Effective

Donor Responses

to the Challenge of Closing Civic Space

ICNL

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ICNL

ACRONYMS & ABBREVIATIONS

ACHPR – African Commission on Human and Peoples' Rights

CHRB - Corporate Human Rights Benchmark

CSO – Civil Society Organization

ECNL - European Center for Not-for-Profit Law

ECOSOC – United Nations Economic and Social Council

EFC - European Foundation Centre

FATF - Financial Action Task Force

FICS - Funders Initiative for Civil Society

GONGO - Government-Organized NGO

GPEDC - Global Partnership for Effective Development Cooperation

I4C - Innovation for Change

IACHR – Inter-American Commission on Human Rights

ICC - International Chamber of Commerce

ICNL - International Center for Not-for-Profit Law

ICT - Information and Communication Technology

INGO – International Non-Governmental Organization

IRMA – Initiative for Responsible Mining Assurance

LGBTI - Lesbian, Gay, Bisexual, Transgender, and Intersex

NDI – National Democratic Institute

NGO – Non-Governmental Organization

NPO - Not-for-Profit Organization

ODA - Official Development Assistance

OECD - Organization for Economic Co-operation and Development

OGP - Open Government Partnership

PALU - Pan-African Lawyers' Union

QDDR - Quadrennial Diplomacy and Development Review

SDG - Sustainable Development Goal

Sida - Swedish International Development Cooperation Agency

SOS - Stop Operation Soros

UN – United Nations

UNDEF - United Nations Democracy Fund

UNDP - United Nations Development Programme

UNGP - United Nations Guiding Principles on Business and Human Rights

UPR - Universal Periodic Review

EXECUTIVE SUMMARY

Civil society and the ability to exercise the core civic space freedoms – the freedoms of association, expression, and peaceful assembly – have been under threat for many years. Governments continue to enact laws and regulations that impede the ability of civil society actors – individuals, organizations and movements – to exist and operate. This challenge – often called "closing civic space" – has been the focus of much study and diagnosis. The more complex question, however, is what can be done in response.

In late 2016, the Government of Sweden commissioned the Swedish International Development Cooperation Agency (Sida) to propose ways in which Swedish development cooperation could more effectively help counteract shrinking democratic space by strengthening civil society. Sida invited input from some 50 respondents on this and other questions relating to civic space. Informed in part by this input, the International Center for Not-for-Profit Law (ICNL) set out to explore what governmental donors can do to address the closing space challenge more effectively. This paper is the result.

> The challenge of 'closing civic space' has been the focus of much study and diagnosis. The more complex question, however, is what can be done in response.
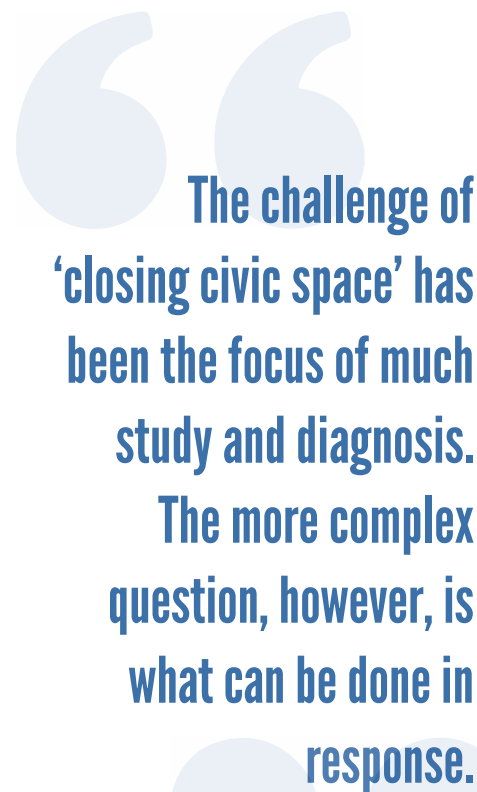
Articulate a clear vision

Donor governments have multiple reasons for defending civic space, which spring from a vision of civil society as a pillar of healthy democratic states and pluralistic societies; from interest-based arguments focusing on security and stability, humanitarian assistance, and development goals; and from the inherent value of civil society. The closing space trend runs counter to donor government goals and interests. Donors should articulate a clear vision of support for civil society as part of their development and foreign policy statements.

