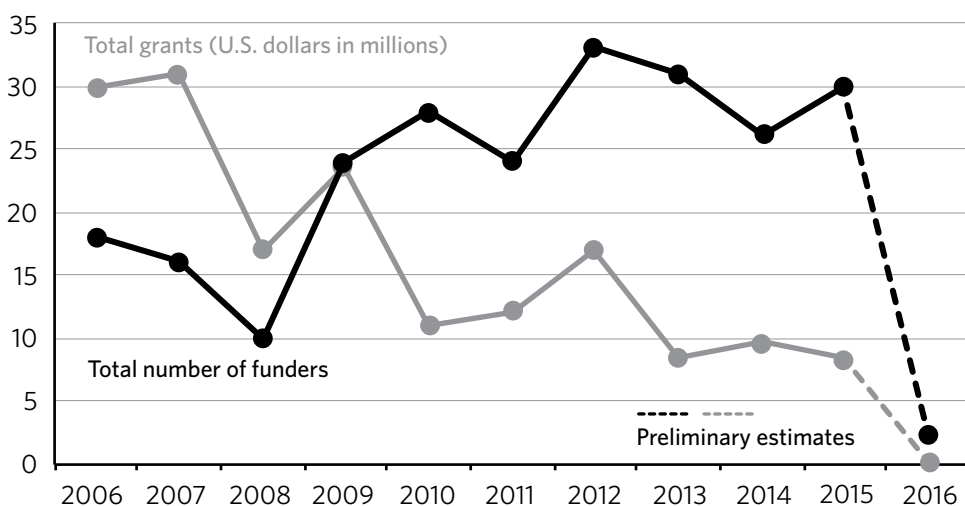
As a result, many organizations have shifted to domestic funding sources. Yet proving that one's organization has stopped receiving foreign funding has not necessarily been sufficient to ward off further administrative and legal challenges. In some cases, the Ministry of Justice has denied requests to be taken off the register, pointing to tenuous connections to other foreign agents as evidence of foreign funding.<sup>97</sup> Other groups have been included in the list despite never having received external support.<sup>98</sup> Rather than engaging in their day-to-day activities and advancing their strategic objectives, organizations have thus found themselves bogged down by administrative proceedings and legal disputes. As of November 2016, Russian authorities had initiated 235 judicial proceedings against NGOs, in addition to the ninety-eight initiated by NGOs to challenge state actions and decisions.<sup>99</sup> In a number of

cases, civil society activists have prevailed—for example, in February 2017, the Russian Supreme Court annulled a 300,000 ruble penalty imposed on Women of the Don.<sup>100</sup> Yet these types of cases require significant organizational capacity. Smaller organizations have thus been particularly hard hit; they typically lack the resources to adjust.<sup>101</sup> An even more pernicious effect has been the increase in self-censorship, as some foreign-funded organizations have stepped back from initiatives that could potentially be deemed political by Russian officials to preempt legal proceedings.<sup>102</sup>

### Fewer Funding Sources

In addition to legal and administrative challenges, activists have had to adjust to a sharp decrease in civil society funding. The increasingly challenging legal environment—including changes to the Criminal Code’s articles on treason and espionage—has led a number of international donors to scale back their operations in Russia amid fears of prosecution or endangerment of local staff (see Figures 3 and 4).<sup>103</sup> Others were forced to leave the country. The expulsion of USAID in 2012 hit the sector particularly hard: the agency had been one of the main providers of civil society support since the early 2000s.<sup>104</sup> The undesirable organizations law only exacerbated these trends. In response to the law, a number of private foundations—such as the Charles Stewart Mott Foundation and the MacArthur Foundation—chose to close their operations in Russia preemptively, in part to preserve funding that had already been allocated and also to avoid the potential reputational cost of being declared undesirable.<sup>105</sup> Others (such as the Open Society Foundations) insisted on staying; they were promptly blacklisted.

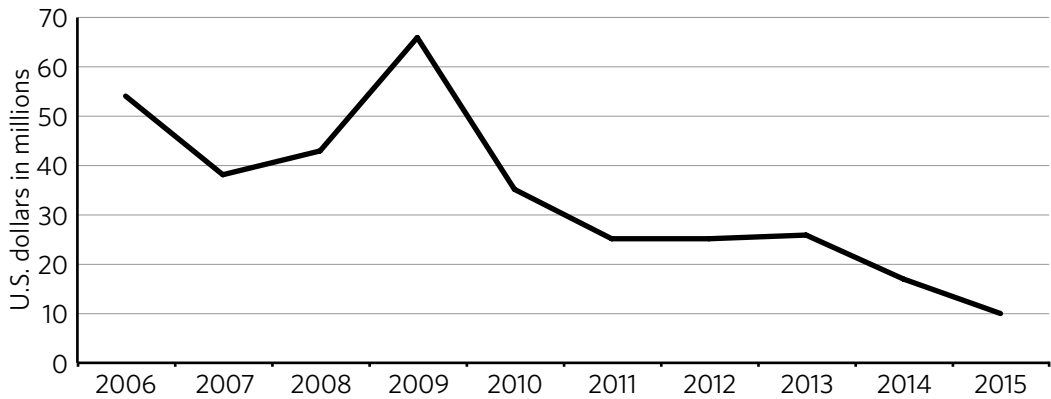
**Figure 3. U.S. Foundation Funding to Russian Civil Society, 2006–2016<sup>a</sup>**



Source: Foundation Center, “Foundation Maps,” <https://maps.foundationcenter.org/home.php>.

a. Includes grants from private and corporate foundations, public charities, and community foundations.

**Figure 4. USAID Funding for Government and Civil Society Assistance in Russia, 2006–2015<sup>a</sup>**



Source: Data from USAID, “Foreign Aid Explorer,” <https://explorer.usaid.gov/aiddashboard.html>.

a. Includes all U.S. government grants under the rubric “government and civil society.”

By formally outlawing seven of the most prominent U.S. civil society funders, the government cut off key sources of support for democracy and human rights work and discouraged other donors from investing in the country. At the same time, Russian NGOs have begun rejecting foreign support to avoid the stigma of being designated a foreign agent.<sup>106</sup> Domestic funding sources have been insufficient to fill this gap. Even though the government has made additional subsidies available, advocacy and rights organizations have received almost no state support.<sup>107</sup> Russian companies and foundations are hesitant to fund organizations that are critical of the government; in fact, a number of NGOs lost corporate funding after being labeled foreign agents.<sup>108</sup> As a result, they have had to scale back their activities. Smaller organizations have closed down or become inactive. Even though the total number of NGOs does not seem to be decreasing, most new organizations are not independent but instead have close ties to businesses or local political authorities.<sup>109</sup>

### *Reduced Cooperation With Public Officials and Institutions*

One of the most pernicious consequences of the foreign agent label has been the disruption of civil society organizations’ long-standing cooperation with various Russian state agencies and public sector institutions. The law does not officially prohibit public officials from collaborating with foreign agents, yet public officials at all levels have been discouraged from doing so.<sup>110</sup> Some regional governments sent direct guidelines demanding that local officials break all ties with organizations that have been entered in the register. In other regions, the signals from above have been more subtle, but the outcome has been the same: officials have withdrawn from or blocked previously collaborative relationships and joint projects in fear of potential negative repercussions.<sup>111</sup>

Many civil society organizations have worked closely with government agencies for years and depend on such vertical ties to effectively carry out their missions. For example, the environmental organization Bellona Murmansk collaborated with Russian nuclear authorities on the cleanup of nuclear waste and nuclear security issues. State agencies valued the group's data collection efforts and international ties. Yet this working relationship did not protect the organization from being labeled a foreign agent, and it was forced to shut down in 2015.<sup>112</sup> In fact, the Ministry of Justice considered the popularity of the group's work as proof that Bellona Murmansk had influenced public opinion and was therefore involved in political activities.<sup>113</sup> Similarly, Moscow city authorities refused to prolong their lease agreement with the migrant rights organization Civic Assistance Committee after it was labeled a foreign agent. The premises had housed an "adaptation center," where refugee children received lessons preparing them to transition into the Russian school system. For the first time since 1996, representatives of the Federal Migration Service and other agencies also refused to take part in the organization's seminar on migrant and refugee rights—an activity that had been at the core of the Civic Assistance Committee's advocacy and institutional reform efforts.<sup>114</sup> Working with law enforcement has become particularly challenging: the human rights group Public Verdict Foundation was forced to end its cooperation with law enforcement agencies after it had been added to the register.<sup>115</sup> The NGO Women of the Don—which focuses on peacebuilding, intercommunal reconciliation, and human rights education—has experienced difficulties accessing police officials and the Inspectorate for Juvenile Affairs, despite having collaborated closely with these institutions in the past.<sup>116</sup>

Civil society activists report that public institutions such as universities, high schools, and hospitals that depend on state support have also become wary of engaging with stigmatized organizations. This makes it difficult for NGOs to access certain target groups such as students, orphans, and people with disabilities housed in government-run institutions.<sup>117</sup> For groups like the Human Rights Center Memorial that view public education about past repression as central to their mission, reduced access to schools and other institutions represents a direct hit to their effectiveness and reach.<sup>118</sup>

### *More Challenging Public Outreach*

The designation of foreign agent has also made it difficult for civil society organizations to reach the wider Russian public. In addition to the barriers to access described in the previous section, NGOs struggle to disseminate their research and activities through government-controlled mass media outlets. They do not have a large enough public platform to effectively counter government smear campaigns. As a result, civil society activists note that public mistrust in NGOs has increased.<sup>119</sup> For example, the Committee for the Prevention of Torture (previously the Committee Against Torture), which works to expose torture and provides legal assistance to victims of security force abuses, reports that its work has become



more difficult: the foreign agent label allows authorities to dismiss the organization's claims as illegitimate.<sup>120</sup> An amendment currently under discussion in the Federal Assembly that would force civic groups to display bigger labels identifying themselves as foreign agents would in all likelihood reinforce this pattern of stigmatization.<sup>121</sup>

Public ambivalence about advocacy organizations is not an entirely new phenomenon in Russia, where civic groups active on public policy issues have traditionally either been mouthpieces of the state or associated with dissident political movements. Government smear campaigns against independent groups have thus tapped into preexisting suspicions of civil society motives.<sup>122</sup> Recent public opinion surveys corroborate these dynamics. A poll conducted by the independent Levada Center (which has also been designated a foreign agent) in late 2016 found that for 57 percent of Russians the term foreign agent inspired suspicion and fear.<sup>123</sup> Of those who reported negative associations, 45 percent noted that the term evoked designations such as "CIA agent," "foreign spy," and "mole." Yet the survey also revealed widespread ignorance about the specifics of the law: 73 percent reported not knowing anything about it at all. These findings highlight the extent to which state-controlled media outlets have marginalized independent civil society groups from mainstream public discourse. In this context, civil society organizations rely heavily on the Internet to disseminate their research and activities and to coordinate collective action.<sup>124</sup>

### *Greater Fragmentation in the NGO Sector*

The closing of civic space has also led to greater fragmentation and disunity among civil society organizations. As noted above, the Russian government has openly embraced divide-and-rule tactics by repeatedly drawing a line between foreign-funded groups and those that provide "socially useful" services, such as direct assistance to orphans, sick, and disabled citizens. This division in fact does not reflect the complexity of the sector. Many civil society

groups fulfill both advocacy and service provision roles.<sup>125</sup> Moreover, given the government's sweeping definition of political activities, even social development and public health organizations have been classified as foreign agents.

Although there is solidarity among civil society organizations, the current context has complicated cross-sectoral cooperation. Many social organizations are wary of openly cooperating with human rights groups

or designated foreign agents out of fear that doing so may taint their reputation and make it more difficult to access government funding.<sup>126</sup> For example, Transparency International Russia has reported that several potential partners abandoned planned projects out of fear of

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**The Russian government has openly embraced divide-and-rule tactics by repeatedly drawing a line between foreign-funded groups and those that provide "socially useful" services.**

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working with a blacklisted organization.<sup>127</sup> Some socially oriented groups have blamed those engaged in political and civic activism for delegitimizing the sector as a whole. Those on the other side criticize direct service providers for not speaking out enough against government restrictions and focusing on short-term objectives at the expense of a broader enabling environment.<sup>128</sup> The presence of government-organized NGOs and other organizations that masquerade as independent organizations but in fact have close ties to political and business elites also makes coordinated action more difficult.

## ADAPTATION STRATEGIES

### *Closure and Relocation*

It is difficult to count the total number of organizations that have shut down as a consequence of civil society restrictions in Russia. Smaller organizations began disappearing in 2006, defeated by onerous reregistration and reporting requirements. In recent years, the foreign agents law and accompanying restrictive measures have led to additional closures, as organizations do not want to carry the stigma and administrative burdens associated with the label. According to Human Rights Watch, thirty-one organizations that had formally been designated foreign agents have shut down.<sup>129</sup> These groups include the League of Women Voters in Saint Petersburg, the Center for Social Policy and Gender Studies in Saratov, the Humanist Youth Movement in Murmansk, and the Legal Expert Partnership “Soyuz.” Some NGOs have applied for voluntary liquidation in order to be removed from the foreign agents list—only to be met with significant bureaucratic hurdles and resistance by authorities.<sup>130</sup> As a result, a number of groups have been kept in a legal limbo: they can neither effectively carry out their work, nor get liquidated and removed from the list. Instead, they are forced to retain the foreign agent status, which means raising the resources needed to fulfill the myriad associated financial and administrative requirements.<sup>131</sup>

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**In many cases, activists have continued their work after losing or foregoing their formal registration.**

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The beginning of 2016 also saw the first instances of forced liquidation by court authorities. The targets were two of Russia’s largest civil society organizations, namely the Interregional Human Rights Organization “Agora” and the Golos Foundation in Support of Democracy. Both had been key antagonists of the Kremlin for years, and both have vowed to continue their work without formal legal status.<sup>132</sup> This is not unusual: in many cases, activists have continued their work after losing or foregoing their formal registration, as will be discussed in greater detail below.

A number of Russian organizations have decided to relocate abroad and continue their work remotely, without an official presence within Russia. This strategy has been particularly at-

tractive for Russian affiliates of international organizations and groups that do not rely on direct contact with their constituencies. Moving activities abroad or online has proven much more difficult for organizations whose mandate depends on regular interactions with target beneficiaries and state institutions. These groups have instead tried to circumvent the foreign agent label by shifting their activities to secondary branches, registering as international organizations, or reopening the same organization under a different name and with exclusively domestic funding sources. These strategies have often proven to be temporary solutions: in several cases, state authorities rapidly initiated proceedings against these alternative entities, often on dubious legal grounds.

### *Alternative Funding Strategies*

Those organizations that have abandoned foreign funding sources have limited domestic options: they can seek private sector funding, apply for competitive presidential grants, or turn to crowdfunding.

*Private sector grants.* Private sector funding for civil society organizations remains scarce, particularly for rights-focused organizations. A number of companies have set up charitable trusts, such as the Mikhail Prokhorov Foundation and Vladimir Potanin Charity Foundation.<sup>133</sup> However, most private sector actors do not want to risk their relations with state authorities by funding politically sensitive activities or groups that have been branded as foreign agents. Russian small- and medium-sized enterprises have proven more willing to help civil society groups, often by offering in-kind services and technology, participating in crowdfunding campaigns, and providing free work spaces.<sup>134</sup> For example, civic groups that work on homelessness and LGBTQ rights at the grassroots level have successfully raised funding from local businesses. Yet the sums in question tend to be small.<sup>135</sup> Russia's economic crisis has further reduced corporate donations, making the NGO sector as a whole more dependent on state financing.<sup>136</sup>

*Russian state funding.* Several barriers prevent independent civil society groups from accessing the government's civil society grants. First, the process is highly competitive: in 2015, only 636 out of 4,380 projects were selected.<sup>137</sup> Second, the bidding process lacks transparency and, as noted above, favors apolitical and pro-government organizations.<sup>138</sup> This trend has become more pronounced over the past several funding rounds. A few prominent human rights organizations have nevertheless benefited from state support. For example, in 2015, three human rights NGOs that had previously been declared foreign agents won presidential grants: a regional branch of the For Human Rights movement, the In Defense of Prisoners' Rights foundation, and the Moscow Helsinki Group.<sup>139</sup> However, civil society activists have characterized these awards as little more than symbolic gestures—a "honey cake offered after a brutal whip," as one activist put it.<sup>140</sup> Accepting state funding also poses

significant risks to independent groups, as presidential grants come with difficult reporting requirements that increase government oversight over their activities. Some organizations have had to attenuate their public criticism of state policy to avoid being disqualified from future funding rounds.<sup>141</sup>

*Crowdfunding and income generation.* Groups that have failed to raise government or corporate funding have had to rely primarily on crowdfunding, income generation, and member donations.<sup>142</sup> Many organizations have set up crowdfunding pages to raise emergency funds to pay for court fines and legal fees. Others have raised money by organizing charity events and concerts for their supporters. A few groups have tried to develop more consistent income sources. Using a grant from the MacArthur Foundation, the Kazan Human Rights Center, for example, bought a small house that it rented out to raise funds.<sup>143</sup> The AGORA Association set up a small online news agency, which brings in approximately \$10,000 a year. While such activities have provided immediate relief, they barely cover core organizational costs and require a significant time investment.<sup>144</sup>

The anticorruption activist Alexei Navalny was among the first to use crowdfunding techniques to fund his anticorruption organization. In late 2011 and early 2012, the organizers of antiregime protests also successfully raised money online to pay for their logistical needs and equipment. Most civil society organizations have struggled to reach similarly large audiences. Smaller NGOs operating beyond the major cities still cannot rely on crowdfunding as a reliable source of income.<sup>145</sup> These fund-raising efforts nevertheless represent a significant shift in approach for a human rights community that had for any years been heavily dependent on external funding.<sup>146</sup>

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### *New Organizational Models*

Given the hostile legal environment, there has been a considerable push among Russian activists to abandon the traditional NGO model in favor of other organizational structures that allow for greater flexibility and reduced government scrutiny. A number of organizations have transitioned to for-profit activities to subsidize their advocacy work. This model is particularly attractive to lawyers, who can provide paid legal services while continuing to engage in pro bono activities that advance human rights causes. Other NGOs have used the fact that the foreign agents law does not apply to commercial entities to their advantage: they have created subsidiary branches that they register as commercial entities, which has allowed them to continue receiving foreign grants.<sup>147</sup>

As government pressure has increased, more groups have decided to give up their official status and continue operating as unregistered or volunteer-based associations.<sup>148</sup> For example, after the Freedom of Information Foundation was designated a foreign agent in August 2014, lawyers from the organization regrouped as Team 29 and continued pursuing their work as a nonregistered association. The group also maintains a registered entity abroad.<sup>149</sup> Similarly, the AGORA Association formally shut down after being labeled a foreign agent, but its former employees still provide legal assistance and engage in human rights monitoring activities.<sup>150</sup> Shifting to a nonregistered status of course brings new challenges: it inhibits cooperation with public authorities, restricts other activities such as publishing, and often makes fund-raising more difficult. For example, most foreign donors have policies that prohibit them from funding nonregistered groups. The movement toward more informal organizational structures has coincided with the emergence of citizen-led grassroots initiatives across many parts of the country. The latter tend to focus on local problems and do not necessarily have a larger political or human rights agenda.<sup>151</sup> Yet the unexpectedly large March 2017 anticorruption protests that took place in cities across the country also indicate that the Internet continues to serve as a key mobilizing tool for younger generations of Russians—and that the latter remain invested in their country’s broader political trajectory.<sup>152</sup>

## INTERNATIONAL RESPONSES

When the Russian government first moved to restrict civil society activities, U.S. and European governments exerted high-level diplomatic pressure, securing limited tactical victories. As democratic backsliding in Russia accelerated, U.S. policymakers split into two main camps: those who believed human rights and democracy to be central to a productive

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working relationship with Moscow and those who argued that cooperation should proceed along issues of mutual interest in spite of Russia’s domestic political trajectory. Attempting to forge a middle road, the administration of former U.S. president Barack Obama asserted that continued engagement would be more effective at pushing for greater civic space than open confrontation. On the European side, diverging strategic and commercial interests hindered a unified approach—despite significant economic leverage.

Beginning with Putin’s return to power in 2012, the United States and its European partners struggled to respond to Russia’s increasingly assertive stance. In the years that followed, foreign policy crises overshadowed Russia’s domestic politics—even as the domestic crackdown accelerated.

## HIGH-LEVEL PRESSURE AGAINST THE 2006 NGO LAW

The U.S. foreign policy community reacted strongly to Putin's first proposal for a new NGO law in 2005–2006. In November 2005, at a meeting on the sidelines of the economic summit of the Asia-Pacific Economic Cooperation forum in South Korea, former president George W. Bush discussed his concerns about the draft law with Putin.<sup>153</sup> Then secretary of state Condoleezza Rice raised the issue directly with Russian foreign minister Sergei Lavrov, as did the U.S. ambassador in Moscow. At the time, the U.S.-Russian relationship was already strained by the U.S. intervention in Iraq and Western support for the Orange Revolution in Ukraine. The Bush administration faced increasing domestic pressure to raise human rights concerns with its Russian counterparts. The U.S. Congress had passed a resolution denouncing the Russian NGO bill.<sup>154</sup> Two former vice presidential candidates, Republican Jack Kemp and Democrat John Edwards, had written a public letter expressing their concern.<sup>155</sup>

Russian authorities initially signaled their responsiveness to high-level international push-back. Lavrov underscored that the Ministry of Foreign Affairs had helped improve the draft bill to accommodate U.S. and European criticism. Putin himself suggested that the State Duma soften some of the law's particularly harsh provisions.<sup>156</sup> On December 23, 2005, the State Duma approved the NGO bill, taking into account Putin's recommendations. However, the final version failed to address key concerns raised by a Council of Europe expert review.<sup>157</sup> Putin signed the bill in secrecy on January 10, 2006, while hosting German Chancellor Angela Merkel, who had previously denounced the proposed legislation.<sup>158</sup> During her visit, Merkel continued to raise the issue both publicly and privately, noting the many objections to the law and emphasizing that Germany would closely monitor its implementation. She also set herself apart from her predecessor Gerhard Schröder by meeting with representatives of independent human rights organizations. The formal announcement of the law was published in the government's official gazette without fanfare the following week, suggesting that Putin had wanted to avoid drawing further international attention to the measure.<sup>159</sup>

## CONTINUED ENGAGEMENT

Considerable uncertainty surrounded implementation of the NGO law. Russian government officials repeatedly reassured Western leaders that there would be no major drive to shut down independent NGOs and that the law would be implemented with minimum impact on civil society activities. Initial developments indeed suggested that Russian authorities were not as serious about enforcement as some activists had feared. Western governments nevertheless continued exerting pressure behind the scenes. U.S. officials used the July 2006 G8 Summit in St. Petersburg to press for the re-registration of prominent ad-

vocacy groups and urged Russian authorities to allow independent poll watchers to observe local elections—with little success.<sup>160</sup>

At the same time, the United States and its European allies struggled to define their broader relations with Russia in light of Putin's increasing authoritarianism. Several U.S. legislators called on Bush to boycott the G8 Summit to protest the Kremlin's clampdown on dissent.<sup>161</sup> Within the administration, former U.S. vice president Dick Cheney was the leading voice pressing for a more confrontational approach. At a conference of regional democratic leaders in Lithuania, he asserted that the Russian government had "unfairly and improperly restricted" the rights of Russian citizens and warned that the government's counterproductive actions "could begin to affect relations with other countries."<sup>162</sup>

However, Bush sided with others in the administration who argued that it would be more effective to continue engaging the Russian leadership in private, particularly given the need for Russian cooperation on issues such as the Iranian nuclear crisis, energy security, and North Korea.<sup>163</sup> While Cheney's statements signaled a clear shift in tone in Washington, there was also a widespread sense within the Bush administration that rising oil prices had diminished U.S. leverage and that direct confrontation with Moscow would most likely backfire. White House officials pointed to Bush's behind-the-scenes pressure concerning the NGO law as evidence that an understated approach would be more effective at advancing U.S. interests.<sup>164</sup> However, in the two years that followed, escalating disagreements over missile defense in Europe, NATO enlargement, and Russia's war with Georgia led to an almost complete breakdown of communications between the two countries.<sup>165</sup>

On the European side, diverging strategic interests complicated a unified approach. Given Russia's role as a primary energy provider and trading partner, many member states remained reluctant to subordinate their energy and commercial interests to human rights concerns—despite the push for greater European assertiveness by new member states of the European Union (EU) such as Poland and Lithuania.<sup>166</sup> Germany—Russia's most significant European partner—had traditionally favored a nonconfrontational approach. The election of Merkel brought about a greater willingness to raise human rights issues with Russia's leadership; she notably confronted Putin over the clampdown on pro-democracy protesters at the EU-Russia summit in May 2007.<sup>167</sup> However, the German government's overarching policy did not change, and as Portugal assumed the EU presidency in the second half of the year, those advocating for closer cooperation with the Kremlin regained the upper hand.<sup>168</sup> In the absence of strategic agreement, formal policy consultations on human rights issues remained decoupled from high-level EU-Russia summits and therefore proved largely toothless.<sup>169</sup>

## A U.S. DUAL-TRACK APPROACH

In 2008, the elections of Obama in the United States and Medvedev in Russia brought a brief thaw in U.S.-Russia relations, which had reached a low point toward the end of Bush's second term. Both sides expressed their commitment to forging a new pragmatic partnership centered on shared interests in Afghanistan, Iran, and other places. The creation of the U.S.-Russia Bilateral Presidential Commission—which included a working group on civil society—heralded the beginning of enhanced bilateral cooperation. Those following the human rights situation within Russia hoped that the election of a more reform-minded Russian president would open up new opportunities for partnerships between Russian and Western civil society organizations.

During Obama's first term, the United States embarked on a dual-track approach toward Russia. Rather than making joint action on issues such as a new Strategic Arms Reduction Treaty conditional on human rights progress, the United States chose to collaborate with Russia on specific policy challenges while also reaching out to Russian civil society organizations.<sup>170</sup>

Obama considered U.S. finger-wagging to have been ineffective in the past and emphasized the need for greater pragmatism and increased peer-to-peer interaction among Russian and U.S. citizens and NGOs.<sup>171</sup> His July 2009 visit to Moscow epitomized the administration's new approach:<sup>172</sup> At his meetings with Putin and Medvedev, Obama emphasized his desire to “listen rather than lecture,” repeatedly signaling that he recognized Russia's resentment of American scolding. At the same time, he met with opposition figures and expressed his support of freedoms of expression and assembly at a civil society summit with Russian human rights organizations, which Medvedev chose not to attend.

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While collaboration on security and nuclear issues initially moved forward, progress on human rights issues stalled. Rather than fundamentally revising the Russian government's approach to civil society, Medvedev warded off domestic and international pressure by implementing a series of largely cosmetic reforms, often in advance of high-level U.S. visits. For example, he revived the Presidential Council for Civil Society and Human Rights, bringing in several opposition leaders and human rights activists, and tasked a newly announced working group on noncommercial organizations with developing amendments to the 2006 NGO law.<sup>173</sup> The amendments, approved shortly before Obama's first official visit to Russia, turned out to be relatively minor: they relaxed registration and reporting require-



ments for smaller organizations and reduced the frequency of government audits.<sup>174</sup> The Obama administration's dual-track approach thus attracted a fair amount of criticism, with some arguing that the United States had abandoned Russia's democracy activists for the sake of closer strategic cooperation with the Kremlin.<sup>175</sup>

## UNCERTAINTY IN THE FACE OF RUSSIAN ASSERTIVENESS

The U.S. approach was put to the test when the Russian government began cracking down on internal dissent following the 2011–2012 protest movement and Putin's return to the presidency. During his 2012 presidential campaign, Putin repeatedly accused the United States of funding Russian protesters—going as far as suggesting that then secretary of state Hillary Clinton had instigated unrest in the country.<sup>176</sup> The United States remained muted in its public response, but collaboration between the two countries lost momentum. When news of the foreign agents law broke to the international community, Western governments and multilateral institutions issued statements of concern. A group of UN independent experts urged the Russian government not to adopt the legislation.<sup>177</sup> Catherine Ashton, the EU's high representative for foreign affairs at the time, noted that she was “highly concerned” about the proposed bill and asserted that it could not be compared to “any legislation or practice existing in the EU or the U.S.”<sup>178</sup> A representative of the Parliamentary Assembly of the Council of Europe—of which Russia is a member—traveled to Moscow for meetings with the justice minister and prosecutor general to voice the council's concern about the restrictive measures.<sup>179</sup>

However, in contrast to 2006, Russian leaders showed little receptiveness to international criticism and publicly denounced any such pressure. Over the course of 2011 and 2012, a series of international developments—including the U.S.-supported overthrow of Colonel Muammar Gaddafi in Libya—had led Russian authorities to view the Obama administration's foreign policy with increasing suspicion and to question the value of continued cooperation.<sup>180</sup> In addition, the Kremlin was reacting against a protest movement that it viewed as at least partly driven by Western assistance and as a significant domestic threat. When the U.S. Department of State voiced “deep concern” about the NGO law, it was promptly rebuked by the Kremlin for “gross interference” in Russia's internal affairs.<sup>181</sup>

The expulsion of USAID in September 2012 highlighted the Obama administration's uncertainty about how best to counter the Kremlin's increasing assertiveness without triggering further escalation. Once again, the two main policy options seemed to be to either isolate Russia and, in all likelihood, trigger further antagonism or to continue frosty cooperation along shared interests. The Obama administration opted for the second approach, responding with a muted statement that was careful not to criticize Russia directly. Former state department spokesperson Victoria Nuland noted that the decision to receive U.S. assistance

was “a sovereign decision that any country makes” and emphasized areas of continued U.S.-Russia cooperation.<sup>182</sup>

At the time, Obama—in the midst of his reelection campaign—faced significant domestic pressure to prove the success of his administration’s Russia policy. The Kremlin’s increasing anti-American rhetoric had reinforced the U.S. Republican Party’s view that Obama’s pragmatic approach had been profoundly misguided and that tougher action was needed.<sup>183</sup> While Obama tried to downplay tensions with Moscow, U.S.-Russian relations continued to deteriorate—particularly after the U.S. Congress passed the Magnitsky Act, which imposed sanctions on several Russian officials implicated in human rights violations.<sup>184</sup>

## A DIVIDED EUROPEAN APPROACH

Despite concerns over the accelerating crackdown on dissent within Russia, the EU remained divided over its Russia policy. In contrast to the U.S.-Russian relationship, the European-Russian relationship has deep economic roots, and there is a significant group of private sector actors with high stakes in preserving close commercial ties.<sup>185</sup> As a result, key member states were concerned that using the EU’s economic leverage to exert pressure on Russia would trigger retaliatory measures.<sup>186</sup> At the first EU-Russia summit after Putin’s reelection, EU leaders were eager to highlight Russia’s importance as a trade partner and avoided discussions of the foreign agents law and other controversial issues.<sup>187</sup> Instead, visa-free travel negotiations and trade continued to dominate EU-Russian negotiations, even as political relations deteriorated.

The European Parliament repeatedly urged the European Council to follow the U.S. example and impose visa restrictions and asset freezes on a select list of Russian officials involved in human rights violations—but the proposal failed to garner sufficient political support among member states.<sup>188</sup> High representative Ashton refused to take up the issue, noting that the bloc had already voiced its concerns over human rights with Russian counterparts.<sup>189</sup> Bilateral initiatives such as the Russian-German Petersburg Dialogues, set up by Schröder and Putin in the early 2000s, proceeded with almost no discussion of human rights concerns—despite pressure from Merkel to change the nature of the forum.<sup>190</sup> The lack of European unity and assertiveness frustrated civil society activists in Russia and Europe, who argued that European leaders underestimated their leverage over the Russian government.

Despite European disunity over economic or political conditionality, several European governments faced increasing domestic pressure to stand up to the Russian government. For example, the German Parliament in November 2012 passed a resolution condemning Putin’s internal crackdown and demanding a tougher European stance.<sup>191</sup> German concerns grew in early 2013 as Russian authorities launched the first wave of NGO inspections,

which targeted several German political foundations and German-funded groups.<sup>192</sup> Former foreign minister Guido Westerwelle expressed his concern about the inspections to the Russian embassy in Berlin, noting that any further measures to hinder the activities of German foundations could “inflict lasting damage on bilateral relations.”<sup>193</sup> At a joint news conference in April 2013, Merkel publicly confronted Putin on the foreign agents law, calling the NGO raids “a disruption and an intrusion” and emphasizing that a “vibrant civil society can only exist when [. . .] individual organizations can work without fear or concern.” Her statement reflected Germany’s greater willingness to speak publicly against the Russian government. Yet it provoked little response by the Kremlin.<sup>194</sup>

## A NEW LOW POINT

At the same time that Russian authorities began vigorously implementing the foreign agents law in 2013 and 2014, relations between Russia and Western governments reached a new low point. Faced with a newly assertive Russian foreign policy, U.S. and European leaders rushed to respond to a series of geopolitical crises—from the Russian annexation of Crimea and intervention in eastern Ukraine to the ongoing conflict in Syria. As a result, the domestic crackdown within Russia often took a back seat at international summits and bilateral meetings.

European and U.S. public diplomacy nevertheless continued. Between 2012 and 2017, the European Parliament passed more than five resolutions condemning the Russian government’s restrictions on freedoms of assembly, association, and expression, in addition to broader resolutions on EU-Russian relations.<sup>195</sup> The U.S. Department of State continued to speak out against the expulsion of international and U.S. funders under the undesirable organizations law, and the EU spokesperson issued regular public statements whenever a prominent human rights organization was added to the foreign agents list. These measures may have offered limited protection to these organizations.<sup>196</sup>

In addition, international efforts have centered on helping embattled Russian civil society organizations survive in a hostile environment through innovative funding mechanisms, international exchanges, and support networks. The EU continues to support Russian civil society organizations through the European Instrument for Democracy and Human Rights (EIDHR) program and the Non-State Actors and Local Authorities in Development program. However, this type of assistance remains relatively limited and difficult for small organizations to access: in 2015, only four Russian NGOs received EIDHR funding.<sup>197</sup> Calls by the European Parliament to increase EU aid for Russian civil society groups have to date not been taken up by the European Commission. Other international funders have shifted to remote operations for any work related to Russia. For example, the United States (together with the Swedish and Czech governments) helped set up the Prague Civil Soci-

ety Center, which supports civil society development in Russia and other countries of the former Soviet Union by providing flexible and innovative funding and establishing networks among organizations and individual activists.<sup>198</sup> These efforts aim to ensure that Russian civil society groups remain connected to international forums and partners and build their capacity to respond to potential future political openings.



# INSTITUTIONALIZED REPRESSION IN EGYPT

## TACTICS

Following a brief opening after the 2011 uprising, Egypt's independent civil society organizations (CSOs) today face the most repressive environment in decades. Historically, autocratic governments in Egypt have selectively used civil society restrictions to ensure civic mobilization did not cross the ruling regime's red lines. In contrast, Egypt's new military government is using a multitude of tactics to undertake a much more comprehensive campaign to shrink civic space.

This renewed crackdown has the following features:

1. The criminalization of public dissent in the name of national security and counterterrorism.
2. The use of legal reforms and decrees to institutionalize previously extrajudicial repressive practices, close existing loopholes, and tighten security sector control over civil society.
3. Targeted harassment and defamation of Egypt's leading human rights activists and organizations.

## LEGAL GRAY ZONES AND SELECTIVE REPRESSION

### *A Restrictive Legal Framework*

Under former president Hosni Mubarak, Egyptian civil society organizations operated in an environment of limited freedom and selective repression. The government had inherited a comprehensive system of state control over civil society established during the 1960s to limit the political and social influence of the Muslim Brotherhood, codified in the law of association (Law 32 of 1964).<sup>199</sup> Mubarak nevertheless tolerated the rapid proliferation of Egyptian civil society organizations during the 1990s, while at the same time closely monitoring and regulating their activities. In a strategy common to autocratic regimes in the region, the government relied on a mix of divide-and-rule tactics, selective enforcement of civil society laws, and unofficial security sector oversight to maintain state control over the sector.<sup>200</sup>

Following increasing domestic pressure in the early 2000s, the government enacted a new NGO law (Law 84 of 2002), which eased some of the worst restrictions but retained significant barriers to freedom of association. For example, the law required that all NGOs register with the Ministry of Insurance and Social Affairs, banned any civil society activities that threaten national unity or violate public order or morality, and prohibited groups from receiving foreign funding without advance approval.<sup>201</sup> It also gave government agencies high discretionary authority to deny funding applications for unwanted projects and dissolve those organizations that crossed the regime's red lines. The State Security Investigations Sector of the Ministry of Interior regularly vetted NGO applications and operations, though it lacked the formal authority to do so.<sup>202</sup> In addition, Mubarak's emergency powers, renewed every year following the assassination of former president Anwar Sadat in 1981, gave security forces sweeping powers to arrest, detain, and sentence anyone suspected of being a threat to public order—a powerful tool that was used to spread fear and silence prominent critics.<sup>203</sup>

### *Limited Expansion and Targeted Harassment*

Despite this harsh legal framework, a relatively vibrant circle of NGOs emerged in the 1990s and early 2000s: between 1993 and 2011, the Egyptian NGO sector more than doubled in size.<sup>204</sup> This expansion coincided with a period of economic privatization and welfare state retrenchment during which the government increasingly came to rely on civil society actors to fill the gaps left by the state.<sup>205</sup> By 2011, there were approximately 30,000 officially registered civil society organizations active in Egypt—most of which focused on charitable work and service provision in areas such as health, education, and welfare.<sup>206</sup>

While the Mubarak regime tolerated social development groups, business associations, and state-dominated syndicates and unions, it regularly harassed civil society groups working on politically sensitive issues.<sup>207</sup> Most human rights and pro-democracy organiza-

tions failed to successfully register with the government. Some operated while awaiting their formal registration approval—a process that often dragged out for months or years. Hundreds of others circumvented existing rules by registering as civil companies, law firms, or local branches of international NGOs, which allowed them to access foreign funding without ministerial approval.<sup>208</sup>

While the government at times seemed to turn a blind eye to these practices, the situation of many groups remained precarious. Even those that were formally registered experienced regular interference in their internal affairs and could easily be dissolved based on shaky evidence of administrative wrongdoing. The relative expansion of associational freedom throughout the 1990s and early 2000s also sharpened divisions within civil society, particularly between secularists and Islamists.<sup>209</sup> Egypt's legal framework made partnerships and informal coordination between civil society groups extremely difficult, leading to inefficiencies, duplication, and competition even among like-minded actors.<sup>210</sup>

## A SHORT-LIVED OPENING

### *A New Civic Awakening*

Following the massive popular mobilization that led to Mubarak's resignation in early 2011, many Egyptians expressed hope that Egypt's beleaguered civil society would finally have the space to flourish without fear of repression. The lifting of the emergency law opened new opportunities for local and foreign NGOs to focus on political issues, such as voter registration drives and parliamentary training programs.<sup>211</sup> International donors ramped up their funding for democracy and human rights programming. Civil society organizations played a crucial role in the subsequent transitional phase, chronicling the revolution's progress, highlighting abuses of power, providing legal assistance, and filling the gaps created by the rapid reorganization of state structures.<sup>212</sup> As Egyptian politics and society entered a state of flux, the red lines that existed under Mubarak appeared to have been erased.<sup>213</sup>

The Supreme Council of the Armed Forces (SCAF), which assumed power after the fall of Mubarak, feared the increasing popularity of Egyptian democracy and human rights groups. Suddenly on the front line of politics, the military faced an unprecedented degree of public scrutiny. Activists began denouncing the long-standing use of military tribunals to try civilians and calling for greater civilian oversight of the military.<sup>214</sup> Organizations that had previously been isolated from one another joined forces to share resources and suddenly presented a united front that called on the ruling council to step down and stand trial for abuses of authority.<sup>215</sup> Human rights organizations attracted new funding and staff. For example, the Egyptian Initiative for Personal Rights grew from two dozen employees to more than seventy-five.<sup>216</sup>



Tensions increased throughout the spring of 2011 as the new ruling authorities repeatedly ignored the demands and recommendations of civil society actors. The SCAF's first government, under then prime minister Essam Sharaf, made some concessions to civil society, such as easing NGO registration requirements.<sup>217</sup> However, the Mubarak regime's key tools of repression remained firmly in place, including the 2002 NGO law.<sup>218</sup> Many organizations continued experiencing delays in project and funding approvals. The state security apparatus, which had officially been disbanded with the revolution, continued to operate under the radar, exerting quiet pressure on civil society activists to let them know they were still being monitored.<sup>219</sup>

### *The 2011 NGO Crisis*

At the same time, the SCAF began striking back against civil society with a smear campaign that depicted activists as foreign agents set on fostering instability and upheaval.<sup>220</sup> In doing so, the transitional authorities took advantage of the heightened nationalism and fear of instability that characterized the months following the January uprising. The United States' announcement in early 2011 that it would allocate \$65 million directly to Egyptian

pro-democracy groups only provided fodder for these claims.<sup>221</sup> Egyptian officials argued that bypassing the government and giving money directly to civil society (including unregistered organizations) was an affront to national sovereignty. In July 2011, the former minister of international cooperation, Faiza Abou el-Naga, announced the establishment of a commission of inquiry tasked with investigating foreign funding of civil society groups.<sup>222</sup> Throughout the subsequent

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**The transitional authorities took advantage of the heightened nationalism and fear of instability that characterized the months following the January uprising.**

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months, findings of the investigation were leaked to pro-government newspapers, which reported that some organizations might be prosecuted for operating illegally. In November 2011, a Cairo criminal court ordered banks to divulge all transactions on the private accounts of sixty-three human rights defenders and organizations.<sup>223</sup>

In December 2011, the SCAF-approved campaign against civil society reached its climax when security forces raided the offices of seventeen American, German, and Egyptian organizations, including the National Democratic Institute, Freedom House, and the Konrad-Adenauer-Stiftung.<sup>224</sup> The international groups were shut down, and forty-three of their employees were charged with operating and receiving foreign funds without the required license, triggering a diplomatic crisis between the Egyptian authorities and Egypt's international partners.<sup>225</sup> While foreign funding of Egyptian organizations had long been a highly sensitive issue in Egyptian politics, the raid represented an unprecedented move to shut down organizations that were seen as domestically threatening.

For several months, the NGO trial overshadowed the broader debate over the legal framework that would govern civil society in post-Mubarak Egypt. In early 2012, the military-appointed cabinet presented a new draft law to the Parliament that would have imposed even more draconian restrictions than the Mubarak-era law, triggering widespread protest by civil society activists.<sup>226</sup> The Muslim Brotherhood-controlled legislature responded with a much more lenient bill, which was largely in line with international human rights standards. However, the balance of power at the time was not in the Brotherhood's favor, and the proposal was tabled after the SCAF dissolved the lower house just before the election of former president Mohamed Morsi in June 2013.

## STALLED PROGRESS AND INFIGHTING

### *The Struggle Over a New Legal Regime*

Morsi and his team, in power from mid-2012 to mid-2013, did little to reverse overarching repressive trends. Before coming to power, the Muslim Brotherhood's Freedom and Justice Party had publicly condemned "all forms of politically motivated crackdowns against NGOs" and called for the "immediate lifting of restrictions on the establishment and registration" of civil society organizations.<sup>227</sup> Many civil society leaders hoped that the Muslim Brotherhood's own precarious status and long-running persecution would push it toward a more liberal stance.

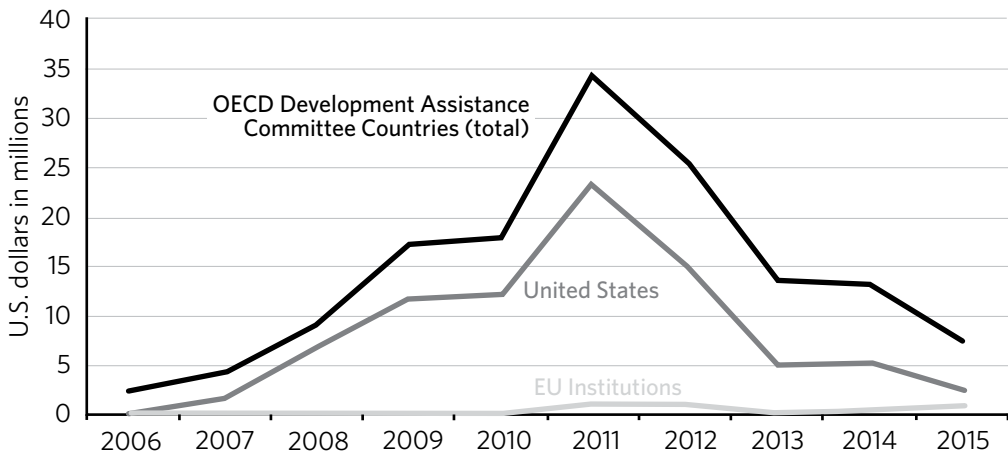
However, following Morsi's ascent to the presidency, the Freedom and Justice Party scrapped its push for a more progressive legal regime. Instead, prominent Brotherhood leaders echoed the military's narrative that foreign groups were seeking to undermine Egypt's stability.<sup>228</sup> The Freedom and Justice Party also put forward a new draft NGO law that maintained significant restrictions on foreign funding and civil society activities more broadly.<sup>229</sup> In particular, it proposed the formation of a coordination committee made up of the representatives of different ministries and agencies—including the security services—that would decide on all matters related to foreign funding and foreign-funded organizations. Following extensive pushback, the Morsi administration agreed to eliminate several particularly controversial provisions—such as the rule that would have treated all NGO assets as "public funds" subject to high penalties in case of misuse.<sup>230</sup> Yet the new draft sent to the Shura Council in May 2013 nevertheless provided for strict government control over the sector.<sup>231</sup>

### *The NGO Trial's Chilling Effect on Civil Society*

At the same time, the NGO trial set in motion by the SCAF in early 2012 continued unabated. In June 2013, all of the defendants, including seventeen U.S. citizens, were sentenced to up to five years in prison, mostly in absentia.<sup>232</sup> The court also ordered the closure of several

implicated international NGOs. The trial had a chilling effect: Egyptian organizations began turning down foreign funding out of fear of governmental reprisals, and organizations that had embraced political work in the aftermath of the revolution returned to less controversial activities. Furthermore, many foreign donors who had invested in Egypt after the revolution froze their politically related activities or chose to withdraw from Egypt entirely, and they became more cautious about disclosing their activities in the country (See Figure 5).<sup>233</sup>

**Figure 5. Trends in Official Development Assistance (ODA), International and Local Civil NGOs Working on Democratic Civic Participation in Egypt, 2006–2015<sup>a</sup>**



Source: Data from the Organization for Economic Co-operation and Development (OECD), Creditor Reporting System, <https://stats.oecd.org/Index.aspx?DataSetCode=CRS1>.

a. Includes all ODA that flows to the sector “Democratic Participation and Civil Society,” channeled through NGOs and civil society (gross disbursements).