Commit to long-term support

Donors must demonstrate commitment to long-term support, as defending civic space is an ongoing challenge. Crisis-oriented support, while necessary and important, is not sufficient. And as the nature of global challenges evolve, donors must be nimble and ready to adapt responses in innovative ways.

Strive toward policy coherence and coordination

Donors should strive toward policy coherence and coordination between development agencies, foreign ministries, and other agents of foreign policy, in order to ensure that the government speaks with a unified voice; and to ensure, for example, that a foreign policy emphasis on trade does not undermine development priorities relating to civil society.

Empower civil society

Civil society leadership in responding to closing space challenges is fundamental. Donors should allow civil society to define the priority areas of support, which may include:

- Strengthening the monitoring of civic space threats, opportunities and trends;

- Facilitating more effective collaboration among civil society actors;

- Expanding CSO engagement to include support for progressive social movements;

- Supporting more effective CSO engagement with policy actors shaping civic space, including parliaments, relevant government agencies and regulatory bodies;

- Furthering national-level implementation of multilateral commitments;

- Supporting enhanced CSO accountability to the community and to their constituencies;

- Enhancing CSO resiliency and capacity in hostile operating environments;

- Raising awareness of civic space issues among the general public; and

- Providing diplomatic support to civil society.

Adapt aid modalities to current realities

With the emergence of social movements, social media, youth activists, and others as key change actors, donors should recognize the need to sustain a more diverse array of CSOs. Effective aid modalities might envision, for example, more flexible funding, long-term core support, non-financial support, and funding for groups and movements that may not be formally registered, among others.

Galvanize governments to defend and expand civic space

Looking beyond financial support, donor governments can support and influence recipient country (and other) governments in multiple ways:

- Strengthening independent institutions that are well placed to address civic space;

- Supporting the improved implementation of law by regulatory bodies through training and capacity support;

- Communicating to government counterparts the importance and value of civil society;

- Incorporating clear criteria relating to respect for civil society and human rights within cooperation agreements with recipient countries, where possible;

- Promoting meaningful engagement and dialogue on civic space issues between CSOs and government authorities;

- Strengthening multi-stakeholder dialogue and collaboration in order to build trust and understanding across sectors and between donor countries and recipient countries;

- Supporting UN-level and regional mechanisms that establish global and regional norms protecting civic space and efforts to monitor the implementation of these norms at the country level;

- Engaging with states to support the monitoring and implementation of the 2030 Agenda for Sustainable Development; and

- Enabling research on civic space issues.

Facilitate cooperation with the private sector on human rights and civic space issues

Donors can help facilitate and encourage more effective cooperation with private sector actors in several ways:

- Identifying private sector allies willing to speak collectively on behalf of open civic space;

- Helping to integrate businesses into multi-stakeholder spaces, through which businesses can become more trusted and effective allies;

- Supporting voluntary standards on business practices and promoting civil society input into business standard-setting and monitoring processes;

- Promoting CSO involvement in national action plans on business and human rights as part of the state responsibility to implement the UN Guiding Principles on Business and Human Rights; and

- Promoting cooperation with private sector associations, which can play an important role in influencing the behavior of the member organizations and the industry as a whole.

Countering the closing civic space challenge is a shared responsibility of civil society, government, the private sector and, of course, citizens themselves. As this paper demonstrates, there is a broad range of possibilities through which government donors can share in this responsibility.

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INTRODUCTION

Civil society and the ability to exercise the core civic freedoms – the freedoms of association, expression, and peaceful assembly – have been under threat for many years. The problem of "closing civic space" has thus been the focus of much study and diagnosis. The more complex question, however, is what can be done to respond to and counter the closing civic space challenge more effectively.

In its Letter of Appropriation for 2016, the Government of Sweden commissioned the Swedish International Development Cooperation Agency (Sida) to propose ways in which Swedish development cooperation could more effectively contribute to counteracting shrinking democratic space by strengthening civil society. It is this question that Sida posed to a range of Swedish and international civil society leaders and organizations, donors and diplomats ("respondents") in November 2016. As formulated by Sida: "What concretely could the donor community and other actors, including CSOs [civil society organizations], do differently in order to better defend and expand civic space?" Some 50 respondents provided written feedback on this and other questions relating to civic space [see page 36, List of Respondents].

The objective of this paper is to explore what governmental donors can do to address the closing space challenge more effectively. Put differently, what strategies, approaches and practices can donors consider in protecting and expanding civic space? While similar to Sida's question, this question drills down more narrowly on effective donor strategies. This is not meant to downplay the importance of civil society's own responsibility; clearly the burden of responding falls not on donors alone, or even primarily on donors. Rather, the responsibility is a shared one – one that should include not only civil society and donors, but also the media, academia, business and citizens themselves.

With the permission of the respondents, Sida provided the International Center for Not-for-Profit Law (ICNL) access to their written comments. While the paper draws on respondents' input to inform the points and recommendations included here, the paper does not attempt to summarize the input received and does not necessarily represent the views of all respondents.

ICNL presented a preliminary draft of the paper at Sida's Civil Society Days in Stockholm on September 20-22, 2017 and subsequently to the International Donors Group on November 5, 2017. Based on feedback received, ICNL refined the paper.

> **The objective of this paper is to explore what governmental donors can do to address the closing space challenge more effectively. Put differently, what strategies, approaches and practices can donors consider in protecting and expanding civic space?**

Definition of Terms

The term "closing" or "shrinking" civic space has been used with increasing frequency to describe a global trend that has been ongoing for more than a decade. Stated simply, governments are enacting laws and regulations that impede the ability of civil society actors – individuals, organizations and movements – to operate. The trend has been variously labeled the "associational counter-revolution",[1] the "global crackdown on civil society",[2] and "Backlash: the War on Human Rights",[3] just to name a few. Some lament the use of the phrase "closing" or "shrinking" civic space as being inadequate, overly passive, and even misleading.[4] By whatever name, the global trend remains a preeminent challenge to donor agencies and civil society organizations promoting pluralistic and democratic societies around the world. For purposes of this paper, we will use the term "closing civic space".

In addition:

- **Civil society**: Civil society is made up of individuals and organizations acting collectively to advance their shared interests and/or the public good. Civil society lies outside of the family, the state, and the market, and embraces both organized structures and informal groupings of individuals.[5]

- **Civil society organizations (CSOs)**: CSOs are non-state actors whose aims are neither to generate profits nor to seek governing power. This term is intended to embrace a diverse range of individuals and groups, including organized structures such as non-governmental organizations (NGOs), not-for-profit organizations (NPOs), associations, foundations, public benefit companies, community-based organizations, faith-based organizations, mutual benefit groups, charities, trusts, and others; online groups and social media communities; social movements for collective action; labor unions and organizations, among others.[6]

- **Donors**: Official development assistance (ODA) is defined as government aid designed to promote the economic development and welfare of developing countries. Aid may be provided bilaterally, from donor to recipient, or channeled through a multilateral development agency such as the United Nations or the World Bank. Aid includes grants, "soft" loans (where the grant element is at least

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1   Douglas Rutzen and Catherine Shea, "The associational counter-revolution", Alliance Magazine, September 1, 2006.

2   Julia Kreienkamp, "Responding to the Global Crackdown on Civil Society", University College London, Global Governance Institute, September 25, 2017.

3   "Backlash: The War on Human Rights" is a documentary produced in association with Frontline Defenders analyzing large scale and systemic attacks against those advocating for a free world.

4   See Deborah Doane, Funders must join forces to defend civil society, Alliance Magazine, July 2017 ("The phrase 'closing space for civil society' hardly serves to describe the phenomenon that has seen civil society go from being a beacon of hope, providing a rich diversity outside of the state or market, to something to be feared, loathed and curtailed.") (http://www.alliancemagazine.org/blog/funders-must-join-forces-defend-civil-society/); Transnational Institute, On 'shrinking space': a framing paper, p.6 (Use of the terms "'shrinking space' and 'civil society' massively de-politicizes what is actually political policing of the highest order …") (https://www.tni.org/files/publication-downloads/on_shrinking_space_2.pdf); Susan Dodsworth, *Time to stop talking about 'closing space' for civil society?* (http://www.wfd.org/time-to-stop-talking-about-closing-space-for-civil-society/).