Throughout this period, nongovernmental groups struggled to register with the Ministry of Social Solidarity (previously the Ministry of Insurance and Social Affairs), and groups waited for months to get the green light even for relatively uncontroversial health and education projects.<sup>234</sup> Large parts of Egyptian civil society grew increasingly frustrated with Morsi’s intransigent leadership style and the lack of meaningful avenues for political participation. New civic actors emerged that openly turned against the government—supported by the security apparatus behind the scenes. A wide range of NGOs, business leaders, and political forces encouraged Egyptians to join forces against Morsi and even supported the military’s takeover in early July 2013.<sup>235</sup> Many secular leaders hoped that a new compromise with the military would finally bring about the governance infrastructure needed to enable greater pluralism and organized civic participation.<sup>236</sup>

## RESURGENT AUTHORITARIANISM

After two years of relative flux and uncertainty, the military's intervention represented a clear return of the *ancien régime* to the fore of Egyptian politics. The new authorities moved quickly to reassert state control over civil society. Since then, the crackdown on Egyptian civil society has taken on a different character, in both breadth and intensity.

### *The Post-Coup Criminalization of Public Dissent*

The military's initial crackdown targeted the Muslim Brotherhood and Morsi's key political constituencies, which represented the most immediate political threat. In the year following Morsi's ouster, more than 40,000 people were arrested on political grounds.<sup>237</sup> After a summer marked by direct violence against pro-Morsi protesters, the Cairo Court for Urgent Matters in September 2013 banned all activities by the Muslim Brotherhood and ordered the freezing of its assets.<sup>238</sup> Four months later, the military-backed government officially designated the Islamist movement as a terrorist organization.<sup>239</sup> This decree has since been used to shut down hundreds of charities and nongovernmental organizations, often with little evidence of actual ties to the Muslim Brotherhood.<sup>240</sup>

However, it quickly became clear that the government's campaign of repression extended beyond the Muslim Brotherhood, also targeting an ever-widening range of journalists, activists, and protesters under the pretext that they threaten public order or national security. In November 2013, interim president Adly Mansour issued a new law "organizing the right to public meetings, processions and peaceful demonstrations" (often referred to as the protest law), which granted security services the power to cancel or postpone any demonstration based on "serious information or evidence" regarding security threats.<sup>241</sup> The law's vague language facilitated a *de facto* ban on street protests—a highly effective political tool widely used since the January 2011 uprising. It also gave security services free rein to use violence against protesters and arbitrarily prohibit demonstrations in front of public institutions and facilities. Since its enactment, the law has played a key role in the clampdown on student protests and the detention and prosecution of thousands of Egyptians, including several high-profile activists.<sup>242</sup> An October 2014 presidential decree further placed large parts of Egypt's civilian infrastructure under army jurisdiction, which means that anyone demonstrating outside of a civilian government building without permission can be tried in military court.<sup>243</sup>

### *New Efforts to Regulate Civil Society*

Since Sisi's election in 2014, Egyptian authorities have also initiated new efforts to regulate and weaken organized civil society. First, the state media's campaign against civil society continued in full force, with pro-Sisi outlets claiming that various NGOs were allied with

terrorists or working on behalf of foreign powers to divide the country along sectarian lines.<sup>244</sup> Pro-government television channels regularly accused NGOs of acting as spies or secretly supporting the Muslim Brotherhood and depicted both domestic and international advocacy groups as national security threats.<sup>245</sup>

Rather than waiting for a new NGO law to pass, shortly after Sisi's election, the government ordered all nongovernmental groups to reregister under the existing NGO law within forty-five days or risk being shut down and prosecuted.<sup>246</sup> This ultimatum specifically targeted those organizations that had operated under the Mubarak regime by avoiding formal registration or registering as law firms, limited liability companies, or medical clinics. While government officials argued that the deadline would help ensure greater transparency in NGO financing and operations, activists feared further mass closures and prosecutions such as the ones initiated in late 2011.<sup>247</sup> Rights groups were united in protesting the decree, arguing that registration would force them to give up their independence and allow the ministry to freeze their programs at any time.<sup>248</sup> Faced with local and international pushback, Egyptian authorities initially agreed to extend the deadline and ultimately did not enforce the ultimatum.<sup>249</sup> As a result, many groups have remained in legal limbo, vulnerable to future enforcement efforts.

At the same time, Sisi moved to institutionalize further foreign funding restrictions. In September 2014, he issued an amendment to Article 78 of the penal code that banned the receipt of foreign funding for any activity deemed harmful to “national interests” or “compromising national unity” and imposed life sentences for noncompliance.<sup>250</sup> While the law was nominally aimed at Islamist terrorists, human rights defenders noted that its vague definition of national interests could easily be used to target any foreign-funded civil society organization, thereby essentially voiding their right to receive foreign funding. The decree was particularly worrisome for human rights defenders who had made it their primary task to defend those wrongfully accused of violent extremism and to document state abuses committed in the name of counterterrorism—activities that under the amendment could easily be prosecuted as acts of terrorism themselves. In this climate of legal uncertainty, and suddenly facing the prospect of severe criminal penalties, many human rights advocates left the country in fear of harassment and prosecution.<sup>251</sup>

### *Legal and Extralegal Harassment of Human Rights Activists*

Over the past two years, Egyptian authorities have proceeded to gradually undermine prominent human rights organizations using legal and administrative tools as well as extralegal harassment. Since 2013, a clear repertoire of repression has taken shape, consisting of the stifling of NGO operations through bureaucratic hurdles and delays, funding restrictions, raids and interrogations, asset freezes, travel bans, digital attacks, and—in the most

extreme cases—office closures and criminal charges. The government’s pattern has been one of gradual and unpredictable escalation, which has created an atmosphere of heightened fear and uncertainty among activists.

Most notably, the Sisi administration has revived Case 173, which targets forty-one of Egypt’s most well-known human rights organizations.<sup>252</sup> The case has its origins in the 2011 NGO raids and subsequent trial. At the time, only foreign NGO workers and Egyptian employees of international organizations were charged and convicted, whereas the case against the Egyptian organizations was put on hold. Since 2015, Egyptian authorities have initiated a new wave of raids, interrogations, asset freezes, and travel bans in relation to the case. In September 2016, a criminal court issued an order to freeze the personal assets of five prominent human rights advocates and three NGOs: the Cairo Institute for Human Rights Studies, the Hisham Mubarak Law Center, and the Egyptian Center for the Right to Education.<sup>253</sup> Four months later, women’s rights advocate Azza Soliman became the first to be arrested in connection to the case—a few weeks after authorities had frozen her personal and organizational assets and prevented her from traveling abroad.<sup>254</sup> In another escalatory move, Egyptian police in February 2017 shut down the El Nadeem Center for Rehabilitation of Victims of Violence.<sup>255</sup> Egyptian authorities seem to view Case 173 as an effective tool to gradually increase the pressure on prominent activists and disrupt their work. An Egyptian judicial committee has imposed a gag order that prevents all local media outlets from reporting on the case.<sup>256</sup>

Instituting travel bans has emerged as a prominent tactic to stifle the work of human rights defenders. Between June 2014 and November 2016, Egyptian security services imposed at least eighty-four travel bans against lawyers, academics, and activists.<sup>257</sup> Whereas in the past travel bans could only be applied pursuant to a court order, they now seem to serve as arbitrary sanctions, often imposed without officially declared reasons.<sup>258</sup> In at least three cases, NGO workers who challenged their travel bans had their cases rejected in court.<sup>259</sup> In addition, foreign researchers, human rights investigators, and staff of international organizations have been prevented from entering the country.<sup>260</sup>

Egyptian officials have also scaled up threats, interrogations, and detentions of human rights activists and other NGO workers, often on spurious charges. In one particularly stark example, security officials raided the house of the mother and brother of human rights lawyer Mohamed Ramadan and held them as hostages to force Ramadan to turn himself in.<sup>261</sup> Many others have been arrested and convicted under the protest law. For example, Yara Sallam, an officer at the Egyptian Initiative for Personal Rights, and Sanaa Seif, a student activist and member of No to Military Trials for Civilians, were sentenced to three years in prison for participating in an unauthorized demonstration.<sup>262</sup> More recently, Egyptian prosecutors summoned several organizations to question them about their financial activi-

ties, following a joint report compiled by various government agencies that accused more than twenty human rights groups of tax evasion and money laundering.<sup>263</sup> Researchers at the University of Toronto and the Egyptian Initiative for Personal Rights have also uncovered a large-scale phishing operation targeting the digital communications of seven prominent human rights NGOs—all of which are also involved in Case 173.<sup>264</sup> The timing and sophistication of the attacks suggest government involvement—in line with the Sisi administration’s effort to boost its surveillance capacities.

### *Increase in Enforced Disappearances*

Since the appointment of Magdy Abdel Ghaffar as minister of the interior in early 2015, another pattern of repression has gained prominence: the enforced disappearance and extrajudicial detention of suspected dissidents, students, and activists. Instead of being charged in the formal legal system, Egyptians are increasingly disappearing into secretive detention facilities, where they are often held incommunicado for weeks or months without legal protection.<sup>265</sup> Prosecutors often rely on so-called confessions obtained during such disappearances to convict defendants under the penal code or the counterterrorism law.<sup>266</sup> According to data collected by the group Freedom for the Brave, more than 160 people were kid-

napped between early April and June 2015 alone.<sup>267</sup>

The Egyptian Commission for Rights and Freedoms documented 187 cases of enforced disappearances between August and November 2016, whereas the El Nadeem Center for Rehabilitation of Victims of Violence counted 110 cases in February 2017.<sup>268</sup>

While the government points to the threat of terrorism, the primary aim of these disappearances seems to be to intimidate anyone likely to speak out against government policies.<sup>269</sup> Targets have included sus-

pected Muslim Brotherhood members, but also the April 6 Youth Movement and other liberal activists, journalists, lawyers, and citizens that simply got caught in the security services’ web. Egyptian authorities to date have not targeted prominent human rights defenders. However, those who document enforced disappearances, torture, and other security force abuses seem to be particularly at risk. For example, human rights lawyer and researcher Mohamed Sadek went missing for three months before reappearing before state security prosecutors in late November 2016.<sup>270</sup> Sadek had himself been involved in investigating cases of enforced disappearance. Similarly, two researchers of the Egyptian Commission for Rights and Freedoms—which had launched a “stop enforced disappearances” campaign—have been detained and charged for terrorism offenses.<sup>271</sup> The three-month state of emergency—instituted following an ISIS

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bombing of two Coptic Christian churches in April 2017—will likely provide further legal cover for these practices.<sup>272</sup>

### *Institutionalizing Repression*

The Sisi government has taken several steps to further institutionalize previously extrajudicial practices. First, it has effectively exploited terrorist threats and rising violence by non-state actors to legalize its prosecution of political opponents and critics. In February 2015, Sisi issued a law for “organizing lists of terrorist entities and terrorists” that conflates any “breaches of the public order” as defined by the state with terrorist activities.<sup>273</sup> Once again, the use of vague legal concepts opens the door for civil society organizations, activists, and political parties to be included on the list of terrorists and terrorist entities. This law was ratified during the first parliamentary session in early 2016 without revisions or discussion, along with the new protest law and the amendments to the penal code, thus showcasing the Parliament’s subservience to the executive. In addition, Sisi in August 2015 approved a second antiterrorism law, which imposes fines for spreading “false” reports on terrorist attacks or anti-terror operations and protects law enforcement from accountability for abuses.<sup>274</sup> In a clear example of the judiciary’s broad application of these laws, an Egyptian criminal court in January 2017 designated 1,538 citizens as terrorists for allegedly assisting the Muslim Brotherhood.<sup>275</sup> The designation entails a travel ban, asset freeze, passport cancellation, and the loss of political rights. The law makes no provision for the affected individuals to contest the evidence presented against them.

Second, the Egyptian House of Representatives in November 2016 also approved a new NGO law to replace Law 84 of 2002 with virtually no parliamentary debate.<sup>276</sup> The new law represents the toughest iteration of any draft NGO law to date. It limits civil society organizations’ work to “development and social objectives,” which are not defined any further in the legislation; prohibits “harmful” activities (also not defined); and introduces hefty fines and jail terms of up to five years for noncompliance. It also formalizes security agencies’ oversight over civil society funding and activities and bans NGOs from “interfering” with professional syndicates and labor unions, thereby disrupting the links between nongovernmental groups and the wider net of interest-based advocacy associations. Activists have warned that if implemented, the law will effectively eliminate independent civil society. However, as of April 2017, the new legislation is yet to be ratified by the president, and its future remains uncertain.<sup>277</sup>

In another shift away from overt repression toward more sophisticated tactics, Egyptian authorities in late 2016 began stripping the protest law of some of its harshest provisions—without changing its fundamentally repressive logic. In December 2016, the Supreme



Constitutional Court struck down Article 10 of the law, which had required protesters to obtain ministerial approval before holding a rally, while upholding the notification requirement and other highly restrictive provisions.<sup>278</sup> The House of Representatives approved an amended version of the bill, which now requires security services to obtain judicial authorization before banning or postponing a protest.<sup>279</sup> However, these amendments in all likelihood will not facilitate greater civic mobilization. Instead, they allow the regime to maintain the appearance of reform—while tightening state control over the public sphere in other ways.<sup>280</sup> The Sisi regime has already taken several steps to extend its authority over the judiciary, including forcibly retiring dissenting judges and proposing legislative amendments that would curtail judicial independence.<sup>281</sup> Egypt's judiciary in the past served as an important ally for Egyptian civil society activists and often acted as bulwark against state repression.<sup>282</sup> However, since Sisi's ascent to power in 2013, many Egyptian judges have repeatedly prioritized public order and security over human rights concerns.<sup>283</sup> In addition, the antiterrorism law and state of emergency provisions could easily be used to criminalize and crack down on protest in moments of crisis. The government has also quietly bolstered its efforts to intercept encrypted Internet communications and acquire technology that would enable greater citizen surveillance.<sup>284</sup>

## DRIVERS

The crackdown on Egyptian civil society can broadly be divided into two phases: (1) the 2011–2013 transition years that encompassed both SCAF rule and the Muslim Brotherhood's brief stint in power and (2) the post-2013 return of military rule. The key driver of civil society repression throughout this period has been the attempt by various ruling authorities to reconsolidate power following the January 2011 uprising and insulate themselves from future antiregime mobilization. However, the incentives and motives of the chief actors and institutions have evolved over time.

## PERSISTENCE OF THE OLD ORDER

While the January 2011 uprising unsettled power relationships in the country, it failed to displace the central actors and institutions of the Mubarak regime that had little interest in liberalizing the public sphere. The revolution had been the product of disparate sociopolitical forces: both Islamists and non-Islamists had mobilized against corruption and repression, but the military establishment (led by the SCAF) had aimed to replace some of Mubarak's policies while maintaining key elements of the status quo.<sup>285</sup> In particular, the SCAF sought to ensure the military's continued autonomy from and dominance over civilian politics. In the months following the transition, Egypt's increasingly vocal civil society—which, for the first time, directly challenged Egypt's coercive apparatus—represented a clear threat to the

power of Egypt's security services. As a result, the SCAF had little interest in acquiescing to greater civil society autonomy.<sup>286</sup>

Institutional continuity also partly explains the lack of progress for civil society during Morsi's brief tenure. Egypt's military and intelligence services—which relied on intimidation and repression as standard operating procedures over the past six decades—retained significant power behind the scenes.<sup>287</sup> Many parts of the state bureaucracy remained virtually unchanged and continued to shape state policy vis-à-vis civil society, despite significant power struggles within specific institutions such as the judiciary.<sup>288</sup> Institutional incentives played an important role: for those in the Ministry of Social Solidarity, monitoring and control of civil society represented their entire *raison d'être*. In addition, Morsi himself had little interest in pushing for greater civil society liberalization once in power. Not only did he need to carefully calibrate his relationship with the military, but he also knew that significant parts of civil society were opposed to the Muslim Brotherhood's agenda. Morsi's ouster brought Egypt's military establishment back to the fore of Egyptian politics, which moved quickly to consolidate its hold on power and prevent further antiregime mobilization and fragmentation of authority.

## RESHAPING OF EGYPT'S ASSISTANCE RELATIONSHIPS

The transition period also left in place a number of Egyptian policymakers who had long wanted to reshape Egypt's relationship with international donors. Faiza Abou el-Naga, the former minister of planning and international cooperation, had been a strong advocate for giving Egyptian authorities greater control over aid allocation under Mubarak and often denounced what she perceived as foreign meddling in the country's internal affairs.<sup>289</sup> For Naga and other senior figures, the sudden influx of civil society assistance following Mubarak's departure underscored the urgency of the issue—particularly since most of this funding was intended for what they considered illegal democracy promotion activities.<sup>290</sup> Naga and her allies seized on the opportunity to launch an investigation into the external funding of nonregistered organizations that eventually led to the 2011 NGO raids and trial.<sup>291</sup> The focus on foreign interference played well with the interim government and with the SCAF, which could bolster its internal legitimacy by arousing nationalist sentiments and blaming external foes for the difficulties of the transition period. It also resonated with the Egyptian public, as suspicions of foreign interference and concerns about Egypt's dependence on the West are deeply engrained in Egyptian society.<sup>292</sup> Subsequent administrations have replayed the same narrative, arguing that foreign funding for politically related civil society activities represents an affront to national sovereignty—in direct contrast to military and development aid channeled through state institutions.

## FEAR OF RENEWED PUBLIC UPHEAVAL

Several factors explain the escalating repression since the military's return to power in 2013. First, the nature of the ruling elite has changed, with the military and security agencies gaining dominance over the business elites that had played a key role under Mubarak.<sup>293</sup> During the Mubarak era, the Egyptian government tried to maintain a facade of liberalism through the National Democratic Party and strategically limited the use of state violence to preserve the regime's international and domestic alliances. In contrast, the Sisi regime relies on the need to restore order and security rather than the promise of gradual liberalization to justify its rule.<sup>294</sup> Second, repression under Sisi has become more decentralized among competing

security agencies, which has made it more difficult to control. Different security agencies are vying to maintain their institutional autonomy as the military is consolidating its power.<sup>295</sup>

Most importantly, the Egyptian military has learned its lessons from the January 2011 uprising and the chaotic period that followed. Having seen Mubarak's model of partial liberalization backfire, its response

has been to close off or restrict all possible avenues for opposition consolidation and citizen mobilization.<sup>296</sup> Escalating repression ahead of key dates—such as the fifth anniversary of the January 25 protests—indicates that the Sisi government remains deeply paranoid about the potential for popular mobilization, partly because it believes many of its own conspiracy theories.<sup>297</sup> The regime's profound sense of insecurity is reinforced by Egypt's continued economic and security woes, which have weakened Sisi's popularity and highlight the regime's lack of political vision.<sup>298</sup> In this context, both extrajudicial violence and the increasing institutionalization of repression can be seen as preemptive measures to protect the regime from future vulnerabilities.

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## IMPACT

After a brief period of rapid expansion following the January 2011 uprising, Egyptian civil society has once again been weakened by state repression—although many groups continue to fight back. Human rights groups have had to adjust to persistent attacks by downsizing or relocating their activities and shifting to more informal ways of operating. The government's persistent persecution of all Muslim Brotherhood-affiliated entities has crippled local charities, while development and humanitarian groups have struggled to access resources for their work. The sense of cohesion that characterized Egyptian civil society after the 2011 revolution has dissipated, with the exception of a close-knit circle of human rights organizations that continue to collaborate closely.<sup>299</sup>

## CONSEQUENCES OF THE CRACKDOWN

### *A Suffocated Human Rights Community*

Before the January 2011 uprising, approximately sixty Egyptian organizations were actively involved in defending human rights and political freedoms.<sup>300</sup> These groups exerted significant pressure on ruling elites by issuing reports on governmental abuses, providing public commentary, and pursuing strategic litigation in the courts. Since then, funding cuts, defamation campaigns, and government interferences have significantly reduced their scope for action.<sup>301</sup> Similarly as in Russia, repeated raids, investigations, and interrogations have drained activists' time and resources and disrupted their activities and strategic planning, particularly since the reopening of Case 173.<sup>302</sup> Organizations like the Egyptian Initiative for Personal Rights, which had hoped to expand their presence across the country, have instead been forced to scale back their plans, downsize from eighty to forty staff members, and focus on key priority areas.<sup>303</sup> Many human rights defenders have invested most of their resources into defending and advocating for those detained and convicted under Egypt's new repressive legal regime.<sup>304</sup>

The pool of available resources has drastically shrunk, pushing human rights groups to raise funds at the local level. Most groups have either struggled to secure government approval for foreign funding or decided internally to no longer accept such funds due to the associated risks.<sup>305</sup> Over the course of the past year, asset freezes have also prevented prominent human rights groups from paying their rent, compensating staff, and resuming their regular activities.<sup>306</sup> This was the case for the Center for Egyptian Women's Legal Assistance, which works with grassroots communities to understand the issues facing Egyptian women and advocates for gender equality at the national level. With its funding currently blocked, the organization has struggled to pay its twenty-two employees.<sup>307</sup> While organizations continue to survive with the help of international and local allies, these funding restrictions have put an abrupt end to the rapid expansion of human rights work that occurred in 2011.