5   This definition is based closely on that provided by CIVICUS in the 2013 Enabling Environment Index.

6   This definition is drawn both from ICNL, The Role of Legal Reform in Supporting Civil Society: An Introductory Primer, 2009, UN Development Programme; and from the Center for Strategic and International Studies, Concept and Definition of Civil Society Sustainability, June 30, 2017.

25% of the total) and the provision of technical assistance.[7] For purposes of this paper, "donors" is intended to refer to government bilateral aid agencies that provide ODA.

- **Private sector**: The private sector is the part of a country's economy which consists of industries and commercial companies that are not owned or controlled by the government.[8] For purposes of this paper, the term does not include CSOs. Social enterprises, as an example of a hybrid organizational form, may be categorized as a CSO or private sector entity, depending on the form of registration.

Structure of the Paper

Section I sets the context by considering, briefly, the nature of the problem of closing civic space and the drivers of the trend. Section II examines the motivating rationale that donors adopt in prioritizing civic space. Section III explores what governmental donors can do to address the closing space challenge more effectively. Section IV outlines key recommendations.

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7   This definition is drawn from The Organisation for Economic Co-operation and Development (OECD): https://data. oecd.org/oda/net-oda.htm.

8   COBUILD Advanced English Dictionary, Copyright © HarperCollins Publishers.

I. SETTING THE CONTEXT

A. What is the Nature of the Problem of Closing Space for Civil Society?

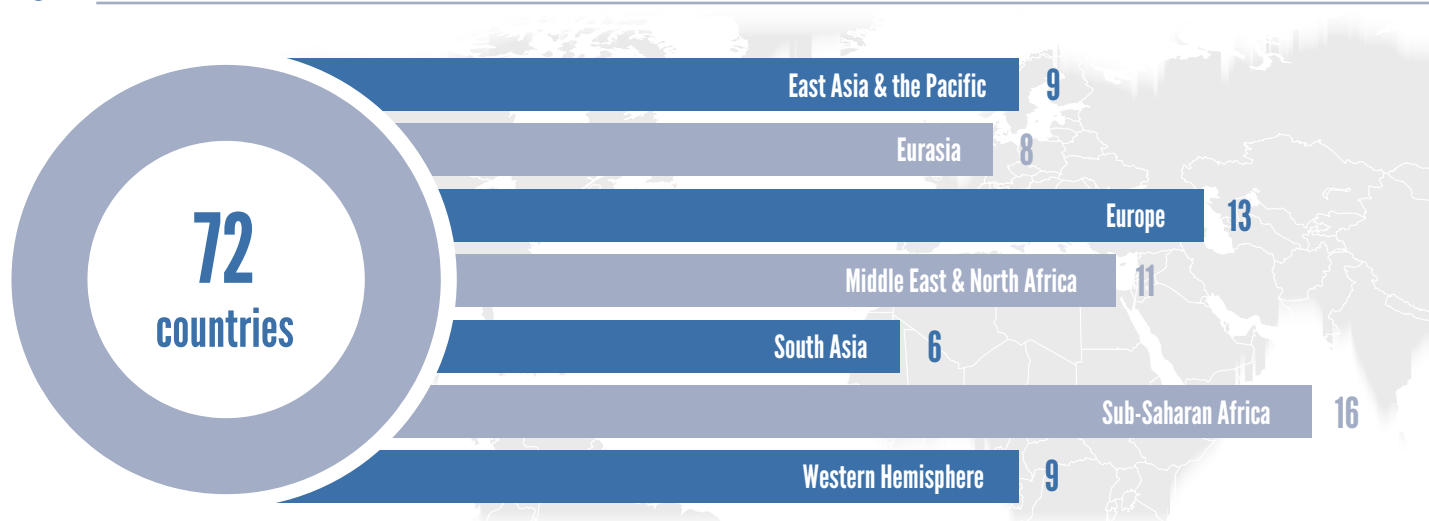According to former United Nations (UN) Secretary-General Ban Ki-moon:

> "In too many places around the world, civil society is under immense pressure. An alarming number of Governments have enacted laws limiting the ability of non-governmental organizations to operate, receive funding from outside, or both. Some Governments have twisted the term "civil society" to make it code for foreign conspiracies and subversion."[9]

The crackdown on civic space is a global phenomenon, affecting every region, including countries as diverse as Ethiopia, Bangladesh, Hungary, Turkey, Russia and Bolivia. According to data compiled by ICNL, 72 countries have proposed or enacted more than 144 restrictions on civil society since 2012;[10] Graph 1 below shows the geographic breakdown of these restrictive initiatives.[11]

The global trend is marked by the use of law as a repressive tool, with governments converting the concept of "rule of law" into "rule by law". Governments are impeding the ability of CSOs to form, operate, and sustain themselves. They are also restricting the ability to engage in advocacy, to use information and communication technology (ICT), and to access international development cooperation. Notably, governments are using a diverse range of laws (including counter-terrorism laws, tax laws, and defamation laws) to

Figure 1: Number of Countries with Restrictive Initiatives Since 2012

72 countries

East Asia & the Pacific 9
Eurasia 8
Europe 13
Middle East & North Africa 11
South Asia 6
Sub-Saharan Africa 16
Western Hemisphere 9

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9 "Ban Ki-moon calls for defence of civil society, highlights UNDEF role," June 3, 2015, http://www.un.org/democracy-fund/news/ban-ki-moon-calls-defence-civil-society-highlights-undef-role.

10 It is important to note that this does not include some countries where civic space has been closed for many years and there have been no recent initiatives or information is difficult to obtain on such initiatives, for example Eritrea, Iran, Cuba or North Korea.

11 "Initiatives" means proposed or enacted laws and regulations that affect civil society organizations and the rights to freedom of association and assembly.

Figure 2: Restrictive Initiatives Since 2012 - Classified by Type

47%
Lifecycle

28%
Int'l funding

25%
Assembly
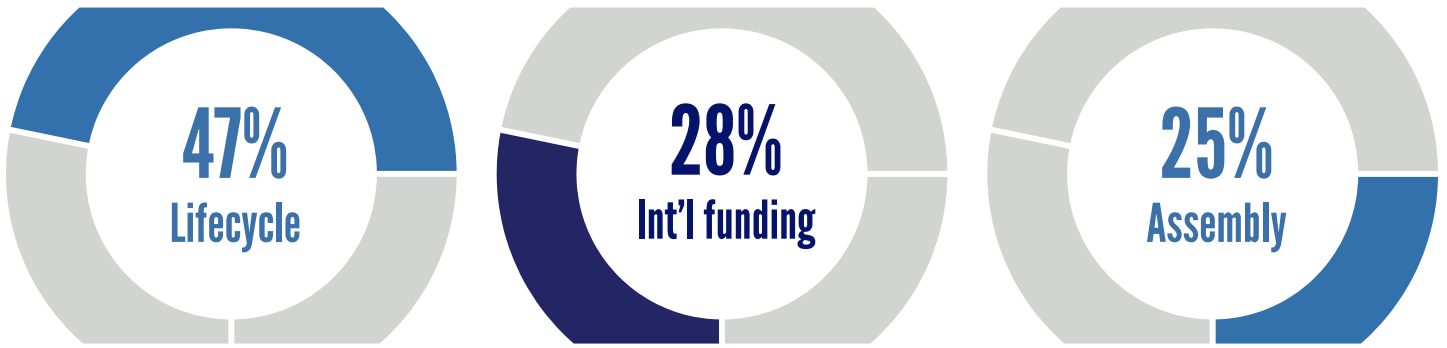
silence dissenting voices and to constrain civic engagement. Graph 2 shows that of the legal initiatives, proposed or enacted, that restrict the freedoms of association or assembly: (1) 47% restrict the formation, registration, or operation of CSOs;[12] (2) 28% constrain the ability of CSOs to receive international funding; and (3) 25% restrict peaceful assembly.