Another key consequence has been the human rights community's increasing disconnect from international forums. Many rights defenders can no longer freely travel abroad to attend meetings. For example, in November 2016, three renowned women's rights activists—Aida Seif el-Dawla, a cofounder of El Nadeem; Azza Soliman, the head of the Center for Egyptian Women's Legal Assistance; and Ahmed Ragheb, the director of the National Community for Human Rights and Law—were banned from traveling while on their way to attend international conferences.<sup>308</sup> As a result of these travel bans, cross-regional coalitions that emerged in the wake of the Arab Spring have faltered, and partnerships with international organizations have become rarer. Egyptian activists note that Egypt's internal challenges have made it difficult to monitor rights abuses and take part in political debates in neighboring countries.<sup>309</sup>

Fear of harassment and prosecution has led several organizations to reorient their activities. For example, just days before Egypt's Universal Periodic Review at the United Nations in November 2014, seven outspoken rights groups chose to withdraw from the review's proceedings out of fear of reprisals and persecution.<sup>310</sup> One Egyptian source said that the Ministry of Foreign Affairs offered some NGOs "better treatment" if they did not attend the review session.<sup>311</sup> In another example, the Cairo Institute for Human Rights Studies canceled its annual training program on human rights, which it had held for students and graduates for the past twenty-two years.<sup>312</sup> Explaining the decision in a published statement, the institute wrote, "It has become impossible to find a safe space for youth for learning and creativity. Prisons have become the fate of all those who care about public matters." Smear campaigns against NGOs in pro-government media outlets have made public outreach more difficult and dangerous: activists report threats of violence from ordinary Egyptian citizens during public activities.<sup>313</sup> Yet despite these obstacles, most human rights groups have vowed to continue their activities, even if it means shifting to increasingly informal networks and clandestine tactics.<sup>314</sup>

### *Repression of Faith-Based Charities*

In addition to human rights organizations, faith-based groups have also faced harsh repression by the Egyptian state. Well aware that the Muslim Brotherhood built its network of supporters by providing social services at the local level, the Sisi regime is intent on closing this avenue for mobilization and preventing organizations from using "poverty for political gain."<sup>315</sup> The Ministry of Social Solidarity has shut down more than 1,500 religiously affiliated organizations. Most of them have been accused of alleged ties to the Muslim Brotherhood. In May 2016, in the Governorate of Beheira, the ministry closed seventy-five NGOs and 121 child-care centers and nurseries, which it claimed had been affiliated with the Brotherhood.<sup>316</sup> The closures prompted officials to declare the governorate to be "free of any associations which receive foreign funding." In some cases, the Ministry of Social Solidarity has ordered the offices and finances of the targeted organizations to be expropriated and channeled into a ministerial fund aimed at supporting "legally recognized" civil society groups.<sup>317</sup>

The main consequence of this trend has been a growing gap in service provision, as many of the groups in question provided essential support to poor and marginalized communities.<sup>318</sup> For example, one prominent target has been the El Gameya El Shareya, an Islamic-based charity offering medical support to the poor. At its peak, the association operated thirty medical centers and maintained more than 1,000 branches in the most economically deprived parts of Egypt.<sup>319</sup> It played a particularly crucial role in rural villages that are largely beyond the reach of state services. Yet shortly after the military's return to power, Egyptian authorities accused the group of spreading radical Islam, and an Egyptian bank froze its bank account. Although it successfully fought the funding freeze in court, the terrorism

accusations have tarnished the association's domestic and international reputation. It now operates at a third of its original capacity.<sup>320</sup> Other development-focused religious charities, such as Resala and Sonaa Hayat, have faced similar charges and are now struggling to stay afloat.<sup>321</sup> They have had to increase their reliance on volunteers and cut back their hours, leaving local residents without the support they had come to rely on. There is little indication that the government is stepping in to fill the gap: Egypt's 2017 budget failed to meet constitutionally required minimum spending thresholds on health and education, and existing social programs cover only a small fraction of those in need.<sup>322</sup>

### *Fewer Resources for Development and Humanitarian Work*

Even nonreligious and apolitical development and humanitarian organizations struggle in the current context, particularly as a result of the funding shortage for civil society work. Given the uncertainty of Egypt's current legal framework, many international donors have cut back their support for Egyptian organizations out of concern that they will be accused of offering illegal support to NGOs.<sup>323</sup> Registered development organizations that submit requests for funding approvals to the Ministry of Social Solidarity have in many cases never heard back or have had their funding turned down, even when the projects in question appear to be in line with the state's development objectives.<sup>324</sup>

As a result, they have been forced to either operate illegally and risk prosecution or stop working altogether. For example, Al Mawred Al Thaqafy (Culture Resource), an organization devoted to helping poor and marginalized communities participate in cultural and artistic activities, suspended its work in November 2014 because it feared prosecution for its receipt of foreign funds.<sup>325</sup>

The El-Gora Community Development Association, which served thousands of Bedouin in the Sinai peninsula, suffered the same fate.<sup>326</sup> At least two Egyptian development organizations—Caritas and the New Woman Foundation—have won court cases against the Ministry of Social Solidarity after the latter repeatedly denied requests for foreign funding.<sup>327</sup> In the case of Caritas, Egyptian authorities argued that funding from the group's partner organization in Germany represented a threat to Egypt's national security and threatened to destroy Egyptian society. If enacted, the new NGO law would further institutionalize this type of reasoning by granting Egyptian authorities the right to stop any civil society activity viewed as contradicting official policies or goals. The law is also likely to reinforce divisions between those organizations willing to work with the government on development issues and those that refuse to do so out of principle.<sup>328</sup> The Ma'an for Developing Slums Foundation, which focuses on

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**Even nonreligious and apolitical development and humanitarian organizations struggle in the current context, particularly as a result of the funding shortage for civil society work.**

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development in informal areas, has already announced that it will close down after the law is enacted; and other groups are likely to follow.<sup>329</sup>

Private Egyptian foundations, which had initially filled part of the gap left by the decrease in foreign funding, have also proved less willing to fund any projects that could attract the ire of the government.<sup>330</sup> Yet the current Egyptian legal framework prevents NGOs from making up the loss in funding with income-generating activities. When the Youth Association for Population and Development set up a bookstore to help generate revenue and reduce its dependence on external support, it faced significant bureaucratic hurdles, and the initiative was eventually shut down by Egyptian authorities.<sup>331</sup> Similarly, the online collaborative learning platform Tahrir Academy, which offered educational content to Egyptian students based on crowdsourcing volunteer efforts, announced that it was halting its activities after it was prohibited from raising funds by creating content for private companies.<sup>332</sup>

Independent social development and cultural organizations provide a space in which civic participation and local leadership can flourish. As a result, they are deemed threatening by Egyptian authorities, who view them as forums in which citizens forge connections and may learn to challenge existing authorities.<sup>333</sup> This might explain why government officials have closed down a number of community groups with no apparent political agenda or religious affiliation, resulting in a further decline in services for marginalized communities.<sup>334</sup> For example, security officers shut down three branches of the Karama public library, which provided cultural programming in poor neighborhoods.<sup>335</sup> The library was founded by rights activist Gamal Eid, and the closure was in all likelihood a retaliatory move against him. In May 2014, Egyptian police also raided the Belady Foundation, which worked with street children in Cairo, and arrested the two cofounders as well as six volunteers.<sup>336</sup> They were accused of running an unlicensed organization and sexual abuse, among other charges. The initiative had in fact aimed to provide street children with access to education, sports, and art and had been previously celebrated in the media as an example of innovative civic volunteerism. The case of the Belady Foundation highlights the scope of the Egyptian government's crackdown, which extends far beyond traditional human rights groups.

## ADAPTATION STRATEGIES

### *Pushback and Resilience*

While the small circle of highly proactive human rights organizations has borne the brunt of state repression since 2013, these groups have paradoxically been better positioned to persist in the face of repeated government interference. International support networks as well as close collaboration have provided some layers of protection over the past several years. For example, rapid domestic and international mobilization of international support seems to have contributed to the speedy release of human rights activist and journalist Hossam Bah-

gat in November 2015 and the release of lawyer Malek Adly after three months of detention in September 2016.<sup>337</sup> Human rights organizations have consistently and jointly advocated against further civil society restrictions at the national and international levels and managed to delay a number of restrictive NGO draft laws that were proposed between 2011 and 2015. They have also continued to protest prison conditions and the use of military courts, detention without trial, and police violence. In a number of cases, activists have successfully fought back against office closures and funding rejections in the courts. However, the government's persistent harassment and the escalation of Case 173 throughout 2016 and early 2017 highlight the limits of these strategies.

### *Registration, Closure, and Relocation*

Egyptian organizations have also faced difficult choices regarding their strategy of resistance or cooperation with state authorities. After the Sisi government ordered all civil society groups to reregister with the Ministry of Social Solidarity, some independent groups—such as the Egyptian Initiative for Personal Rights and the Egyptian Commission for Rights and Freedoms—chose to comply, hoping to end their legally ambiguous status and protect their staff and volunteers.<sup>338</sup> However, registration has not protected them from further government investigations and harassment. Others, such as the Arabic Network for Human Rights Information, ignored the deadline at the risk of possible legal penalties or attempted to register only to have their application rejected.<sup>339</sup> Rather than splintering over diverging tactics, Egyptian human rights groups supported each other in their respective strategies, affirming—in the words of rights activists Gamal Eid—that “tactical differences don’t affect the unity of our goals.”<sup>340</sup>

Several groups decided to circumvent the increasingly repressive environment by relocating their offices and staff abroad. For example, in 2014, the Cairo Institute for Human Rights Studies—which has worked on fostering connections between Arab human rights groups for the past twenty years—decided to move its regional and international programs to Tunisia in response to increasing government pressure, while keeping a small group of employees in Cairo. Partners of the institute, including UN officials, had been repeatedly detained at the airport and arbitrarily deported by state officials, making the organization's work increasingly difficult.<sup>341</sup> The organization's fears proved justified when the government raided the remainder of the institute's Cairo office in June 2015.<sup>342</sup> Its director, Bahey eldin Hassan, chose not to return to the country after receiving multiple death threats.<sup>343</sup> Journalists, academics, artists, and students have also left the country since the clampdown on civil society escalated in 2013 and 2014. At least three prominent rights groups have decided to quietly phase out their advocacy activities and legal assistance work after receiving threats from intelligence officials.<sup>344</sup>



## *Enduring Mobilization*

Over the past two years, the Egyptian human rights community has struggled with the question of how to move forward, in light of the looming threats of prosecution and closure. Some have considered adapting their organizational structures and mandates to make themselves more resistant to government repression. Egypt's traditional human rights community consists primarily of highly specialized and professionalized organizations. While none of these NGOs has fully transitioned to a membership model, many organizations are exploring new funding models that could generate greater community buy-in. For example, the Association for Freedom of Thought and Expression has relied on a broad network of academics that finance the organization's legal support work for the student movement.<sup>345</sup> Other groups have doubled down on their legal defense work while transferring advocacy activities to noninstitutionalized groups.<sup>346</sup>

Older human rights groups have forged new linkages to emerging movements like No to Military Trials of Civilians and Freedom for the Brave, as well as informal youth initiatives in Upper Egypt and the Delta region.<sup>347</sup> These initiatives have primarily been driven by students and youth activists and have taken shape largely without formal organizational structures. For example, the Freedom for the Brave coalition was created in early 2014 to defend political prisoners and monitor conditions in Egyptian prisons. The campaign relies heavily on social networks and media to disseminate information, and many of its monitoring, documentation, and advocacy activities take place online.<sup>348</sup> More informal coalitions and initiatives have also emerged in the social development realm. For example, citizens have started organizing at the local level to close the gaps in service provision resulting from the government crackdown on faith-based charities and associations. Villagers have formed local organizations that connect people in need with organizations or individuals that can offer help. There are reports of increasing numbers of people joining such grassroots charity efforts, as many remain wary of associating themselves with embattled charities and NGOs.<sup>349</sup>

Other spheres of Egyptian society continue to generate political mobilization, despite widespread repression. For example, the student movement has survived mass arrests, new administrative rules, and attempts to control student union elections. While student mobilization on university campuses has declined since 2014–2015, recent student council elections at the University of Cairo saw the victory of a coalition of students belonging to anti-authoritarian revolutionary movements.<sup>350</sup> The election demonstrated that universities continue to be a space for resistance against the current government. Over the past three years, a number of trade unions and professional associations have also emerged to play an active role, repeatedly clashing with authorities over security service interference. Both the journalists and the doctors syndicates have led protests, with the latter mobilizing against

systematic police attacks against individual physicians in the largest public assemblies since the 2013 coup.<sup>351</sup> In a few instances over the past two years, citizens have also come together to publicly protest specific incidents or policies, such as police brutality in Luxor.<sup>352</sup> These protests have generally occurred spontaneously and without the direct involvement of established civil society organizations. In a few cases, they have resulted in arrests and convictions of security officials involved in abuses—but these instances of increased accountability due to citizen anger and mobilization remain the exception rather than the rule.<sup>353</sup>

## INTERNATIONAL RESPONSES

The United States' response to the escalating crackdown on civil society in Egypt took shape against the backdrop of a long-standing strategic partnership between the two countries. When Egyptian authorities began suppressing foreign-funded and international civil society organizations, the United States repeatedly struggled to balance its interest in maintaining a cooperative working relationship with the Egyptian military with its desire to sanction clear violations of democratic procedures and human rights. This dilemma resulted in mixed diplomatic messages that increasingly alienated all sides of the Egyptian political spectrum. Efforts to revise the EU's relationship to Egypt following the Arab Spring also did not result in increased use of political conditionality, partly due to the lobbying efforts of southern member states. Instead, the EU has struggled to influence Egypt's post-2011 reform dynamics and often followed the United States' lead.

## A DISRUPTED STATUS QUO

The popular uprising of January 2011 disrupted the status quo in U.S.-Egypt relations. Since the signing of the 1978 Camp David Accords with Israel, Egypt has been one of the United States' most important allies in the Middle East, perceived as central to U.S. security concerns in the region. After Israel, Egypt is the second largest recipient of U.S. military aid, receiving an average of \$1.3 billion a year since 1987.<sup>354</sup> Military aid to Egypt has taken two forms: foreign military financing, which allows Egypt to purchase U.S.-manufactured military equipment; and international military education and training, which allows Egypt to purchase U.S. training and maintenance kits. In return, Egypt has assisted regional counterterrorism efforts and facilitated the passage of U.S. naval vessels through the Suez Canal. The United States has also justified aid to Egypt as an investment in sustaining the March 1979 Egypt-Israel Peace Treaty, which normalized relations between the two countries. While the Bush administration introduced a greater emphasis on political reform and civil society aid into the U.S.-Egyptian bilateral relationship, it did not review U.S. security assistance to the Egyptian military.<sup>355</sup>

Intent on distancing himself from his predecessor's controversial Middle East policy, Obama focused his first term on improving relations with Egypt's leadership.<sup>356</sup> As a result, the United States appeared to be caught off guard when anti-Mubarak protests began in January 2011. There were significant divisions within the administration over how best to respond. Obama gradually moved to embrace the pro-democracy movement and called on Mubarak to step aside. Following Mubarak's resignation, the Obama administration and Congress reprogrammed \$165 million in already appropriated economic aid to support Egypt's economic and political transition.<sup>357</sup> In March 2011, the USAID office in Cairo began soliciting grant proposals from Egyptian civil society organizations and provided funding to at least thirty-five groups—many of them in rural areas.<sup>358</sup>

European powers were similarly unprepared for the Arab uprisings. Since 2004, the EU had developed its relations with Egypt within the framework of the European Neighborhood Policy. Despite the policy's formal promise of political conditionality, EU member states often used their political and economic weight to push for cooperation on trade, migration, and counterterrorism issues while sidestepping questions of democratic reform.<sup>359</sup> Following Mubarak's ouster, European leaders after initial hesitations vowed to transform their approach to the region. Yet despite mobilizing financial support for Egypt's nascent democratic process and civil society, the EU struggled to remain relevant in Egypt's post-2011 reform dynamics, in which the United States played a much more significant role.<sup>360</sup>

## A MUTED U.S. RESPONSE TO THE 2011 NGO CRISIS

When the transitional SCAF regime began its smear campaign against foreign-funded civil society organizations, the United States was slow to react. Egyptian leaders openly accused the Obama administration of violating Egyptian law by channeling money to nonregistered groups, including the National Democratic Institute and the International Republican Institute. Behind the scenes, Egyptian officials assured U.S. representatives that American organizations operating in Egypt would not be affected.<sup>361</sup> As a result, the United States chose not to respond publicly to the Egyptian investigation into foreign funding in the fall of 2011.<sup>362</sup> The U.S. Congress appropriated the standard amount of \$1.3 billion in military aid and \$250 million in economic aid, as Obama had promised after Mubarak's ouster.<sup>363</sup> However, Congress added various certification requirements, which mandated that the secretary of state certify that Egypt was upholding the 1979 treaty with Israel, carrying out the transition to a civilian government, and protecting minority rights. These requirements could be waived by the Secretary of State if this was deemed in the national security interest of the United States.

Despite the escalating rhetoric of the preceding months, the raids of several U.S.-based international NGOs on December 29, 2011, took U.S. officials by surprise. The United States

publicly condemned the raids, and the SCAF initially promised that the confiscated equipment would be returned and the organizations' activities would be allowed to resume.<sup>364</sup> These promises did not materialize. Instead, Egyptian officials barred the American and European NGO workers in question from leaving the country and initiated criminal proceedings against them. Throughout February and early March 2012, U.S. officials negotiated in secret with Egyptian authorities to allow the non-Egyptian staff—who had for the most part taken shelter at the U.S. embassy in Cairo—to leave the country.<sup>365</sup> Behind closed doors, the United States threatened to withhold bilateral aid and implied that it would obstruct an impending International Monetary Fund loan to the Egyptian government. Egyptian authorities eventually lifted the travel ban on March 1, after the United States had paid a total of \$5 million in bail for seven Americans. Yet the court case against the NGO workers nevertheless proceeded.

## DIVISIONS OVER U.S. ASSISTANCE

The crisis triggered heated debates over U.S. assistance to Egypt. Many U.S. officials believed that the Egyptian authorities' unprecedented action warranted a strong response. Others argued that cutting off aid or other drastic measures would potentially strengthen those forces within the Egyptian ruling apparatus that were the instigators of the crisis.<sup>366</sup> For example, key players in the Obama administration emphasized that the SCAF may not have been the driving force behind the raids.<sup>367</sup> Several U.S. legislators nevertheless firmly advocated against waiving the certification requirements for U.S. military and economic aid in light of the ongoing NGO trial.<sup>368</sup> Despite this congressional opposition, secretary Clinton issued the waiver in March 2012, thereby allowing the next tranche of U.S. aid to be delivered for the first time since October 2011. Justifying the waiver, the U.S. Department of State released a statement noting that the United States had “a huge number of interests and equities at stake” with Egypt and that “rather than talking about leverage, we’re talking about partnership.”<sup>369</sup>

At the time, the administration's logic may have been that it was not worth jeopardizing its relationship with a rapidly changing Egypt over an issue that in its eyes had essentially been resolved once the foreign NGO workers left the country. U.S. officials may have calculated that the transition was still advancing and that canceling aid would have imperiled rather than helped the reform process. However, the debate within the administration on how to respond was unusually contentious. Clinton herself argued for a partial waiver to permit some assistance to go through while keeping sufficient pressure on the Egyptian military to stick with the assistance timetable. Others in the State Department argued for withholding all new military aid until the case was fully resolved.<sup>370</sup>

But given the looming payment deadline, both the White House and the Defense Department pressured for the release of aid. The Pentagon in particular insisted that existing

contracts with American arms manufacturers should be met: breaking the contracts could have shut down production lines at Lockheed Martin and General Dynamics, and the costs would have been carried by the American taxpayer. In addition, a significant number of U.S. jobs would have been endangered in the middle of Obama's reelection campaign.<sup>371</sup> Most members of Congress, on the other hand, opposed this decision. Senator Patrick Leahy, who had added the certification requirements to the appropriations bill, called the decision a regrettable return to "business as usual."<sup>372</sup>

## A PASSIVE EUROPEAN RESPONSE

The United States was not the only country affected by the 2011 crackdown. Egyptian security forces also raided the German Konrad-Adenauer-Stiftung, and the targeted NGO workers included several European citizens. The European response for the most part mirrored the U.S. approach of trying to maintain a positive working relationship with the SCAF government while pushing for continued political reforms. Yet few European embassies had direct links to the SCAF, and there was a sense among European policymakers that they wielded little influence over the transition process—a perception that led to further passivity.<sup>373</sup>

Germany was most directly implicated in the crisis. The Konrad-Adenauer-Stiftung had been working in Egypt for more than thirty years with the permission of the Egyptian government, and the German government vigorously rejected the accusations leveled against the organization.<sup>374</sup> It summoned Egypt's ambassador in Berlin to protest the raid, and the German Parliament passed a unanimous resolution demanding that Egypt stop the attacks against the foundation and other NGOs.<sup>375</sup> However, the German government nevertheless decided to continue aid flows to Egypt. In addition, German officials reportedly attempted to cut a deal with the Egyptian security services to have the foundation excluded from the NGO trial in exchange for German diplomatic support—an attempt that, albeit unsuccessful, infuriated Egyptian activists.<sup>376</sup>

The crisis proved to be a landmark moment. While it is impossible to determine in retrospect whether a more forceful response before and after the raids would have changed the Egyptian authorities' course of action, it is likely that the Egyptian security establishment interpreted the weak response as a signal that it could move ahead with further repressive measures. European powers appeared marginalized and unwilling to push back against the SCAF regime with any great force. The U.S. government had failed to prove or exercise any leverage in a situation that directly endangered U.S. nationals and organizations, and this signaled that the United States would continue to prioritize its strategic relationship with the Egyptian military over human rights concerns. The Egyptian authorities had also effectively manipulated Western powers: by repeatedly delaying hearings and promising speedy resolutions, they strategically extended the NGO trial to ensure that international attention moved to other issues.<sup>377</sup>

## BACK TO BUSINESS AS USUAL

During Morsi's brief presidency, the Obama administration focused on supporting Egypt's fragile democratic process without backing any particular political force. It hoped that by working with a democratically elected Islamist leader, it could demonstrate the United States' commitment to Egypt's political transition and push the Muslim Brotherhood to forge a greater political consensus.<sup>378</sup> The administration's response to escalating rights violations and democratic setbacks remained relatively weak—even as Obama grew increasingly frustrated with Morsi's power grabs.<sup>379</sup> Whereas the White House prioritized the normalization of relations with the Muslim Brotherhood, the U.S. Congress advocated for a more hostile stance. During Morsi's tenure, Congress passed fifteen resolutions aimed at cutting or freezing Egypt's aid—with limited success. The State Department once again quietly waived the certification requirements to allow the disbursement of Egypt's assistance, despite the conviction of American NGO workers shortly beforehand.<sup>380</sup>

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**Rather than engaging public confrontation, the EU relied on quiet diplomacy to push the Muslim Brotherhood toward greater inclusiveness.**

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On the European side, officials were deeply concerned that they not be viewed as interfering in Egypt's escalating tensions between Islamists and the military and secular forces. Rather than engaging public confrontation, the EU relied on quiet diplomacy to push the Muslim Brotherhood toward greater inclusiveness. At the same time, it decided that EU funds should not be withheld, despite the lack of progress on tangible political reforms (disbursements ended up being held up by economic rather than political conditionality).<sup>381</sup> Germany also made efforts to restore its bilateral relationship. It struck a deal with Egyptian authorities to welcome Morsi in Berlin in exchange for the Konrad-Adenauer-Stiftung's return to Egypt. Yet these diplomatic openings were hardly rewarded: the agreement was declared null after Morsi's high-profile visit, leaving German leaders with the sense that they had been deceived.<sup>382</sup> Germany nevertheless released 172 million euros in development aid.<sup>383</sup> Merkel and Westerwelle strongly criticized the sentencing of forty-three international NGO workers shortly thereafter, angry that Egyptian reassurances had failed to protect the German political foundations. But they remained ambivalent when asked about further aid restrictions.<sup>384</sup> In private, diplomats noted that Egypt was considered too important an ally to be abandoned.<sup>385</sup>

## MIXED SIGNALS AFTER THE MILITARY'S TAKEOVER

The Egyptian military's forceful return to power in mid-2013 highlighted the tensions between Western powers' security interests and efforts to support the country's democratic transition. When the military overthrew Morsi's increasingly embattled government, the

United States largely stepped back and let events run their course. The Obama administration did not issue a strong statement in support of Morsi, nor did it call the intervention a military coup—which would have legally required a suspension of military aid. The State Department argued that it did not need to make a public determination on whether a coup had happened. This stance was significant as it signaled that in the face of regularly changing Egyptian governments, the U.S. administration was leaning toward prioritizing its relationship with the military in pursuit of long-term American interests. While EU ministers denounced the military’s intervention, they also did not use the term coup, partly to avoid contradicting the U.S. stance.<sup>386</sup>

As the situation in Egypt escalated with massacres against pro-Morsi protesters in July and August 2013, the U.S. government was hesitant to impose strong punitive measures. After the first mass killing on July 8, it halted the delivery of four F-16 fighter jets but emphasized that the move was not intended as a punishment and that there would be no implications for continued military-to-military cooperation.<sup>387</sup> The decision was recognized as relatively insignificant on both sides, particularly in light of the administration’s assurances. As violence in Egypt escalated, Obama canceled the biannual joint military exercises and strongly condemned Egypt’s security forces yet stopped short of announcing any suspension of aid. Senators John McCain and Lindsey Graham traveled to Egypt and conveyed the warning that further assistance might be stopped if the crackdown continued, but their efforts seemed to have little effect.<sup>388</sup> By the end of August, top national security aides recommended that a significant amount of aid be withheld until a democratically elected government returned to power.<sup>389</sup> However, it was not until October that the United States announced the suspension of the delivery of F-16 fighter jets, tank kits, Harpoon missiles, and Apache helicopters, “pending credible progress toward an inclusive, democratically elected civilian government through free and fair elections.”<sup>390</sup> The EU was equally slow to respond. Most EU aid had already been put on hold in the absence of an International Monetary Fund deal, and EU member states were divided on further aid cuts (although they did revoke export licenses for some military equipment).<sup>391</sup>

The U.S. government may have been hesitant to freeze aid out of concern that doing so would cut off any remaining leverage that the United States still had over Egypt’s generals or drive Egypt further away from the United States into the hands of Saudi Arabia and Russia. Its apparent solution to this dilemma was to impose a partial aid cut while at the same time reassuring the Egyptian military of Washington’s continued commitment to the bilateral relationship. The result of this middle route was a profoundly inconsistent policy message. U.S. officials repeatedly played down the significance of the partial aid cuts. Former secretary of state John Kerry congratulated Egypt’s military leaders on implementing the roadmap “that everybody has been hoping for” and did not publicly address the new draft protest law that had been introduced two weeks before his visit.<sup>392</sup> While then secretary of

defense Chuck Hagel stressed the need for political inclusiveness in more than twenty-five phone calls to Sisi following the coup, he also opposed the suspension of military aid.<sup>393</sup> To maximize leverage, aid cuts would have to have been far reaching and coordinated with European nations and other donors. Instead, for the year-and-a-half duration of the weapons suspension, the vast majority of U.S. military assistance continued to flow.<sup>394</sup>

## NORMALIZATION AMID DECREASING LEVERAGE

The muddled handling of the post-coup crackdown set the tone for subsequent U.S. and EU responses to the civil society restrictions that followed. Two key trends emerged over the subsequent year: First, Western governments seemed to have little leverage over the regime's overall authoritarian trajectory, partly because they repeatedly prioritized normalizing their relationship with Egyptian partners and resumed previous aid flows even as the situation within the country worsened. Second, international pressure at times proved effective at temporarily delaying further repressive measures by the Egyptian authorities, for example by denouncing human rights violations at international forums.