At the same time, government crackdowns also rely on a variety of extra-legal tools, including stigmatizing narratives, overt threats and intimidation, government surveillance and harassment (through, for example, office inspections and closures, as well as arbitrary detention of individuals), and violence, whether perpetrated by state or non-state actors.[13]

It is also important to note that government crackdowns on civil society are not limited to authoritarian political systems, but also extend to democratic systems. For example, in June 2017, Hungary's Parliament adopted the Law on the Transparency of Organisations Supported from Abroad (i.e., foreign funded organizations), legislation requiring separate registration and labelling for associations and foundations receiving more than approximately €23,500 per year; the legislation is widely viewed as a major obstacle to the work of Hungarian CSOs and their interactions with civil society domestically and internationally. As another example, the Citizen Security Act, adopted in Spain in December 2014, introduced the possibility of severe fines for those violating the law's assembly restrictions – fines ranging from 30,000 to 600,000 Euros. In 2017, the Government of Australia proposed to restrict community organizations that rely on international funding from engaging in advocacy.

While there are countries where civic space is expanding – and sub-sectors of civil society that may be expanding even in hostile environments – these are exceptions to the broader trend. It is notable that nearly all of the more than 50 respondents recognize the problem of closing civic space as one affecting them and/or their local partners.

B. What New Trends are we Witnessing?

Newly-emerging aspects of the closing space trend include the following:

Digital restrictions

The rise of the Internet, digital communications and social media have given people new avenues to share ideas and organize activities. As more communications move online,

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12   Laws that affect the formation, registration and operation of CSOs are referred to as "lifecycle" laws, which is the term used in Figure 2.

13   Guadalupe Marengo, "Human rights defenders are being killed or forcibly disappeared. It needs to stop." Amnesty International, December 9, 2017.

there are more opportunities for governments to monitor communications, which they have done swiftly and effectively. Some governments – including in Indonesia, Pakistan and Tanzania, for example – have adopted cybercrime laws and other regulations that provide largely unfettered power to monitor and surveil electronic communications. These laws are sometimes given further potency by the inclusion of broad prohibitions on ambiguously defined categories of speech, thereby opening the door to infringement of freedom of expression, freedom of association and the right to privacy.

Transparency-linked restrictions

Increasingly governments around the globe restrict civic space in the name of transparency. Recently-enacted laws or adopted regulatory measures have introduced (1) burdensome requirements for reporting and for disclosure of private information (e.g., in Bulgaria, Panama, Uganda); (2) mandatory disclosure of private assets of CSO directors and/or officers (e.g., in Ukraine and India); (3) limiting public advocacy by categorizing CSOs as lobbyists or political activists (e.g., in the United Kingdom and Ireland); (4) disclosure of private and international funders (e.g., in Hungary and Mexico); and (5) disproportionate penal provisions linked to non-compliance with reporting and disclosure requirements (e.g., in Egypt and Russia). Such restrictions often arise in situations where there is a public outcry for government transparency, which governments seek to deflect onto CSOs.

Denying access to CSOs in multilateral fora

The ability of CSOs to participate in and express their views before multilateral fora is coming under increasing strain. One common tactic is denying CSOs access to venues in which their voice might be heard; for example, the UN Economic and Social Council (ECOSOC) NGO Committee[14] reviews applications for accreditation, providing a gateway for CSOs into the UN. In a recent example, the ECOSOC's NGO Committee again denied the Committee to Protect Journalists' application for status after it had already deferred decision on the application for four years; the decision was only overturned after an 11th hour direct global appeal to ECOSOC's Coordination and Management meeting.[15] In addition, CSOs and human rights defenders are subject to increasing threats, intimidation, and reprisals when they try to speak out in multilateral fora, such as the UN Human Rights Council.[16]

Discrediting CSO voices in multilateral fora

A separate tactic is to employ government-organized NGOs (GONGOs) to participate in multilateral fora like the UN Human Rights Council. GONGOs defend countries' policies, attempt to delegitimize genuine civil society voices, and consume time, space, and other limited resources that could be used for meaningful dialogue. According to a U.N. database, China has 47 NGOs from the mainland, Hong Kong and Macau that are allowed to participate in meetings at the Human Rights Council; at least 34 of these are GONGOs,

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14   For the period 2015-2018, members of the NGO Committee are the following: Azerbaijan, Burundi, China, Cuba, Greece, Guinea, India, Iran, Israel, Mauritania, Nicaragua, Pakistan, Russian Federation, South Africa, Sudan, Turkey, United States of America, Uruguay and Venezuela (Bolivarian Rep.).