During 2014 and 2015, international attention subsided as the Egyptian authorities' attention turned from foreign NGOs to Egyptian groups and activists. The United States proceeded to normalize relations with the Egyptian regime—despite the fact that the latter continued to stir up anti-American sentiments at home. Following Sisi's victory in the presidential election, Kerry released \$575 million in aid that had been frozen for nearly a year.<sup>395</sup> The administration also lifted the suspension on the sale of Apache helicopters without securing any significant human rights concessions. The 2015 appropriations bill in fact loosened some conditions applied in the previous year, despite the accelerating crackdown within the country. In 2015, the United States resumed the delivery of F-16s, relaunched the U.S.-Egypt strategic dialogue, and announced that it would resume joint military exercises—without significant concessions by the Egyptian government. Critics also noted that a number of these decisions were strategically unnecessary but imparted the Egyptian regime with legitimacy and prestige.<sup>396</sup> For example, the United States has continued supplying Egypt with heavy weaponry that is of limited use in the fight against terrorism—while doing little to prevent the abuses that are fueling radicalization in Egypt's prisons.<sup>397</sup>

External pressure may have successfully delayed repressive measures at various points in time. During the fall of 2014, U.S. and European pressure reportedly contributed to warding off the Egyptian government's planned mass closure of nonregistered civil society organizations. The United States expressed its concerns over the repression of activists and demonstrators in a statement submitted during Egypt's Universal Periodic Review at the United Nations, which angered the Sisi regime.<sup>398</sup> When human rights defender Hossam Bahgat and newspaper owner Salah Diab were arrested in November 2015, immediate international



pressure by the United States, the UN, and others likely contributed to their rapid release.<sup>399</sup> However, these successes remained temporary: subsequent developments showed that Egyptian authorities had not allowed more space but had simply delayed or shifted their tactics. In addition, European and U.S. efforts to solidify economic ties with the Egyptian government—for example, by organizing a large investment conference for American businesses that coincided with the reregistration ultimatum imposed on Egyptian civil society—often appeared to nullify statements of concern.<sup>400</sup>

High-level officials have continued to speak out against the crackdown, particularly since the reopening of Case 173. In March 2016, Kerry issued a forceful statement of concern following the reopening of legal proceedings against foreign-funded NGOs, thereby attracting the ire of Egyptian parliamentarians.<sup>401</sup> This past year, the EU and the German Foreign Office also expressed their concern about the repression of human rights organizations in Egypt, and the European Parliament called on the European External Action Service to “develop urgently a strategy” to respond to the reopened NGO investigations.<sup>402</sup> However, these public pronouncements have not translated into substantive policy changes or direct pressure on Egyptian officials. For example, when Kerry met with Sisi a few weeks after his statement of concern, he mostly expressed solidarity and only vaguely referenced differences regarding “the international politics and choices for the people of Egypt,” rather than directly speaking out against the NGO restrictions.<sup>403</sup> Nor did the NGO investigations come up during his July 2016 meeting with Egyptian Foreign Affairs Minister Sameh Shoukry, which once again focused on counterterrorism and economic issues.<sup>404</sup>

The new U.S. administration has signaled that it will not prioritize democracy and human rights concerns in its bilateral relations with Egypt and will focus instead on forging closer counterterrorism ties. In April 2017, President Donald Trump officially welcomed Sisi in Washington, DC—an honor that the Obama administration had consistently denied him. During the visit, Trump failed to publicly raise the ongoing crackdown on civil society in the country, highlighting instead issues of mutual agreement and cooperation.<sup>405</sup> At the same time, he did not promise additional U.S. assistance or commit to restoring cash flow financing, which would allow the Egyptian government to once again pay for U.S. defense equipment in multiyear installments.<sup>406</sup> A number of U.S. senators also marked Sisi’s visit by cosponsoring a resolution condemning human rights abuses in Egypt. After several years of tensions over the appropriate balance between human rights and security concerns in U.S. policy toward Egypt, it remains to be seen whether Washington will revert back to a strategy of unconditional support or whether the United States will eventually begin questioning Egypt’s value as a counterterrorism partner. At the moment, a shift in U.S. policy that would prioritize the concerns of Egyptian civil society activists and organizations appears unlikely.

# SURVEILLANCE AND STATE CONTROL IN ETHIOPIA

## TACTICS

The Ethiopian People's Revolutionary Democratic Front (EPRDF) came to power in 1991 as an insurgent coalition intent on transforming Ethiopia's politics and economy. Over the past two decades, the government's heavy-handed approach has fostered significant regional and ethnic discontent. As the EPRDF's grip on power has weakened, it has moved to further close political and civic space. Two laws adopted in 2009—the Charities and Societies Proclamation and the Anti-Terrorism Proclamation—decimated the country's already weak human rights community. The government's crackdown has also extended to development and humanitarian groups, which have been targeted with burdensome funding regulations and government harassment.

The closing of civic space in Ethiopia has the following key features:

1. Harsh restrictions on foreign funding for civil society organizations working on a wide range of politically related issues.
2. Violent repression of civic mobilization in the name of counterterrorism and anti-extremism.
3. Efforts to bring all independent civil society groups—including development and humanitarian actors—in line with the government's national development policy.

## CIVIL SOCIETY GROWTH AMID CONSTRAINTS

### *A History of Repression*

While Ethiopia has a long history of mutual self-help organizations and informal community groups, the formal nongovernmental sector has historically been weak and marked by adversarial relations with the state.<sup>407</sup> Any autonomy enjoyed by civil society during the reign of emperor Haile Selassie was severely restricted after the Marxist Derg regime assumed power in 1974. State authorities closed down or co-opted almost all independent professional organizations and interest groups, including traditional associations in rural areas. Those organizations that survived state repression focused on providing emergency relief services. However, the famines of the 1970s and 1980s forced the Derg leadership to open the door to international assistance, triggering an influx of foreign NGOs that often relied on local partners to facilitate delivery of humanitarian aid.<sup>408</sup>

Ethiopia's NGO sector expanded rapidly during the brief period of political liberalization that followed the EPRDF's ascent to power. As aid flowed into the country to support the political transition, new professional associations and development organizations emerged, as well as a handful of advocacy groups.<sup>409</sup> The Ethiopian Teachers Association took an active role in challenging the government's education reforms. Traditional associations such as the Mekane Yesus church in western Oromia and the Southern Nations, Nationalities, and Peoples' Region added human rights components to their community work, and student activism flourished.<sup>410</sup> At the same time, most civil society organizations had relatively limited resources and capacity, and their impact on state policy remained marginal. Given Ethiopia's dire humanitarian situation after years of civil war, many groups continued to focus on service delivery and relief efforts.<sup>411</sup> Those that ventured into advocacy typically worked on relatively safe issues such as children's and women's rights and operated within existing policy frameworks.<sup>412</sup>

### *Continued Government Suspicion*

Despite efforts at liberalization, the EPRDF remained suspicious of independent media and civil society. Beginning in the early 1990s, the government sought to bring independent trade unions under EPRDF control by replacing government critics with party loyalists. The Ethiopian Teachers Association and the Confederation of Ethiopian Trade Unions—both of which had been critical of the government's reforms—experienced sustained harassment. The president of the teachers association was convicted of armed conspiracy in 1996, and the confederation chairman fled the country in 1997. State officials also set up a rival teachers association of the same name that was staffed exclusively with EPRDF supporters.<sup>413</sup>

The lack of a comprehensive legal framework governing civil society created additional barriers for nongovernmental groups, with some being arbitrarily denied registration for having ostensibly political goals. For instance, the ruling party characterized the Ethiopian Human Rights Council, the country's most prominent human rights monitoring group, as a partisan political movement affiliated with the Amhara-dominated opposition, rejected its application for registration, and temporarily blocked the organization's bank account.<sup>414</sup> When prominent intellectuals and professionals from Addis Ababa's Oromo community formed the Human Rights League in 1996, the group's leaders were promptly arrested for being supporters of the Oromo Liberation Front—although their case never went to trial.<sup>415</sup>

Throughout the 1990s and early 2000s, the civil society sector as a whole remained vulnerable to state control. Most civil society organizations were led by urban elites and lacked a strong grassroots base. Many did not have a significant presence beyond the capital and in rural areas. This provided fodder for government accusations of parasitism and rent-seeking. Distrust among NGOs also stood in the way of forming sector-specific coalitions and consortiums that could have maximized their outreach and impact. At the same time, the government rarely consulted civil society organizations in its policy formulation processes.<sup>416</sup> Beginning in 2003, it began to consider restrictions on foreign funding of civil society organizations, arguing that external funding for political and rights advocacy amounted to illegitimate meddling in the country's internal affairs.<sup>417</sup>

## NARROWING OF POLITICAL SPACE

### *The 2005 Postelection Crisis*

The 2005 election proved to be a turning point for Ethiopian civil society. The run-up to the election witnessed unprecedented displays of political competition and opposition party coordination. Civil society organizations sponsored televised debates on public policy issues and sued the government to be allowed to monitor the polls.<sup>418</sup> Early election results indicated that the opposition coalition had made unexpected gains, suggesting a win of more than 180 parliamentary seats. When official tallies indicated that the ruling party had won, the largest opposition coalition refused to concede defeat. They alleged that the ruling party had stolen the election, while the EPRDF claimed that opposition parties had conspired to overthrow the government by unconstitutional means. The ensuing standoff continued for months, with violence erupting between protesters and security forces across the country.<sup>419</sup>

In this climate of intense polarization, government authorities accused civil society organizations that had monitored the polls and conducted voter education efforts of sparking unrest and inciting violence.<sup>420</sup> Even before the election, the government had ordered representatives of highly visible international organizations providing democracy and governance

aid to leave the country, including the International Foundation for Electoral Systems, the International Republican Institute, and the National Democratic Institute. Surprised by the outpouring of opposition support, EPRDF officials concluded that foreign-funded human rights groups and independent media outlets had coordinated with the opposition to undermine the ruling party.<sup>421</sup>

Yet the EPRDF did not immediately move to impose legal restrictions on civil society. Rather, the clampdown unfolded in two main phases. In the immediate aftermath of the election, the EPRDF was in crisis mode. Its initial efforts centered on quelling opposition protests and consolidating power ahead of the 2008 local elections. Approximately 20,000 protesters and as many as 150 opposition leaders, activists, and journalists were arrested, and numerous independent newspapers and magazines were shut down.<sup>422</sup> Two well-known human rights lawyers, Daniel Bekele and Netsanet Demisse, were among the first to be charged with conspiracy and incitement to overthrow the government. In 2007, both were sentenced to two and a half years in prison.<sup>423</sup>

The EPRDF viewed the opposition's success as an existential threat to its own survival and to the ethnic federation it had constructed. Starting in 2005, the party leadership embarked on a massive party rebuilding effort, investing significant resources in expanding local party

structures and bringing the rural population back into the party's fold.<sup>424</sup> It strengthened its control over local administrative units (*kebele*) that have the capacity to monitor households and restrict access to government services.<sup>425</sup> Party membership increased from 760,000 in 2005 to more than 4 million in 2008. The government also passed electoral reforms that ensured the EPRDF's dominance in the 2008 polls. For example, it drastically increased the number of local council

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**The EPRDF introduced a series of laws that specifically targeted activities that had facilitated widespread popular mobilization during the previous election cycle.**

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seats, which made it impossible for any but the largest parties to field enough candidates to seize control of the councils. These efforts paid off: in 2008 the EPRDF won virtually all the local council seats. Together with the revival of mass associations and youth cooperatives, these reforms effectively incorporated millions of Ethiopians into EPRDF structures and government organizations.<sup>426</sup>

### *Institutionalization of Legal Restrictions*

The second phase of the crackdown began as the 2010 general election drew near. Aiming to prevent a repeat of the 2005 crisis, the EPRDF introduced a series of laws that specifically targeted activities that had facilitated widespread popular mobilization during the previous election cycle: independent media publishing, civil society advocacy and monitoring,

free public debate, and opposition party coordination. The Mass Media and Freedom of Information Proclamation, passed in December 2008, allowed prosecutors to stop any print publication that threatened national security concerns or the public order—a provision that has been used to target independent newspapers. In addition, the law criminalized the “defamation” of legislative, executive, or judiciary authorities and raised defamation fines to about \$10,000.<sup>427</sup>

In February 2009, the government adopted the Proclamation for the Registration and Regulation of Charities and Societies (referred to hereafter as the Charities and Societies Proclamation), the first comprehensive law governing Ethiopian nongovernmental organizations. While civil society organizations were allowed to contribute to the draft proclamation, they had little meaningful influence over the final version.<sup>428</sup> The law imposed a wide range of burdens on civil society. Most important, it divided all civil society organizations into three categories: Ethiopian charities and societies, Ethiopian resident charities and societies, and foreign charities and societies. The first category comprises all NGOs that receive at least 90 percent of their funding from domestic sources, and only these groups are allowed to work on “the advancement of human and democratic rights; the promotion of equality of nations, nationalities and peoples and that of gender and religion; the promotion of the rights of the disabled and children’s rights; the promotion of conflict resolution or reconciliation; and the promotion of the efficiency of the justice and law enforcement services.”<sup>429</sup> This means that any organization that receives significant outside funding is effectively barred from a wide range of advocacy, peacebuilding, and rights-focused activities. The government justified this provision as necessary to ensure that organizations working on political issues are “Ethiopian in character” and, in an apparent nod to Russia, to prevent “color revolutionaries” from trying to overthrow the regime.<sup>430</sup>

For many Ethiopian civil society organizations, this provision was devastating. Given the dearth of domestic funding sources, they had relied almost exclusively on external aid. They had few alternative options; the Ethiopian government was unlikely to fund any advocacy efforts or politically related programs. In addition, the proclamation specified that any charity or society could allocate no more than 30 percent of its budget to administrative activities—while classifying an unusually wide range of expenditures as administrative costs.<sup>431</sup> As a result, organizations were forced to count basic operational expenses—including staff allowances and benefits, monitoring and evaluation expenditures, and travel and training costs—as administrative overheads, triggering widespread pushback.<sup>432</sup>

The 2009 Anti-Terrorism Proclamation also had a debilitating effect on civil society and independent media. Like similar legislation around the world, the law includes extremely broad definitions of terrorist activity and material support for terrorism and imposes long prison sentences and even the death penalty for a wide range of crimes.<sup>433</sup> The law’s vague

language grants authorities the power to prosecute journalists who publish articles about protest movements, armed opposition groups, or any other individuals deemed as terrorist or anti-peace.<sup>434</sup> Rights advocates also found themselves at risk of prosecution for carrying out or supporting terrorist acts.<sup>435</sup> The law was particularly pernicious given the Ethiopian government's extensive capacity to monitor citizen communications, including mobile phones and landlines.<sup>436</sup> Since coming into force, the law has been broadly applied in criminal cases involving opposition politicians, activists, and journalists, even though credible evidence of communication with or support for terrorist groups is almost never provided. The judicial system lacks the independence and capacity to push back against abusive applications of the law.<sup>437</sup>

## REPRESSION IN THE NAME OF NATIONAL SECURITY

### *Targeting of Activists for Security-Related Offenses*

With this restrictive legal framework in place, government authorities had new tools at their disposal to suppress civic activism and independent media in moments of crisis. Two key patterns have emerged over the past six years. First, the EPRDF has relied on its almost complete control over radio, television, and print media to cast pro-democracy and human rights activists as terrorists and foreign agents, tapping into popular fears of Islamic radicalism, foreign intervention, and ethnic strife. For example, after the U.S. Department of State issued its 2009 Human Rights Country Report on Ethiopia, the state-controlled Ethiopian Television Agency broadcast a three-part series accusing several Ethiopian human rights

groups of supplying false information to the U.S. government in exchange for support.<sup>438</sup> Media outlets also regularly blame foreign powers and organizations for stirring domestic unrest and use this alleged interference to justify extrajudicial action.<sup>439</sup>

Second, the government has used court proceedings to selectively intimidate and silence high-profile activists, reporters, and civil society leaders, typically based on alleged national security threats. For example,

following repeated demonstrations by Ethiopia's Muslim community against government interference in religious affairs between 2012 and 2014, Ethiopia's Federal High Court convicted the protest leaders on charges of terrorism and conspiracy to create an Islamic state in Ethiopia.<sup>440</sup> In the thirteen months before the 2015 polls—the first to be held following former prime minister Meles Zenawi's death in 2012—journalists also witnessed escalating harassment by security and judicial officials.<sup>441</sup> In April 2014, this campaign culminated in the arrest of three journalists and six bloggers from the Zone 9 blogging collective, who were

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**These prosecutions had a chilling effect on the country's online activists and remaining independent reporters—at least sixty journalists have fled the country since 2010.**

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convicted under the criminal code and the antiterrorism law for having links to banned opposition groups and attempting to violently overthrow the government.”<sup>442</sup> In August 2014, an additional six newspapers and magazines were charged with encouraging terrorism, among other charges.<sup>443</sup> These prosecutions had a chilling effect on the country’s online activists and remaining independent reporters—at least sixty journalists have fled the country since 2010.<sup>444</sup> Security forces have also arrested and detained rights activists and lawyers who defend political prisoners, often without formally charging them with crimes.<sup>445</sup>

### *Extension of Rural Surveillance and Control*

At the same time, the state’s extensive administrative apparatus has continued to subject citizens in rural areas to threats and detention, creating a pervasive climate of fear. The state’s surveillance capacities at the local level have stifled civic activism and dissent in many places without the need for violent repression.<sup>446</sup> The EPRDF has relied on a pre-existing system of local governance that existed under the Derg regime to extend government control. Officially, Ethiopian officials insist that these local-level institutions are voluntary associations formed in regions like Oromia in order to advance rural agriculture and development. However, human rights organizations report that they are often used to monitor citizens’ activities, report incidents of dissent, and selectively withhold government benefits.<sup>447</sup> Attesting to this dramatic closing of civic and political space, the EPRDF and its affiliates claimed 99.6 and 100 percent of parliamentary seats in 2010 and 2015, respectively. These overwhelming majorities signaled political continuity after the upheaval that followed the 2005 polls and Zenawi’s sudden death, reminding the party’s rank and file that defection was pointless given that the EPRDF still controlled all access to public office.<sup>448</sup>

Citizens have nevertheless continued to mobilize, as evidenced by the widespread antigovernment protests that broke out in the Oromia and Amhara regions in 2015 and 2016. The government’s response to these outbursts of citizen discontent has been violent suppression: security forces arrested more than 11,000 people over the course of one month and killed at least 500.<sup>449</sup> Once again, authorities have claimed that demonstrators are part of banned opposition groups in order to delegitimize the protests. The current state of emergency, declared in October 2016 and extended repeatedly since then, has imposed additional barriers on freedoms of assembly, association, and expression. The implementing directive initially restricted access to and usage of social media and banned communication with so-called terrorist and anti-peace groups as well as contact with foreign governments and NGOs that could affect “security, sovereignty and the constitutional order.”<sup>450</sup> It also allowed the army to be deployed across the country for a period of at least six months. The government has blamed human rights groups seeking to document violations by security forces for stirring up unrest and has denounced diaspora groups for spreading misinformation about the government’s response to the protests.<sup>451</sup>



## *Support for Mass-Based and Development Associations*

In contrast to its crackdown on independent groups, the EPRDF government has encouraged the growth of mass-based and state-supported development associations as a more authentic expression of grassroots activism. While these organizations have traditionally focused on development and service delivery, the government elevated their role with respect to governance and rights advocacy after the 2005 election—just as it began cracking down on independent media and civic activism. Most mass-based associations have their roots in the armed struggle against the Derg regime. For example, the Women’s Association of Tigray can be traced back to the Women’s Committee of the Tigray People’s Liberation Front, established in 1976.<sup>452</sup> The structures of these associations typically extend from the national level down to the regional, district (*woreda*), and village (*kebele*) levels, providing a wide societal reach. Development associations, on the other hand, are membership organizations that focus on promoting local development in their respective areas of operation.<sup>453</sup> In Ethiopia, each regional state has its own development association, such as the Tigray Development Association and the Oromo Development Association.

Both mass-based and development associations generally lack political independence and financial and technical capacity.<sup>454</sup> They tend to collaborate closely with sector ministries and bureaus, and government bodies often view them as implementing agencies rather than independent actors that represent the interests of their members.<sup>455</sup> For example, owing to their presence in remote rural areas, mass-based organizations have played an important role in recruiting new party members and mobilizing EPRDF support ahead of local and national elections.<sup>456</sup> In contrast, the few remaining independent trade unions and professional societies have experienced continued harassment and government interference. For example, the government has refused to register the National Teachers Association, which was forced to hand over its property, assets, and name to the government-aligned Ethiopian Teachers Association. Security agents have subjected the association’s members to surveillance and harassment.<sup>457</sup> The Confederation of Ethiopian Trade Unions, the Ethiopian Bar Association, and the Ethiopian Free Press Journalists Association have faced similar attacks.

## **DRIVERS**

The Ethiopian government’s efforts to restrict civil society are a function of the EPRDF’s doctrine of revolutionary democracy, state-led development agenda, and struggle for political survival. Despite the party’s control over state institutions, the country’s political structure remains fundamentally fragile. A small Tigray elite dominates a political system that formally derives its legitimacy from ethnoregional autonomy and representation. This has fueled resentment and discontent in many parts of the country. As a result, the govern-

ment fears that any space for autonomous civic action could spark further mobilization and unrest, potentially triggering defections within the ruling apparatus. The opposition's unexpected gains in the 2005 election in particular sparked a renewed effort to consolidate party control by eliminating or co-opting alternative centers of power.

## THE EPRDF'S IDEOLOGICAL UNDERPINNINGS

The EPRDF was formed as a political coalition between different ethnic-based liberation fronts that had fought Mengistu Haile Mariam's military regime. The Tigray People's Liberation Front, which had led the insurgency under the command of Zenawi, recognized that transitioning from a rebel movement to a national government would require the support of the country's many ethnic groups. At the same time, Zenawi sought to preserve the Tigray People's Liberation Front's highly hierarchical structure. He and his allies were trained in Marxist ideology and rejected liberal democracy as a viable political model to achieve economic and political transformation.<sup>458</sup> Instead, they conceived of the EPRDF as a Leninist vanguard party that rules on behalf of the rural masses. While the party adapted to the end of the Cold War by retreating from an explicitly socialist approach, it retained its core—though ambiguously defined—doctrine of revolutionary democracy, which stresses grassroots participation via mass organizations and party cells. Political competition and interest representation occur under the mantle of the vanguard party. As a result, even in the 1990s, the party had limited interest in encouraging the expansion of an independent civil society, which it considered an urban and elite-driven phenomenon with limited transformative potential.

The EPRDF's pursuit of rapid economic development further reinforced the government's efforts to extend its control over the civic sphere. The EPRDF came to power with a vision of itself as the only actor that could effectively tackle the country's underdevelopment. Other societal actors—including civil society—had to be subordinated to the government's modernization and industrialization efforts. Party leaders viewed development NGOs as opportunists who sought out foreign money to fund their inflated salaries and expenses without serving the public interest. They also blamed them for fostering aid dependence at the expense of long-term development and argued that their funding streams and activities should be subjected to greater government control.<sup>459</sup> According to the EPRDF model, the development state not only intervenes in the economy, but “also has a role in guiding ‘appropriate’ citizen behavior and constructing useful social networks” that advance the national development agenda.<sup>460</sup> Local *kebele* and sub-*kebele* administrative structures have been imposed from above both as tools of development and mechanisms of political control.<sup>461</sup> This approach has gone hand in hand with a dramatic expansion of public goods and services meant to ensure continued popular support—particularly in light of growing ethnoregional discontent.<sup>462</sup>

## A CONTESTED POLITICAL SETTLEMENT

At the core of the EPRDF's efforts to suffocate independent civil society lies the fear of further antiregime mobilization. Despite the government's developmental success record, its position of power remains fundamentally fragile, owing primarily to the internal contradictions of the EPRDF regime. After coming to power, the EPRDF instituted a complex system of ethnic federalism that granted an unprecedented degree of political autonomy and representation on the basis of ethnicity. The EPRDF's ascent was celebrated as the liberation of Ethiopia's nations and nationalities from decades of centralized rule. The party also formally committed to multiparty elections and political pluralism.

However, these constitutional guarantees have not resulted in an actual decentralization of executive power.<sup>463</sup> Instead, the state has become increasingly intertwined with the ruling party, and political and economic power has gradually become concentrated in the hands of a small elite. Ethiopia's regions are governed by ethnoregional parties that are de facto subordinate branches of the EPRDF—which remains dominated by the ethnic Tigray, who make up only 6 percent of Ethiopia's total population. Party leaders know that if the EPRDF were to open space for civic mobilization, it could mean the end of Tigray rule. The opposition's unexpected gains in the 2005 election justified these fears. Throughout the 1990s and the early 2000s, Ethiopia had held regular elections, but the hegemony of the ruling EPRDF was never threatened. The opposition remained divided, and the ruling party used coercive means and its incumbency advantage to prevent rival parties from participating on a level playing field.<sup>464</sup> When political space temporarily opened up in the lead-up to the 2005 polls and opposition actors unified, the EPRDF's grip on power proved to be tenuous. As a result, the EPRDF under the leadership of Zenawi embarked on a de facto restoration of the one-party state.

After having eliminated the immediate threat of the political opposition, the government's attention turned to civil society and the media. The ruling party's continued control and legitimacy depends on regulating access to information and channeling civic activism through party and state structures. The fact that civil society organizations had monitored the 2005 elections, conducted voter education efforts, and condemned the security forces' subsequent crackdown only reinforced the government's view that advocacy organizations were partisan actors allied with opposition forces and set on upending EPRDF rule. As a result, most civil society organizations were not surprised when the government moved to enact further NGO restrictions ahead of the 2010 polls, even though many had not anticipated just how stifling the legislation would be.<sup>465</sup> In sum, the EPRDF has compensated for vulnerabilities of the current political settlement by continuously extending the party's control over Ethiopian society; any alternative space—whether in the political sphere or in civil society—could potentially emerge as a challenge to its continued authority.<sup>466</sup>

## IMPACT

The political and legal changes introduced between the 2005 and 2010 elections had a profound impact on Ethiopian civil society. The total number of active organizations has shrunk, and many groups have been forced to shift their focus from political and rights-based work to development and service delivery in order to keep receiving foreign funding. As a result, there are very few advocacy and human rights monitoring groups left in the country. Initially, development organizations did not feel affected by the new legal regime. However, government-imposed budget specifications have forced them to abandon certain activities and have hindered the formation and operation of civil society networks and umbrella organizations.

## CONSEQUENCES OF THE CRACKDOWN

### *Shrinking of the Human Rights Community*

The Charities and Societies Proclamation and the Anti-Terrorism Proclamation had a dramatic impact on human rights work in Ethiopia. The circle of active and professional human rights organizations was already small before the laws were passed. These groups, which were mostly established during the 1990s, provided legal aid and civic education, monitored elections and human rights violations, and advocated for the rights of minorities, women, and other vulnerable groups. Many were focused on single issues, such as voter education, religious freedom, peacebuilding and conflict resolution, and women's rights.

After the Charities and Societies Proclamation took effect, human rights and conflict resolution organizations faced a stark choice: they could either try to continue their work, which meant they would have to raise 90 percent of their funding from domestic sources, or register as resident charities and shift toward more politically neutral development and relief work.

Given the lack of domestic funding sources, the restrictions on foreign funding caused a near cessation of independent advocacy activities. Many organizations opted to change their focus, knowing that they would not be able to sustain their work without

international support.<sup>467</sup> For example, local and international organizations such as Mercy Corps, Pact Ethiopia, Action for Development, and the Oromia Pastoralist Association abandoned their conflict resolution work and reduced their support for local peace committees.<sup>468</sup> Those that lacked the resources and human capacity to retrain their staff and develop new programming shut down their operations altogether. Others fled the country in fear of prosecution under the antiterrorism law.<sup>469</sup> The result was a rapid decline in the

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**The restrictions on foreign funding caused a near cessation of independent advocacy activities.**

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number of active human rights organizations in the country. Only around 10 percent of the 125 previously existing local rights groups reregistered under the new law.<sup>470</sup>

### *Reduced Capacity for Advocacy, Outreach, and Assistance*

A small number of organizations—including the Ethiopian Bar Association, the Human Rights and Peace Center, the Human Rights Council (HRCO; previously the Ethiopian Human Rights Council), and the Ethiopian Women Lawyers Association (EWLA)—chose to reregister as Ethiopian charities and societies to continue their work. These groups have faced a dearth of domestic funding, which has forced them to scale back their work. While community-based giving is common across Ethiopia, there is no strong tradition of donating to charitable organizations. Organizations have struggled to raise money through membership fees and fund-raising events.<sup>471</sup> As noted above, the Charities and Societies Proclamation imposed additional hurdles by giving the Charities and Societies Agency the power to deny or delay any fund-raising or income-generation proposals.<sup>472</sup> The law also prohibits anonymous donations, which means that citizens who donate to human rights groups face potential political repercussions.<sup>473</sup> To make matters more difficult, the agency froze the bank accounts of both the HRCO and EWLA after the law had been passed, depriving them of their accumulated savings.<sup>474</sup>

Faced with harassment and funding cuts, human rights organizations had to disband key training and assistance programs. For example, the HRCO had previously conducted human rights education seminars and workshops that aimed to raise awareness of human rights standards among public servants, police officers, and judicial officials. Despite initial skepticism, participation in these workshops was on the rise before the passage of the Charities and Societies Proclamation: in 2009, a total of 1,034 officials took part.<sup>475</sup> After the law was passed, the organization's budget shrank from \$351,000 in 2008 to \$26,300 in 2011, forcing it to disband the program.<sup>476</sup> Another civil society initiative to establish child protection units at police stations was similarly suspended.<sup>477</sup> EWLA—the only major NGO advocating for women's rights and gender equality at the national level—has had to abandon key areas of work. The association had provided free legal aid to more than 17,000 women and established an emergency hotline for women that received 7,332 calls in the first eight months of its existence.<sup>478</sup> After the Charities and Societies Proclamation was passed, EWLA was forced to cut 70 percent of its staff, shut down its hotline, and give up most of its public education work, continuing to provide only a small amount of free legal aid using volunteers.<sup>479</sup>

### *Reduction in Human Rights Monitoring*

It has also become much more difficult for local and international groups to accurately document human rights violations and security force abuses. Before 2009, the HRCO

monitored and documented human rights violations through twelve branch offices across Ethiopia. It was the only civil society group conducting extensive field investigations, including in high-risk areas.<sup>480</sup> After the enactment of the Charities and Societies Proclamation and the Anti-Terrorism Proclamation, half of the organization's staff—including the director—left the country in fear of government reprisals. The organization was forced to close nine of its twelve branch offices, which curtailed its ability to effectively collect information and communicate with victims of human rights abuses.<sup>481</sup> The number of field investigators decreased from seventeen to four, dramatically limiting the organization's reach. Increased government harassment makes the work of the remaining investigators more difficult and dangerous.<sup>482</sup>

International organizations that could complement domestic monitoring efforts have been barred from entering the country or accessing certain regions. The International Red Cross was expelled from the Ogaden region in 2007 for allegedly aiding separatist forces, and Médecins sans Frontières has been denied access to certain areas.<sup>483</sup> Ethiopian officials have denied entry to Human Rights Watch researchers and prevented Amnesty International, the International Federation for Human Rights, and the East and Horn of Africa Human Rights Defenders Project (among others) from opening offices in Ethiopia. The government has then used their absence from the ground to deny the legitimacy of their reports.<sup>484</sup>

As a result of these restrictions, it has become increasingly difficult to undertake independent investigations into human rights abuses and monitor the government's use of international donor funds.<sup>485</sup> This became evident during the recent suppression of antigovernment protesters in Oromia and Amhara. As demonstrations broke out in Oromia in 2015, there were few independent analysts on the ground who could corroborate reports of security force abuses.<sup>486</sup> Those who tried to systematically collect information faced government surveillance, threats, and repression. In the summer of 2016, four of the HRCO's members were arrested and detained, likely because they were documenting the crackdown on antiregime demonstrators.<sup>487</sup> Government restrictions on Ethiopian NGOs have impeded their ability to prepare and submit parallel reports to international human rights treaty bodies.<sup>488</sup> The Ethiopian diaspora has attempted to fill this gap by gathering information remotely through their contacts in the country.<sup>489</sup>

Faced with criticisms, the Ethiopian government has highlighted its own human rights institution, the Ethiopian Human Rights Commission, which was created in 2000 and has been tasked with monitoring and raising awareness of human rights issues in the country. However, the commission lacks the technical and financial capacity to effectively carry out

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its mandate. It has yet to publish a single report detailing human rights violations in the country.<sup>490</sup> In fact, it has at times been used to counteract the work of independent civil society organizations.<sup>491</sup> For example, in 2016, the commission denied allegations made by civil society groups that Ethiopian security forces had used excessive force against demonstrators and declared the government's response to have been "proportional."<sup>492</sup>

### *Barriers to Election Monitoring and Voter Education*

Independent civil society groups have also been forced to strike election monitoring and voter education from their mandates. Ahead of the 2005 elections, civil society organizations conducted civic and voter education efforts across the country. International donors allocated \$6.2 million to support a free and fair electoral process, which included \$1.6 million for twenty-four Ethiopian NGOs to provide information about the polls to voters.<sup>493</sup> The National Electoral Board of Ethiopia initially barred most civic groups from observing the election, but national courts reversed the board's decisions shortly before the vote. Despite the lateness of the court decision, the HRCO sent out 1,550 observers on polling day to monitor the vote.<sup>494</sup>

The 2010 and 2015 parliamentary elections occurred in an entirely different context. Ahead of the 2010 polls, independent groups struggled to obtain the necessary accreditation from the electoral board to monitor the elections or conduct voter outreach. For example, the HRCO was asked to remove both election observation and voter education from its statute to reregister with the government.<sup>495</sup> The Ethiopian Civil Society Network for Elections, which consisted of twenty-four member groups, was dissolved.<sup>496</sup> The InterAfrica Group, which played a key role in organizing public debates in the run-up to the 2005 election, had shifted toward other activities and receded from the public eye.<sup>497</sup>

The Charities and Societies Proclamation encourages mass-based organizations to "actively participate in the process of strengthening democratization and election," observe the electoral process, and cooperate with electoral organs.<sup>498</sup> However, as noted above, these organizations remain closely aligned with the ruling party. The largest authorized domestic election observation group to monitor the 2010 polls, the Consortium of Ethiopian Civil Societies for Election Observation, is a case in point: it found the elections to be free and fair, despite a 99.6 percent victory by the ruling party.<sup>499</sup> In contrast, the EU Election Observation Mission stated that the elections fell short of international standards.<sup>500</sup> Since the 2010 election, the only international observers to monitor Ethiopian elections have been from the African Union. The EU declined to take part after its previous recommendations were rejected by the Ethiopian government.<sup>501</sup> Meanwhile, voter education has been taken over by the electoral board, which lacks independence from the government. In 2015, the

board launched its voter education campaign just days before the election and limited its efforts to instructing citizens on how to find polling stations and complete their ballots.<sup>502</sup>

### *New Constraints for Development Work*

Initially, development organizations did not feel particularly affected by the new legal framework.<sup>503</sup> A key feature of the Charities and Societies Proclamation is that it treats rights advocacy and development work as distinct areas of activity. While organizations working on issues such as gender equality, children's rights, and minority protection are prohibited from receiving foreign funding, the same restriction does not apply to development aid and humanitarian organizations. Indeed, the total number of organizations involved in development and service delivery grew in the six years following the enactment of the law.<sup>504</sup>

However, the government's new funding rules and the overall shrinking of civic space have nevertheless constrained their work. First, the government's bifurcation of Ethiopian civil society organizations failed to take into account that many aid organizations over the past few decades have embraced a rights-based approach to development that focuses on the connections between poverty, political marginalization, and discrimination. These groups were forced to abandon their work on national policy questions and shift toward more apolitical and service-oriented activities. The fear of criminal prosecutions for infringements of the NGO law reinforced this trend: many NGOs began practicing self-censorship and refraining from any open criticism of government policies to avoid administrative or legal reprisals.<sup>505</sup>

Second, the Charities and Societies Proclamation prohibits any organization from spending more than 30 percent of their budgets on administrative costs.<sup>506</sup> Government officials justified this provision—what became known as the 70/30 regulation—as a mechanism to ensure that the majority of project funding reaches the intended beneficiaries rather than going toward excessive overhead costs. Yet for many organizations, the government's expansive definition of administrative overhead meant that they could not comply with the requirement without drastically reducing the scope of their work. Expenses they considered critical to project implementation—such as staff allowances, travel and trainings costs, monitoring and evaluation expenses, and vehicle purchases—suddenly counted as administrative costs. Many organizations noted that spending on vehicles, fuel, and driver salaries was essential to maintaining project sites in remote rural areas. For example, health organizations providing mobile outreach services, trainings for health extensions workers, and clinical mentorship suddenly had to classify all of their core activities as administrative expenses.<sup>507</sup> The guideline proved particularly challenging for civil society networks and umbrella groups that aimed to enhance individual member organizations' influence and shape national policy discussions. Under the new guideline, these networks are no longer allowed to engage in advocacy work and can only finance their work through member contributions.<sup>508</sup>



## ADAPTATION STRATEGIES

### *Shift Toward Development and Service Provision Activities*

To survive in the new legal and political environment, the majority of Ethiopian civil society organizations have chosen to shift their activities toward technical development and local service delivery work, moving away from any issues that could be construed as politically sensitive. A 2011 survey of thirty-two NGOs conducted by the Taskforce for Enabling Environment for Civil Society in Ethiopia found that 70 percent of development organizations and 44 percent of human rights organizations changed their organizational mandates and activities in order to preserve their access to foreign funding.<sup>509</sup>

Some organizations were able to simply rebrand stigmatized activities in a way that made them more palatable to government officials. They did so by removing any references to rights or governance from their mission statements, funding applications, and activity reports. Most international organizations successfully reregistered using the same tactic.<sup>510</sup> For example, the pre-2010 mission statement of Action Aid's Ethiopia branch was titled Rights

to End Poverty and noted their work with excluded populations "to eradicate absolute poverty, inequality and denial of rights." In response to the new law, the group changed its mission to ensuring "that poor people effectively participate and make decisions in the eradication of their own poverty and their well-being generally."<sup>511</sup>

Other groups had to undergo a more radical restructuring process. A significant shift in mandate and programming was feasible only for larger organiza-

tions that had sufficient human resources.<sup>512</sup> For example, the prominent human rights organization Action Professionals' Association for the People completely reoriented its mission toward providing socioeconomic services for the poor, producing research, and conducting capacity development activities. The Organization for Social Justice Ethiopia renamed itself the Organization for Social Development and shifted from human rights and voter education to corporate social responsibility. The Ethiopian Arbitration and Conciliation Center stopped providing conflict resolution and arbitration and began focusing on capacity building and judicial training.<sup>513</sup>

The abandonment of the rights-based focus has had a significant impact on the Ethiopian development landscape. Moving away from the underlying drivers of marginalization, many organizations have ceased their awareness-raising, advocacy, and training activities. For

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example, NGOs that previously worked on child trafficking, child labor, and juvenile justice had to abandon their focus on children's rights and focus instead on livelihood improvements and direct support to orphans and vulnerable children.<sup>514</sup> The Forum on Street Children Ethiopia, which had sponsored child protection units in police stations and trained justice sector officials on children's rights, ceased its child protection activities at the end of 2010.<sup>515</sup> Resident charities that have nevertheless engaged in gender equality, children's rights, and justice sector reform have received official warnings from the government.<sup>516</sup> Foreign-funded organizations are also barred from working on women's rights and gender equality, meaning that they no longer advocate for policy and legal reforms on key issues such as female genital mutilation, unsafe abortions, and childhood marriage.<sup>517</sup> On the other hand, those organizations that successfully shifted their work to purely developmental activities have continued to collaborate closely with government agencies at the national and regional levels and maintain fruitful working relationships.<sup>518</sup>

### *Compliance and Resistance in Response to the 70/30 Guideline*

Adaptation to the 70/30 rule proved to be another significant challenge for the sector. Organizations undertook different measures to ensure their compliance, including cutting down on staff training and salaries, giving up capacity-building and training activities, reducing the frequency of field visits, or refocusing their work on urban or semi-urban areas.<sup>519</sup> In addition, many groups had to drastically reduce their expenditures on monitoring and evaluation, which in turn made them less attractive partners for international donors.<sup>520</sup> According to civil society representatives working in education, health, gender equality, and food security, the overall impact of the 70/30 directive was a decrease in the quality of service delivery and an inability to meet donor expectations with respect to project design, implementation, and monitoring and evaluation.<sup>521</sup>

After extensive domestic and international pressure, the government agreed to amend the 70/30 guideline in 2015. The regulation now classifies salaries, transportation costs, and training-related expenses as operational rather than administrative expenses. However, the majority of Ethiopian civil society organizations still struggle to fulfill the requirements. While the Charities and Societies Agency has been slow and inconsistent in enforcing the law, it has repeatedly closed down organizations that have failed to comply. In June 2016, the agency announced that it had shut down more than 200 NGOs over the previous nine months. The announcement followed a new directive imposing additional penalties for noncompliance with the Charities and Societies Proclamation.<sup>522</sup> The effort may have been triggered by the Federal Auditor General's performance audit of the agency, which found evidence of widespread inefficiencies and weak enforcement.<sup>523</sup>

## *Working Under the Radar*

The few Ethiopian human rights groups that remain active in the country have struggled to survive. Raising local funding has proven particularly difficult. Before the Charities and Societies Proclamation came into force, the HRCO successfully negotiated with its international funders to invest some of the organization's core funding into a property that could generate rental income for the organization.<sup>524</sup> Other groups have organized film screenings or music evenings. However, such efforts have raised only small amounts that fail to cover even basic operating expenses.<sup>525</sup> In addition, applications to the Charities and Societies Agency for proposed fund-raising activities have often been met with delays, forcing organizations to cancel planned events.<sup>526</sup> As noted above, all active human rights groups have adjusted to the new context by further downsizing their activities and disbanding central areas of work.<sup>527</sup>

The primary survival strategy has been to carve out space at the local level, with the support of international donors. For example, the EU successfully negotiated exemptions in the government's restrictive legal framework that allow limited amounts of international funding to flow to Ethiopian charities and societies, in spite of the 10 percent foreign funding limit. While these funding arrangements depend on the approval of Ethiopian authorities, they have ensured the survival of organizations like the HRCO, Vision Ethiopian Congress for Democracy, and EWLA that would otherwise most likely have vanished.<sup>528</sup> However, receiving aid through government-approved channels has not protected these groups from harassment by security officials. Most recently, in October 2016, security agents raided an HRCO's organizational fund-raiser—which had earlier been authorized by government authorities—and briefly detained the organization's leaders before releasing them with a warning not to criticize the government.<sup>529</sup> A number of regional organizations registered with local sector offices have been able to continue their work on gender equality, children's and disability rights, and the rights of the elderly. For example, the Amhara Women's Association has continued to focus on gender-based violence and the prevention of female genital mutilation. However, these types of regional organizations tend to have limited resources, which reduces their scope for action.<sup>530</sup>

## **INTERNATIONAL RESPONSES**

Similarly as in the case of Egypt, U.S. and European security interests have constrained Western responses to shrinking civic space in Ethiopia. The Ethiopian government's successful development track record has further complicated international pushback. European and U.S. leaders have primarily engaged in quiet diplomacy rather than public shaming of Ethiopian authorities. They have focused their behind-the-scenes pressure on short-term issues on which they felt tangible progress could be achieved, such as the release of political

prisoners. Lastly, they have generally not used overseas development assistance or security cooperation as tools to gain leverage, even though the EU managed to renegotiate assistance modalities to channel limited amounts of funding to embattled civil society organizations.