15   In addition, even accredited NGOs may be prevented from speaking out. For example, on January 29, 2018, a group of regional and international NGOs was blocked from making a statement at the UN NGO Committee session. Despite a precedent set two years ago for the delivery of a general statement, all requests since have been refused. https://www.ishr.ch/news/ngo-committee-ngos-blocked-delivering-statement

16   Indeed, reprisals and harassment has increased to such a level that in October of 2016, UN Secretary General Ban Ki-moon, in consultation with the High Commissioner for Human Rights, announced a new mandate for the Assistant Secretary General for Human Rights, Andrew Gilmour, to lead UN work on ending intimidation and reprisals against human rights defenders. http://www.ijrcenter.org/2016/10/13/un-mandate-created-to-reduce-reprisals-against-human-rights-defenders/

a Reuters calculation shows, meaning these groups are directed by government ministries, Communist Party bodies, or retired party or government officials.[17]

Impeding the freedom of movement of civil society activists

Increasingly, governments are preventing civil society representatives from traveling abroad, thereby limiting their ability to meet with colleagues in other countries. Notably, Frontline Defenders documents a 100% increase in travel bans in 2016.[18] Examples include Bahrain, China, India, Iran, Pakistan, Saudi Arabia, Sudan, United Arab Emirates and Yemen. In some cases, the travel ban is used to prevent engagement with international mechanisms; for example, Khurram Parvez of the Jammu Kashmir Coalition of Civil Society was prevented from travelling to Geneva to attend the 33rd session of the UN Human Rights Council. In other cases, the travel ban seems to amount to harassment; for example, Vietnam's authorities have barred Ms. Do Thi Minh Hanh, chairwoman of the independent Viet Labor Movement, from leaving the country to visit her sick mother in Austria.[19]

Narrowing the space for INGOs

Governments are increasingly adopting laws or regulations that constrain the ability of international non-governmental organizations (INGOs) to operate. For example, in Nepal, INGOs cannot be registered (and cannot operate without being registered) unless they commit to spending $200,000 USD per year in Nepal. In Pakistan, recent INGO regulations have prevented several INGOs from being able to register and/or carry out their work. In Cambodia, INGOs are required to be "politically neutral" and to undergo a complex registration process; the Government of Cambodia recently used these provisions to shut down the National Democratic Institute (NDI) and expel NDI's foreign staff from Cambodia. The Overseas NGO Management Law in China went into effect in January 2017; the law places the registration and supervision of international NGOs under the Ministry of Public Security, which has resulted in greater control over their activities.

Stigmatizing donors

Some governments seem to be intensifying efforts to stigmatize international organizations that support democracy and governance work. For example, the Government of Hungary has been conducting a campaign that targets the Open Society Foundation and the Central European University, as well as its founder, George Soros, the Hungarian-born philanthropist. The anti-Soros campaign resulted in the streets of Budapest being filled with posters and billboards of Soros, with the caption "Don't let Soros get the last laugh!" Similarly, an initiative entitled "Stop Operation Soros" (SOS), dedicated to countering the influence of George Soros, was launched in Macedonia, with a focus on uncovering 'subversive' activities by Soros-funded NGOs.

C. What Civil Society Actors are Particularly Affected?

Every country context is unique. The civic space challenges vary by country, by sub-sector within civil society, and based on the size, capacities and mission of the organization itself. Indeed, restrictive measures may sometimes be used to underscore and play on these

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17 See http://www.reuters.com/investigates/special-report/china-softpower-rights/.

18 Front Line Defenders, Annual Report on Human Rights Defenders at Risk in 2016, https://www.escr-net.org/news/2017/front-line-defenders-launches-annual-report-human-rights-defenders-risk.