## COMPETING ECONOMIC AND SECURITY INTERESTS

International responses to the closing of space for civil society in Ethiopia have to be understood in the context of Ethiopia's broader relationship to Western donor governments. In recent years, Ethiopia has been one of the largest African country recipients of overseas development assistance, receiving an average of \$3.5 billion from international donors.<sup>531</sup> However, although the Ethiopian government is highly dependent on external development assistance, Western governments have been hesitant to use this leverage to push back against repressive efforts in the country for several reasons.

First, Ethiopia's status as a security and counterterrorism partner has made the country relatively impervious to external conditionality. The Ethiopian government has built an international reputation as an anchor of stability in a fragile region.<sup>532</sup> The Ethiopian National Defense Forces have played a key role in the fight against Al-Shabaab in Somalia and served as peacekeepers in the disputed Abyei area between Sudan and South Sudan. From 2011 to 2016, the U.S. military also used an Ethiopian base to launch unmanned aerial vehicles assigned to counterterrorism operations in East Africa.<sup>533</sup> The EU, on the other hand, has relied on Ethiopia to stem the flow of migrants from East Africa and the Horn of Africa.<sup>534</sup> Western governments fear that heightened pressure could destabilize the Ethiopian government, thereby creating further instability in the Horn of Africa.<sup>535</sup> Second, Ethiopian leaders have been highly effective at warding off international pressure by highlighting the government's commitment to economic development and its substantial developmental track record, as well as by threatening to turn further toward China in the event of Western funding cuts. Third, international donors have been unwilling to cut their humanitarian and development assistance out of concern that such a drastic step would only end up hurting the country's poorest populations, which are already vulnerable to drought and famine.

## BEHIND-THE-SCENES PRESSURE AGAINST THE CHARITIES AND SOCIETIES PROCLAMATION

In 2008, news of the draft Charities and Societies Proclamation triggered international diplomatic pressure behind the scenes. International partners privately lobbied the Ethiopian government to remove some of the law's harshest provisions. Throughout the drafting process, Western governments showcased an unusual degree of unity and coordination in condemning the law. Delegations from the EU, the United States, and the United Kingdom (UK) expressed their concern over the legislation during high-level meetings with Ethiopia's

prime minister and Ministry of Justice officials.<sup>536</sup> For example, the assistant secretary for democracy, human rights, and labor traveled to Ethiopia to share U.S. concerns with Zenawi, raising issues such as the 10 percent cap on foreign funding and the limit on administrative overhead.<sup>537</sup> However, these efforts did not significantly impact the final proclamation. The government agreed to a few amendments but retained the core features of the law. At the same time, it publicly accused the international community of illegitimate meddling.<sup>538</sup>

The international reaction to the passing of the law was timid. In a presidential declaration, the EU welcomed the “thorough exchanges of views” it had with the Ethiopian government regarding the law.<sup>539</sup> It neither condemned the law nor asked for its repeal. The statement stood in contrast to the EU’s significantly stronger criticism of the 2006 Russian NGO law and similarly repressive legislation passed in Zimbabwe in 2004.<sup>540</sup> Moreover, the European Commission simultaneously announced 250 million euros in additional assistance for the Ethiopian government. On the U.S. side, the Department of State issued a public statement of concern.<sup>541</sup> Various high-level U.S. officials subsequently raised the issue of the shrinking civic space in meetings with their Ethiopian counterparts, but they rarely addressed the question in public.

## SHIFT TO NEW FUNDING MODALITIES

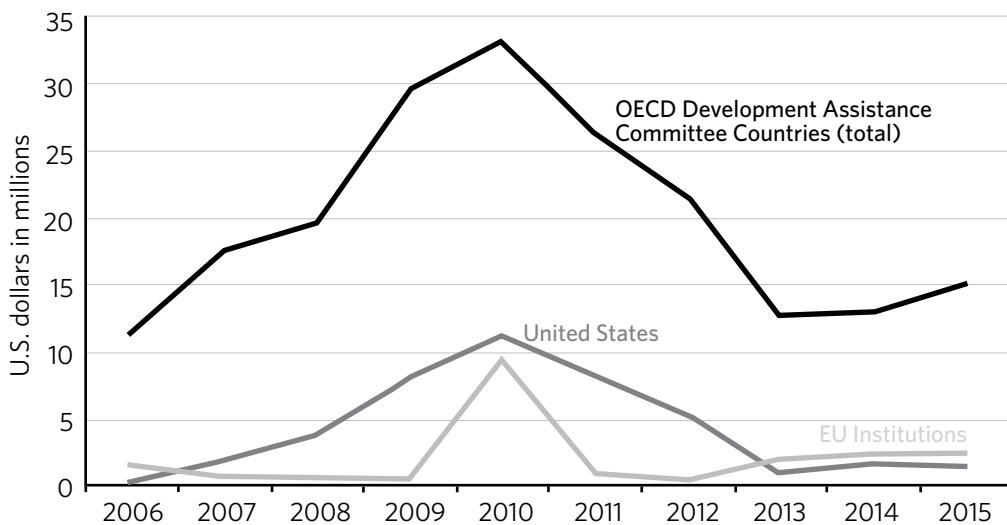
After the law’s passage, Western governments shifted their focus from lobbying to adaptation. The Civil Society Sub Group of the Development Assistance Group—a network of bilateral and multilateral donors established in 2001—set up a monitoring system to track the enforcement of the Charities and Societies Proclamation and collect systematic evidence on the challenges faced by civil society organizations. In addition, the group funded an Adaptation Facility to help Ethiopian civil society groups adjust to the new legal environment.<sup>542</sup> The first part of this project was funded by USAID, whereas the second part was funded by a group of donors that included the Swedish International Development Agency, Irish Aid, the Danish and Dutch embassies, and the Canadian International Development Agency and was executed by a local CSO Taskforce.<sup>543</sup>

The EU also successfully pushed for an exemption from the Charities and Societies Proclamation. Thanks to the Cotonou Agreement—a treaty that obliges EU partner countries to more fully involve nonstate actors in development and policy planning—the EU convinced Ethiopian authorities to label the EU’s Civil Society Fund a domestic funding source. As a result of this exemption, the EU was able to keep funding civil society groups engaged in human rights and advocacy work, which would otherwise have been barred from raising more than 10 percent of their budget from foreign sources.<sup>544</sup> Between 2006 and 2012, the Civil Society Fund dispensed 14.9 million euros in small grants and capacity-building support to more than 250 Ethiopian civil society organizations.<sup>545</sup> In 2012, the EU launched a second incarnation of the fund that allocated an additional 12 million

euros to Ethiopian NGOs.<sup>546</sup> As part of the agreement, Ethiopian government authorities participate in the funding allocation decisions and therefore exercise some degree of control over the process. The program has nevertheless benefited a few organizations working directly on democracy and rights, including the HRCO, EWLA, the Consortium of Christian Relief and Development Associations, and the Vision Ethiopian Congress for Democracy. In addition, the EU has channeled grants to Ethiopian NGOs through the European Instrument for Democracy and Human Rights.<sup>547</sup>

The U.S. government has struggled to continue its democracy assistance activities in the country. USAID initially continued funding the United Nations Development Program’s Democratic Institutions Program, which provided technical capacity building to Ethiopian governmental institutions, including the Ethiopian Human Rights Commission and the Federal Ethics and Anti-Corruption Commission. Yet it phased out its support after the Electoral Board denied civil society groups the right to provide voter education ahead of the 2010 elections.<sup>548</sup> The National Democratic Institute and the International Republican Institute did not resume their in-country activities after having been expelled from the country in 2005.<sup>549</sup> However, the National Endowment for Democracy has continued disbursing small discretionary grants to Ethiopian civil society organizations, including the Vision Ethiopian Congress for Democracy, the Forum for Social Studies, and the Peace and Development Center (see Figure 6).<sup>550</sup>

**Figure 6. Trends in Official Development Assistance (ODA), International and Local Civil Society Organizations Working on Democracy and Civic Participation in Ethiopia, 2006–2015<sup>a</sup>**



Source: Data from the Organization for Economic Co-operation and Development (OECD), Creditor Reporting System, <https://stats.oecd.org/Index.aspx?DataSetCode=CRS1>.

a. Includes all ODA that flows to the sector “Democratic Participation and Civil Society,” channeled through NGOs and civil society (gross disbursements).

## QUIET DIPLOMACY

At the diplomatic level, both the EU and United States continued to address the human rights situation in Ethiopia privately and within the framework of high-level meetings and formal political dialogues with the Ethiopian government. Their efforts centered primarily on monitoring the impact of the Anti-Terrorism Proclamation and its use against journalists, opposition activists, and religious leaders. U.S. officials raised these issues in meetings of the U.S.-Ethiopian bilateral Democracy, Governance, and Human Rights Working Group.<sup>551</sup> EU officials also regularly discussed the Charities and Societies Proclamation and the Anti-Terrorism Proclamation during its Article 8 dialogues with the Ethiopian government. These dialogues derive their name from Article 8 of the Cotonou Agreement, which requires the EU and its development partners to “regularly engage” in dialogue about democracy and human rights.<sup>552</sup>

This type of quiet diplomacy led to little political change. The Ethiopian government adopted a highly formalistic approach to dialogue that provided few opportunities for a genuine debate on governance and human rights. On the EU side, the Article 8 dialogues were hampered by the lack of political engagement by member states and the absence of verifiable human rights benchmarks.<sup>553</sup> International lobbying efforts proved most effective when they centered on specific cases, such as the release of political prisoners. For example, U.S. officials privately urged the government to cease the harassment and detention of opposition party supporters, which may have contributed to the release and pardon of a number of opposition leaders and journalists.<sup>554</sup> Similarly, the EU expressed strong concern about the fate of the Zone 9 bloggers, who were imprisoned in 2014 and ultimately released in 2015 shortly after Obama’s visit.<sup>555</sup>

Yet high-level public pressure remained rare, even as the human rights situation in Ethiopia deteriorated further. Several prominent U.S. officials glossed over Ethiopia’s backsliding on democracy in public statements. The former under secretary of state for political affairs, Wendy Sherman, caused a small stir among human rights organizations in 2015 when she referred to Ethiopia as “a democracy that is moving forward” and asserted that Ethiopia was willing to “make every election better than the last one in being inclusive” and “[make] sure everybody’s rights are respected.”<sup>556</sup> Obama faced a similar backlash in 2015 when he became the first sitting U.S. president to visit Ethiopia—the same year that the EPRDF claimed to have won all 547 parliamentary seats in a landslide victory. During his visit, Obama called Ethiopia’s government “democratically elected,” seemingly legitimizing the flawed elections.<sup>557</sup> While praising Ethiopia as an “outstanding” partner in the war on terror, he privately pressed Prime Minister Hailemariam Desalegn for improvements on human rights and political freedoms.<sup>558</sup> Faced with criticism, the Obama administration argued that raising the profile of governance concerns during a high-level

meeting would be more effective than sidelining the Ethiopian government.<sup>559</sup> As in the case of Russia and Egypt, Obama's team thus prioritized what they termed "principled engagement" over punitive diplomacy.<sup>560</sup>

## CONTINUED AID FLOWS

While the United States and European countries have engaged Ethiopian authorities on democracy and human rights issues in public statements and private meetings, they have not applied any significant financial or economic sanctions to pressure the Ethiopian government to open up political space. U.S. aid to Ethiopia has fluctuated greatly over the years, but it has generally not been subject to conditions relating to democracy and human rights. The Security Assistance Monitor reports that the United States has provided between \$300 million and \$900 million in economic aid and between \$1 million and \$25 million in security aid to Ethiopia every year since 2003.<sup>561</sup> While Ethiopia's access to foreign military financing and military education and training funds has been subject to certifications from the secretary of state that Ethiopia has improved along various political indicators, U.S. support for peacekeeping, counterterrorism, and other defense operations is exempt from such certifications.<sup>562</sup>

In Europe, the Nordic countries and the European Parliament have been the most vocal and public advocates for greater European conditionality toward Ethiopia. In January 2013, the European Parliament passed a resolution imploring the European Commission and other international donors to make military and development assistance to Ethiopia contingent on political reforms, including "the repeal or amendment of the Charities and Societies Proclamation and the Anti-Terrorism Proclamation."<sup>563</sup> However, these efforts have translated into few tangible changes in assistance modalities. For example, the EU has never activated Article 96 of the Cotonou Agreement to suspend development aid to Ethiopia over democracy and governance concerns.<sup>564</sup> After the Ethiopian government's 2005 postelection crackdown, the EU did cancel its direct budget support to Ethiopia's national treasury.<sup>565</sup> Yet it redirected the funds to the World Bank's Protection of Basic Services program in Ethiopia, which later came under fire from human rights organizations for enabling the EPRDF's human rights abuses.<sup>566</sup> The EU also approved a "middle-sized" governance incentive tranche—meant to incentivize and reward political reform—even as the country experienced a significant tightening of civic and political space.<sup>567</sup> Ethiopia stands out as the only low-income African country other than The Gambia where the European Development Fund has not named democratic governance as a "focal area."<sup>568</sup> Between 2005 and 2014, the EU allocated only 3 percent of its total EU aid to Ethiopia to support governance reform programs.<sup>569</sup>

The United Kingdom, another major source of economic and military assistance for Ethiopia, has not significantly changed its policy toward Ethiopia since the crackdown on civil



society intensified in 2009. In recent years, Ethiopia has consistently been among the top five recipients of British development aid. In fact, between 2015 and 2016, Ethiopia moved up from being the UK's third-highest aid recipient (313 million pounds) to being the UK's second-highest aid recipient (388 million pounds), with only Pakistan receiving more aid.<sup>570</sup> In the past, UK aid has come under fire for allegedly supporting human rights abuses by the Ethiopian government, as in the case of Mr. O, an Ethiopian farmer who filed a suit against the UK Department for International Development for indirectly funding a “villagization” program in which Ethiopian security forces displaced hundreds of Ethiopian villagers.<sup>571</sup>

As noted in the introduction, the reluctance to use political conditionality partly stems from donors' desire to support the Ethiopian government's development efforts and concerns that increased pressure in the form of financial and development penalties would only hurt the most marginalized and impoverished Ethiopians.<sup>572</sup> Donor governments also worry that isolating the Ethiopian government could further increase China's influence in the country—particularly since the EPRDF already views Chinese investment as an important alternative to Western support.<sup>573</sup> They point to existing evidence that democratic conditionality rarely works.<sup>574</sup> Moreover, the belief that sustainable democracy in fact requires economic development and political stability remains prevalent among many donors, reinforced by multiple short-term incentives to continue diplomatic and assistance cooperation around counterterrorism and migration management.

## WEAK RESPONSES TO THE CURRENT CRISIS

The disjunction between Western countries' aid relationship to the Ethiopian government and concerns over increasing repression in the country became even more apparent during the Ethiopian government's crackdown on protesters in 2015 and 2016. On the one hand, the frequency of high-level statements and condemnations increased. The European Parliament repeatedly issued strong statements criticizing the EPRDF's handling of the protests. In January 2016, it passed another resolution calling on the EU to link its development cooperation with Ethiopia to democratic reform commitments and mitigate the “negative impact of displacement within EU-funded development projects.”<sup>575</sup> In 2016, the EU delegation in Addis Ababa and various EU member states cosponsored a joint mission to Ethiopia's Oromia region to conduct field visits, meet with stakeholders, and evaluate the human rights situation of protesters targeted by Ethiopian security forces. Similarly, twelve U.S. senators in April 2016 introduced a resolution condemning the use of violence against protesters and civil society and calling on the secretary of state to review U.S. security assistance to Ethiopia.<sup>576</sup>

At the same time, U.S. and EU officials have given no indication of a broader policy shift. In November 2015, the EU and Ethiopia signed a Declaration on a Common Agenda on

Migration and Mobility, which allocates further financial support to the Ethiopian government to manage migration flows in the Horn of Africa.<sup>577</sup> On the sidelines of the European Development Days in June 2016, EU leaders and the Ethiopian prime minister signed a joint declaration, *Towards an EU-Ethiopia Strategic Engagement*, which sets up a comprehensive process of cooperation along shared interests, including counterterrorism, trade, migration and economic development.<sup>578</sup> While the initiative includes annual consultations on human rights and governance, it remains to be seen whether they will serve as an effective forum to challenge Ethiopian officials on the shrinking of civic space. After meeting Desalegn in March 2017, the EU's high representative, Federica Mogherini, did not address the ongoing state of emergency in Ethiopia, and even praised the government's establishment of a dialogue with the opposition.<sup>579</sup> For now, it seems that the EU will continue to embrace quiet diplomacy while refraining from applying public pressure or conditionality, while the new U.S. administration has given no indication of a shift in approach.



## REPRESSION AND RESPONSES: CROSS-CUTTING THEMES

The closing of space for civil society is no longer just an emergent trend of uncertain gravity. Civil society organizations and activists in an ever-increasing number of countries have to contend with systematic efforts to reduce their resource base, operational effectiveness, and public legitimacy. In many places, formal and informal restrictions on freedoms of association and assembly and the public vilification of civic actors have already become the new political reality.

This represents a fundamental rupture of the global spread of liberal civil society norms advanced by Western aid providers and international institutions over the past several decades. Of course, human rights activists and citizen groups working to challenge state power have always faced an uphill struggle. Their work unsettles deeply entrenched vested interests, causing political and economic elites to lash out against them. In authoritarian contexts, state-society relations have always been tenuous, with governments keeping tight control over foreign aid flows and dissidents risking violent state repression.

What is different today is the growing number and diversity of countries implementing or considering restrictions and the rate at which such measures have spread. While new restrictions are most common in competitive authoritarian systems (that is to say, regimes that are neither fully autocratic nor fully democratic), countries in every regime category are part of this trend.<sup>580</sup> Governments are risking domestic and international backlash and sacrificing the influx of valuable resources to reassert their political authority and regulate transnational influences on domestic politics.<sup>581</sup>

The closing space phenomenon raises pressing questions about the resilience and sustainability of civil society sectors in many parts of the world. The implementation, enforcement, and local impact of civil society restrictions thus deserve careful scrutiny—as do international responses.

## TACTICS

As the cases of Russia, Egypt, and Ethiopia highlight, closing the space for civil society often goes beyond the enactment of restrictive NGO laws. In all three cases, these legislative measures were only one element of a much broader set of formal and informal efforts aimed at bringing civil society under greater state control.

## DELEGITIMIZATION

All three governments have pursued aggressive and sustained smear campaigns against specific categories of civil society organizations. While these attacks on civil society have taken different forms depending on the context, they typically have built on three preexisting public narratives: suspicions of foreign political meddling, fears of violent extremism, and anti-elite attitudes within society.

### *Foreign Agents*

Officials in all three countries have denounced foreign-funded organizations as vehicles of outside powers working to undermine national security and the public good. This strategy has been used most prominently in Russia, where authorities formally require foreign-funded organizations to label themselves as foreign agents—with the clear connotation that these groups constitute a fifth column seeking to destabilize Russia from within. In Egypt, consecutive governments have similarly exploited widespread resentment against U.S. political interference in the Middle East to delegitimize civic actors with ties to foreign aid providers. Ethiopian authorities have disparaged international and domestic human rights organizations as foreign spies and Western neoliberal agents undermining the EPRDF's revolutionary democracy.

### *Violent Extremists*

An alternative strategy, employed very successfully in both Egypt and Ethiopia, is to depict civil society organizations as extremist groups or terrorist sympathizers. Officials typically resorted to this strategy when the civic movement in question could not be reduced to an externally sponsored elite phenomenon but in fact had strong local roots, such as the Muslim Brotherhood in Egypt or ethnically based civil society organizations in Ethiopia's Oromia

and Amhara regions. In both countries, courts have also convicted journalists on the charge of abetting terrorist groups. The use of counterterrorism rhetoric to justify civil society repression has proven particularly effective during moments of acute political instability when popular opinion supports assertive state action—such as following Morsi’s ouster in Egypt in 2013. In Russia, security officials have also raided and investigated NGOs under the pretext of suspected extremist activity—particularly in the north Caucasus. Governments are particularly astute at exploiting the fact that human rights organizations often defend terrorist suspects from state abuses (such as extrajudicial killings, disappearances, torture, and unfair trials).

### *Corrupt Elites*

Government officials in Russia and Ethiopia have also tried to delegitimize civil society organizations by reinforcing existing gaps between urban groups dominated by educated elites and the wider population. For example, the EPRDF has used the fact that many nongovernmental groups are heavily dependent on foreign funding to disparage them as rent-seekers that exist to extract donor money. These accusations have resonance because of the reality of nepotism, corruption, and poor downward accountability in the aid sector. Russian officials, on the other hand, have at times depicted civil society activists and protesters as urban intellectuals who are out of touch with the struggles and aspirations of everyday Russians.

In all three cases, government officials initiated campaigns of vilification before implementing legal restrictions and intensified their accusations during periods of heightened polarization and instability. The campaigns thus served to justify further legal measures, yet they also had a more immediate effect: by continuously assigning secondary motives to civil society groups, governments weaken public trust in civil society activities, assessments, and reports. Three factors particularly aided government strategies of delegitimization: (1), state influence over key media outlets—such as public broadcasting in Ethiopia and state-controlled television in Russia—that allows the ruling government to aggressively disseminate its message; (2), the existence of public narratives that reinforced anti-civil society suspicions; and (3), relatively weak-rooted formal NGO sectors with narrow core constituencies. The latter factor appeared to be particularly prominent in contexts where civil society organizations first appeared and flourished because of an influx of foreign funding, such as Ethiopia in the 1980s and Russia in the 1990s.

## SWEEPING LEGISLATIVE MEASURES

In Russia, Egypt, and Ethiopia, governments have paired NGO restrictions with other legislative measures and presidential decrees that restrict citizens’ freedoms of association and assembly, particularly counterterrorism laws and antiprotest bills. A key characteristic of

these legal measures is the reliance on vague concepts and definitions that give implementing agencies considerable discretion in enforcement. The Egyptian antiterrorism law broadly defines terrorism as any act that disturbs public order with force.<sup>582</sup> Similarly, the Ethiopian Anti-Terrorism Proclamation can be used to criminalize peaceful political dissent, assistance of any type provided to nonviolent protesters, as well as publications deemed to indirectly encourage terrorist acts.<sup>583</sup> The Russian foreign agent law, on the other hand, failed to define “political activities,” which meant that the term could be applied to all forms of advocacy or human rights work.

These types of sweeping definitions undermine due process as the statutes in question do not adequately clarify what conduct is prohibited. The effects of this legal uncertainty have

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been self-censorship and fear. Civil society organizations simply do not know how broadly new laws will be applied, what types of activities will be sanctioned, and how the judiciary will respond to legal challenges. Broad and unclear legal guidelines have also resulted in delayed or inconsistent enforcement patterns, which contribute to uncertainty and disunity within the wider civil society community. This challenge becomes particularly acute as different government agencies and levels of government become involved in the enforcement process. In Russia, prosecutors and courts in different parts of the country initially arrived

at divergent interpretations of the meaning and scope of political activities. In Ethiopia, the Charities and Societies Agency struggled to systematically enforce the government’s 70/30 funding guideline. As the agency faced government pressure to improve its performance, it lashed out at an increasing number of organizations in largely unpredictable ways.

## SELECTIVE TARGETING

Further, governments in all three countries have intentionally relied on a tactic of selective targeting. Rather than systematically enforcing all restrictive legal measures—often impossible owing to capacity constraints and fear of international and domestic backlash—they prosecute and convict a select number of activists to send a signal to society at large. This pattern has been particularly evident in Russia, where the government has initiated criminal charges against NGOs, individual citizens, and civic activists only in a select number of cases. These cases nevertheless highlight to the wider NGO community—and citizenry—that the government is willing and capable of using the law to repress dissent. In Egypt, the government failed to enforce its own NGO registration deadline, which has left those organizations that chose not to register vulnerable to future selective enforcement efforts.

Ethiopian authorities, on the other hand, have regularly ratcheted up their pressure on journalists, activists, and lawyers ahead of elections or in moments of crisis, using the Anti-Terrorism Proclamation to initiate criminal proceedings.

In addition, law enforcement agencies in all three cases have singled out a core group of human rights and pro-democracy organizations perceived as particularly threatening to the government. These organizations have experienced the most sustained harassment: smear campaigns, repeated investigations, interrogations, and lawsuits—often focused on narrow procedural matters and administrative offenses. Yet even those activists, while aware of their vulnerable status, do not know when or how they will be targeted, when the raid or the arrest will happen, and how far government authorities are willing to go. The selective prosecution of dissidents, activists, and journalists combined with repeated threats and harassment by security officials have led many of these human rights defenders to go into exile, knowing that it is only a matter of time before they are targeted again.

Legal uncertainty and unpredictable enforcement heighten the importance of institutions that can act as checks on government abuses of power, particularly the judiciary. Strong legal institutions can ensure that governments respect their human rights commitments even in the absence of other democratic protections. It is telling that in all three cases, the independence of the judiciary had already been compromised to some degree when the government began enacting legal restrictions. As a result, civic actors could no longer rely on the courts to fight back against the executive and legislative branches. The Russian and Egyptian governments in particular have pursued a legalist approach to civil society repression that relies on the judiciary to maintain a façade of rule of law. While civic activists who have challenged civil society restrictions and harassment in the courts have achieved a number of limited victories, these have been insufficient to turn the overall tide.

## VARYING LEVELS OF VIOLENT REPRESSION

Governments differ in their use of overt repression and violence against civic mobilization. Despite widespread security force abuses, state violence against civil society in Russia has not reached the level of intensity and impunity witnessed in Egypt since 2013 and in Ethiopia after the 2005 election and more recently following mass demonstrations in Oromia and Amhara.<sup>584</sup> Russian authorities have primarily relied on legal and bureaucratic measures and state propaganda to silence or marginalize critical actors, combined with the selective intimidation and prosecution of activists, journalists, and private citizens. In contrast, activists in both Egypt and Ethiopia face a high risk of detention and forced disappearance. Both countries have recently experienced mass killings of protesters by security forces in response to large-scale demonstrations.



This variation may potentially be explained by differences in regime strength, institutional and bureaucratic cultures, and degree of perceived threat. Violent repression is costly: governments thus have a strong interest in institutionalizing restrictions that make crude violence against citizens unnecessary. While a detailed analysis of these dynamics is beyond the scope of this report, it is possible that the Russian government is secure enough in its power and popularity to resort to crude repression only in isolated instances—for example, when faced with unauthorized protests. In contrast, the Egyptian military came to power after three years of internal upheaval in which the locus of control had repeatedly shifted. At the time, the Muslim Brotherhood still had a large support base and represented a concrete political threat. State security agencies were internally split and competing for dominance. Since then, the rise in terrorist activity has further facilitated the increasing use of extrajudicial proceedings and violence. In Ethiopia, the ruling party has extended its control over state institutions down to the local level. Yet it governs a fractured multiethnic federation that remains fundamentally fragile, particularly owing to the long-time political marginalization of the majority of its population. The recent protests in the Amhara and Oromia regions brought these structural vulnerabilities to the fore.

## CREATION OF ALTERNATIVE CIVIC ACTORS

Beyond targeting specific civic actors and increasing control over associational life, the governments examined in this report have also sought to reshape civil society by co-opting existing organizations, channeling resources toward certain types of civil society activities, and encouraging the formation of pro-government groups. They have followed two main strategies in this regard: a divide-and-rule approach that seeks to sow divisions within civil society by selectively disbursing punishment and rewards and a mobilization approach that encourages citizen action within party- or state-controlled structures and boundaries.

In Russia, Egypt, and Ethiopia, governments have tried to draw a line between organizations that are considered socially useful and groups working on more politically sensitive issues. They have done so primarily by making it much more difficult for the latter group to access foreign funding. For example, the Ethiopian Charities and Societies Proclamation stipulates that organizations working on a wide range of rights-related issues have to raise 90 percent of their funding from domestic sources. At the same time, the Ethiopian government continues to work with NGOs that engage strictly in local development and service delivery and refrain from challenging the state's development agenda. Yet even the latter have little influence on national policy discussions. The most recent Egyptian NGO law institutionalizes a similar division: it explicitly limits the work of all civil society organizations to development and social welfare issues that are in line with the state's development goals. In Russia, government officials have similarly highlighted the role of apolitical charitable and service delivery organizations in official statements and included them in official

government platforms. This does not mean that development and social organizations have flourished: in Ethiopia, Egypt, as well as Russia, shrinking civic space has negatively impacted their ability to operate freely and independently, raise funding, and influence policy deliberations. To different degrees, all three governments seem to envision a civil society that primarily serves the role of implementing state policy, rather than aggregating and defending different citizen interests or encouraging civic participation—no matter in what realm.

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Yet there are also differences among the three cases. The Kremlin has pursued a relatively coordinated strategy that consists of creating government-approved civil society councils and funding civil society organizations that fill the government's service delivery gaps or promote official ideology and policy. Russian authorities temporarily embraced a mobilization-type approach and encouraged the proliferation of pro-Kremlin grassroots groups. Yet they backtracked when these associations' activities no longer seemed to serve the government's reputation and agenda. Over the past two years, the Russian government has reverted to a more hierarchical model. The EPRDF, on the other hand, has pursued a mobilization strategy by strengthening the role of mass-based associations, which remain closely tied to the ruling party, and incorporating citizens into party-controlled committees and governance structures at the local level. However, these associations typically have limited autonomy and capacity and largely serve as extensions of the ruling government.

## IMPACT

### EXILE OR CLOSURE

As government attacks have intensified, activists from all three countries have found it extremely difficult to continue their work. Some have decided to go into exile, knowing that they would in all likelihood become targets for prosecution. From Tunis to Nairobi and Vilnius, small communities of activists in exile have emerged, many of which remain remotely involved in civic activism and human rights work. In addition, organizations have been dissolved or become inactive, primarily owing to funding constraints. In Ethiopia, hundreds of organizations could not reregister under the Charities and Societies Proclamation because they did not meet the necessary requirements. Similarly, smaller organizations have struggled to comply with Russian reregistration requirements. In some cases, the organizations in question may have already been largely inactive beforehand. In other cases, they did not have enough funding or staff to meet the necessary bureaucratic benchmarks or simply struggled to raise the resources needed to continue their activities.

## REDUCED FUNDING

Campaigns to close civic space have reduced the access of civil society groups to funding, forcing them to cut budgets, terminate programs and activities, shrink in size, and focus on sheer organizational survival. Foreign funding restrictions have particularly impacted organizations involved in human rights and advocacy work or activities interpreted by the government to be of a political nature. In the case of Russia, this includes NGO work on local environmental protection, conflict resolution, and HIV prevention; whereas in Ethiopia, groups focused on gender equality and children's rights—among other issues—have been forced to forsake external support. In addition, in Russia and Egypt, overall levels of civil society funding have decreased as concerned international funders have withdrawn. This means that even organizations working on relatively apolitical development or social accountability projects struggle to finance their work. In addition, certain government regulations, such as Ethiopia's 70/30 guideline, impede access to funding for the sector as a whole.

A key consequence has been the desperate search for new funding models that will reduce civic actors' dependence on external support. Affected organizations have tried to build up their local membership base or shift toward income-generating activities. However, in none of the cases examined in this report has the search for an alternative funding strategy—be it domestic corporate sponsorship, grassroots fund-raising, or income generation—yielded sufficient resources to sustain previous levels of civil society activity and reach. Instead, civil society organizations have had to scale back their activities. Those that have proved most resilient to the new funding environments are groups that can complement their advocacy or civic assistance work with income-generating services or can rely on significant volunteer support. On the other hand, smaller groups with limited internal capacity have struggled to adjust. As a result, NGOs have had to strike new compromises. In Ethiopia, many human rights and advocacy organizations have chosen to change their mandate and programmatic focus to more apolitical development work to continue receiving foreign funding. In Russia, a similar shift has happened more informally, with some organizations adopting a less critical stance to qualify for government assistance.

## WEAKENING THROUGH BUREAUCRATIC ATTRITION

In addition to funding restrictions, seemingly innocuous administrative procedures and regulations have had a devastating effect on civil society organizations in all three countries. Changes in registration rules and reregistration requirements have been easy tools that governments have used to weed out critical organizations, force them to strike certain activities from their mandate, and prevent new independent groups from forming. Organizations now have to spend more and more time fulfilling complex reporting, permitting, and auditing tasks; cooperating with government investigators; and defending themselves against

legal challenges. The Russian case exemplifies how officials use administrative regulations to repeatedly drag civil society organizations into court. The 70/30 rule in Ethiopia similarly highlights the often dramatic effects of simple administrative provisions. In a context of resource scarcity, constant bureaucratic hurdles further discourage citizens from forming nongovernmental groups and prevent already existing organizations from focusing on their substantive work. In addition, they provide ample opportunities for government officials to exercise their discretion to delay civil society activities, block funding flows, and otherwise target groups they perceive as threatening.

## FRAGMENTATION

Another consequence of the closing civic space in Russia, Egypt, and Ethiopia has been the fragmentation of associational life. In all three countries, it has become more difficult for organizations to collaborate both formally and informally, as groups have become more absorbed in their own survival. Divergent regulations for apolitical development groups versus organizations working on political and rights issues have strained cross-sectoral partnerships, despite common challenges.

This is a worrisome trend: civic movements tend to succeed when different organizations pursue a cohesive and collaborative agenda. The density of social networks and horizontal ties between civic groups are typically crucial enablers of social and political mobilization: members of an interconnected civil society are more likely to overcome barriers to participation in contentious politics and withstand state repression.<sup>585</sup> On the other hand, individualized or compartmentalized resistance to state policy is more easily controlled and suppressed. Yet there are also examples of resistance in the face of adversity. In Ethiopia, civil society organizations formed a task force to coordinate their lobbying efforts and pressure the government for reform. In both Russia and Egypt, human rights groups have managed to act in a relatively coordinated manner—for example, in jointly resisting the Russian foreign agent designation or issuing joint statements after attacks on individual organizations.

## DIMINISHED DOMESTIC AND INTERNATIONAL REACH

Due to funding cuts, smear campaigns, and government harassment, civil society organizations also struggle to expand their activities, develop new partnerships, and reach a broad audience with their work. The closing of space thus undermines both horizontal ties among organizations and civic actors and vertical ties between activists and members of the political elites. For example, in Russia, the foreign agent designation has made it difficult for NGOs to continue cooperating with local authorities, state agencies, or other public bodies, including schools. Only organizations that have forsaken their organizational autonomy have managed to maintain close connections to state decisionmakers. In addition, state control

over key media outlets has made it more difficult for civic actors in all three countries to influence public narratives and raise awareness of their work. This is particularly problematic in Ethiopia and rural Egypt, where access to the Internet remains limited. As groups are increasingly forced to act clandestinely or keep a low profile to avoid government repression, they are less likely to achieve their desired goals.

Similarly, civil society organizations have found themselves cut off from international partners, counterparts, and forums. They now lack the resources and capacity to build cross-national linkages as they have become increasingly consumed with domestic challenges. Government harassment and restrictions—such as travel bans in Egypt—also make it more difficult for activists to participate in international exchanges, as doing so increases the risk of interrogation, detention, and arrest. This means that civil society organizations struggle to remain involved in transnational efforts and movements and to shape international policy discussions. They are cut off not only from resources but increasingly from exchanges of information and shared learning.

## FORCED SEARCH FOR NEW ORGANIZATIONAL STRUCTURES

The trend toward closing space highlights the limitations of formal NGOs as vehicles for social and political change. The professionalization and specialization of civil society organizations has of course often been crucial to their success, providing organizational continuity and strategic leadership. However, the flip side of this trend has been the weakening of their ties to local constituencies and increased vulnerability to legal and administrative restrictions.

Faced with escalating restrictions, nongovernmental organizations in Egypt and Russia have begun moving toward alternative organizational structures. In Egypt, human rights organizations already under Mubarak relied on a legal loophole that allowed them to operate as law firms and civil companies. They have fought to preserve this status under increasing government pressure. In Russia, the shift to for-profit models represents a relatively new strategy, adopted most successfully by human rights lawyers. Other groups have moved their operations to neighboring countries or created international affiliates that allow them to circumvent funding restrictions. These strategies have ensured organizational survival in the short run, yet it remains to be seen to what extent they can sustain civil society activism in the future.

Pressure on the formal NGO model has also contributed to groups giving up formal registration altogether and operating instead as looser coalitions of activists and volunteers. This model creates new challenges, as it makes it more difficult to raise funding from international partners or collaborate with state authorities. On the other hand, it provides a greater layer of protection from administrative and legal harassment. Anecdotal evidence also sug-

gests that shrinking civic space has contributed to the emergence of more sporadic and fluid protest movements focused on specific policy issues or local grievances—at times in relative isolation from established NGO actors.

## WIDER SOCIETAL IMPLICATIONS

It is difficult to measure the cumulative effect that the weakening of civil society organizations has on societies as a whole or on the specific social and political problems that these organizations are working to address. Yet several broad patterns emerge from the analysis. First, in Egypt and Ethiopia, the weakening of advocacy and human rights organizations has—to different degrees—diminished the quality of information about government abuses in those countries, particularly security service violations and public sector corruption. In Ethiopia, where the human rights community was already small before the crackdown began, this impact has been felt most severely—for example, there is currently only one local organization systematically monitoring government abuses in relation to demonstrations in Oromia and Amhara.

A second impact is the decline in services and advocacy for marginalized communities and neglected issue areas, including LGBTQ and women's rights, migrant and refugee protection, and environmental justice. Given that many of these issues and groups have traditionally been neglected, ignored, or suppressed by government authorities and political parties, they disproportionately depend on civil society organizations for targeted advocacy. A third impact is the silencing of voices that challenge dominant government narratives about current political realities, future prospects, and events of the past. In Egypt and Ethiopia, journalists and independent publications have been primary targets. Russian organizations that aim to highlight the victims of Stalinist repression have also been repeatedly discredited and attacked.

## INTERNATIONAL RESPONSES

As governments have lashed out against Western aid programs and imposed new restrictions on civil society, the U.S. and European governments have pushed back, voicing their disagreements both in private discussions and public statements. However, several factors have hindered the effectiveness of their responses. First, in the interest of preserving bilateral cooperation, Western governments have at times dismissed early civil society restrictions or actions against external funders as isolated incidents and failed to respond in a coordinated manner. Second, Western governments' competing geopolitical and economic interests have often prevented them from taking a stronger stance—even in the face of escalating crackdowns. Public statements and human rights dialogues remained decoupled from other areas of strategic cooperation and therefore had little teeth. Governments have been most effective

when they have pursued limited goals in a coordinated manner, even though these gains tended to be short-lived.

## IGNORING OF EARLY SIGNS TO PRESERVE COOPERATION

Both the U.S. and European governments have at times dismissed or underestimated early signs of closing civic space. For example, the U.S. government did not mount a very loud response to Egyptian authorities' crackdown on foreign-funded and international NGOs in late 2011—instead reacting to the raids and NGO trial as a legal dispute and misunderstanding. Similarly, European actors were slow to publicly recognize increasingly repressive trends in Ethiopia following the 2005 election and continued to praise Ethiopian authorities for their civil society consultations and cooperation with Western donors.

There are several possible explanations for these subdued responses. The U.S. and European governments may have genuinely miscalculated the political trajectory of the countries in question. For example, in the case of Egypt, they may have viewed the backlash against foreign-funded civil society organizations as a specific grievance rather than as an indication of broader repressive trends. Competing strategic priorities in all likelihood reinforced this tendency, leading governments to dismiss early signs of repression for the sake of continued cooperation in other areas. The Russian, Ethiopian, and Egyptian governments also proved to be relatively astute at manipulating Western policymakers. As they began implementing civil society restrictions, they offered quiet reassurances that certain organizations and activists would not be targeted, that restrictive laws would be amended in cases of abuse, and that enforcement efforts would be impartial. In private negotiations, they repeatedly justified restrictions on civil society as necessary measures to increase transparency and limit foreign support for explicitly partisan activity—even as they publicly malign Western interference in their domestic political affairs.

## RELUCTANCE TO USE POLITICAL CONDITIONALITY

Not surprisingly, competing interests on the side of Western governments have hindered coordinated and coherent responses to closing civic space in Russia, Egypt, and Ethiopia. Governments repeatedly found themselves internally divided over which foreign policy objectives to prioritize and how much emphasis to give to civic space concerns. In the United States, these debates played out in interagency deliberations, as well as between Congress and the White House. In Europe, different member states struggled to reconcile competing geopolitical priorities, historical allegiances, and economic interests. For example, in the case of Russia, the United States throughout the late 2000s sought cooperation on nuclear nonproliferation and counterterrorism, whereas several European governments remained wary of upsetting their commercial and energy ties. Western governments' competing inter-

ests were even more pronounced in the case of Egypt: while concerned over the resurgence of authoritarian tendencies since the 2011 uprising, the United States sought to preserve its relationship with the Egyptian military to ensure continued counterterrorism cooperation, prevent further regional instability, and preserve the Egypt-Israel Peace Treaty.

These diverging security, economic, and political interests kept Western governments from attaching stricter political conditions to their development and security assistance or imposing other types of financial or economic penalties. Policymakers repeatedly argued that stricter conditionality would damage cooperation on issues of mutual concern, such as counterterrorism in the case of Ethiopia and Egypt, while having little impact on antidemocratic trends. In the case of Russia, various EU member states also feared adverse consequences for European industries and potential retaliatory measures in the energy sector. In addition to competing interests, governments faced internal divisions over the effectiveness of aggressive pushback versus continued engagement. While some policymakers argued that the United States and its European allies could maintain their leverage only by making credible threats and following up with tangible measures, others asserted that quiet diplomacy and continued dialogue were generally more effective for achieving substantive reforms. In Russia, Egypt, and Ethiopia, the latter camp typically won the debate, with governments opting for continued engagement in the hope of achieving limited progress on civic space without compromising other areas of cooperation.

## POLICY INCOHERENCE AND WAVERING COMMITMENT

Unwilling to damage important bilateral relationships, Western governments thus tried to balance their efforts to counteract civil society restrictions with continued cooperation. The Obama administration in particular advanced a doctrine of principled engagement, which consisted of pursuing cooperation along issues of mutual concern while continuing to meet with and support civic actors and raise human rights issues in bilateral meetings. While European actors overall have been less outspoken on democracy and rights issues in Russia, Egypt, and Ethiopia, they have similarly condemned civil society restrictions in public and in private—without curtailing their cooperation in other domains.

This dual-track approach has had a number of shortcomings. First, as governments increased their pressure on domestic civil society groups, Western governments' emphasis on continued engagement often resulted in delayed responses and incoherent messaging. They not only issued public condemnations without following up with any substantive policy changes, but in some cases even avoided any type of stark public criticism or weakened their statements with subsequent conciliatory measures or remarks. For example, in the case of Egypt, the U.S. government was slow to react to the violent escalation that followed the military's return to power in 2013. While eventually deciding on limited aid cuts, U.S. policymakers continu-



ously deemphasized the importance of these measures and signaled that they would continue prioritizing their relationship to the Egyptian military—thereby essentially undermining the purpose of the assistance freeze. The repeated lack of follow-through by the U.S. government

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**Diplomatic pressure has been most successful when it has focused on limited, tangible policy goals and when it occurred in a coordinated manner and at the highest levels of government.**

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may have empowered the Sisi government to expand its domestic crackdown, knowing that it would face few serious international repercussions.

Second, the dual-track approach often facilitated the decoupling of civic space and human rights issues from strategic bilateral meetings and negotiations. For example, the EU has raised human rights concerns with both Russian and Ethiopian counterparts in structured bilateral dialogues. Yet these typically occurred in parallel to high-level consultations, with

limited benchmarks or follow-up mechanisms. Discussions of civil society restrictions at high-level meetings took a back seat whenever other foreign policy crises dominated the international agenda. For example, Western governments' bilateral discussions with Russia over the past three years have centered on the Ukraine crisis and on Russia's increasing involvement in Syria, while domestic developments within Russia have received significantly less attention.

## LIMITED SUCCESS ON TANGIBLE GOALS

While Western leaders have repeatedly emphasized the value of quiet diplomacy, the cases of Russia, Egypt, and Ethiopia provide little evidence this approach has been effective at reversing broader repressive trends. Diplomatic pressure has been most successful when it has focused on limited, tangible policy goals and when it occurred in a coordinated manner and at the highest levels of government. For example, such efforts have helped thwart highly restrictive provisions in proposed NGO laws in Russia in 2006 and in Ethiopia in 2009 and have led to the release of individual activists and delayed crackdowns against specific organizations. It is likely that sustained international attention has also granted some protection to prominent human rights defenders and groups, forcing governments to instead rely on more sophisticated means of administrative and legal harassment. In this sense, public statements of support and private pressure do matter, even in repressive environments. However, in a number of cases tactical successes proved temporary. Target governments simply delayed a particular legal measure until international attention had moved elsewhere or agreed to limited amendments in one domain while tightening restrictions in another.

## NEW AVENUES FOR CIVIL SOCIETY AID

In Egypt and Russia, efforts to cut off domestic organizations from foreign funding have been relatively effective: as governments have imposed legal and administrative barriers, foreign funding flows to civil society organizations have declined. Some international funders have withdrawn in fear of political prosecutions, while others have lost long-standing local partners or shifted to grants for less politically sensitive work. In Ethiopia, civil society funding as a whole has not decreased, but the bulk of this aid flows to development NGOs rather than advocacy and human rights organizations. Despite efforts to adapt to the new environment, governmental donors in particular still face significant internal bureaucratic barriers that make it difficult to fund nonregistered groups or disperse smaller amounts in a more flexible manner.

As civil society organizations continue to adapt to a closing or closed civic space, it is likely that more diffuse and less formally structured organizational models will become more common, creating new challenges for international actors seeking to support civic activism. This analysis highlights the importance of preserving the minimal space available to surviving human rights and advocacy organizations through sustained international attention and pressure. This means that instead of confining civil society to opaque political dialogues with limited follow-up, Western leaders should consistently raise civic space issues at high-level meetings and push for much deeper civil society integration into bilateral engagement. In a context of increasing civic fragmentation and disrupted transnational and domestic linkages, enabling continued civil society exchanges and coalition building among civic actors emerges as another important priority. In places where civic space remains at least partially open, Western governments can also play a role in supporting the development of local funding sources to ensure longer-term sustainability. Lastly, donor governments are uniquely positioned to highlight the role and importance of civil society by continuously involving civic actors from closing or closed contexts in international forums and bilateral policy discussions to ensure that their perspectives continue to be heard.



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