19 http://www.vietnamhumanrightsdefenders.net/2017/06/17/vietnam-labor-activist-barred-from-leaving-country-to-visit-ill-mother-in-austria/

differences, seek to divide civil society, and isolate particular segments of the sector, organizations, and individual activists. A common approach for governments is to distinguish between CSOs that criticize or challenge government decision-making (or empower citizens to do so) and CSOs that the state sees as helping achieve development objectives and other governmental policies and priorities.[20]

Thus, legal restrictions on civic space are often specifically focused on human rights and other advocacy organizations, aimed at preventing them from accepting foreign funding, engaging in advocacy activities, or even legally existing and operating. In Ethiopia, for example, the Charities and Societies Proclamation forbids CSOs working on human rights and governance from receiving more than 10 percent of their funding from foreign sources. As a result, only a few organizations now work explicitly on human rights issues in the country. In Russia, the Law on Foreign Agents requires all CSOs that intend to conduct political activities to register as "foreign agents," a politically charged term in the country, before they can receive funding from any foreign sources. The law is emblematic of the suspicion directed at advocacy and human rights groups and independent think tanks in the country.

Not surprisingly, the most vulnerable members of society are often among the most affected by human rights violations, as governments frequently apply laws in discriminatory ways. Women human rights defenders are exposed to the same types of risks as all other human rights defenders, but are also exposed to gender-based violence and gender-specific risks when they challenge existing gender norms within their communities and societies.[21] In addition, the activities of organizations focusing on lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals have come under increasing pressure in recent years.[22] Other particularly vulnerable groups whose human rights are being constrained include persons with disabilities, youth, ethnic and religious minorities, indigenous peoples, internally displaced persons, and non-nationals, including refugees, asylum seekers and migrant workers.[23]

> "The most vulnerable members of society are often among the most affected by human rights violations. Women human rights defenders are exposed to the same types of risks as all other human rights defenders, but are also exposed to additional risks, including gender-based violence."

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20 Russia is a notable example. Through the 2012 "foreign agents" law and the 2015 "undesirable organizations" law, the government has targeted organizations that promote human rights or challenge President Putin's authority; consequently, between 2012 and 2015, the number of civic groups in Russia decreased by 33 percent. At the same time, the Ministry of Economic Development channels substantial funds to CSOs, limiting its support to the so-called "socially oriented" NGOs, which includes groups working on such issues as patriotic education, financial assistance for low-income families, and public health. (Olesya Zakharova, Vladimir Putin Loves Civil Society (As Long As He Controls It), Foreign Policy, October 12, 2016)

21 Kathy Mulville, Women Human Rights Defenders: Advancing the Rights of the Most Marginalised and Stigmatised, CIVICUS, State of Civil Society Report 2016.

22 ICNL, LGBTI Civil Society Organizations Around the Globe: Challenges, Successes, and Lessons Learned, Global Trends in NGO Law, Vol. 7, Iss. 2, May 2016.

23 United Nations Human Rights Council, A/HRC/26/29, "Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai" April 14, 2014, para. 8, (stating that "the denial of the rights to freedom of peaceful assembly and of association leads to the marginalization of those groups and [examines] how marginalization exacerbates their inability to effectively exercise their rights.") http://www.ohchr.org/Documents/Issues/FAssociation/A-HRC-26-29_en.pdf

Recent years have also witnessed increasing restrictions and constraints imposed on environmental organizations, particularly those advocating around issues of natural resources and/or land use.[24]

However, while human rights and advocacy organizations may bear the brunt of legal restrictions, the crackdown on civic space affects civil society *writ large*, from development organizations to community-based organizations to foundations engaged in global philanthropy. For even where restrictions may target a core segment of rights and advocacy organizations, there is commonly a broader impact on other sub-sectors within civil society, if not the entire sector. For example, burdensome legal requirements, restrictions on foreign funding and affiliations, counterterrorism legislation and policies, and vilification, distrust and violence have all challenged the ability of organizations focused on development and humanitarian aid to operate effectively.[25] Indeed, "[r]esearch shows that it is becoming increasingly difficult for philanthropic actors and many INGOs to deliver effective funding for development and humanitarian programmes in countries where there is reduced civil society space."[26]

D. What are the Origins and Drivers of Closing Civic Space?

The origins of the crackdown on civic space can be traced to the beginning of the current millennium. Throughout the 1990s, the world was in the midst of an "associational revolution,"[27] and CSOs enjoyed a mostly positive reputation within the international community, stemming from a post-Cold War conviction that pluralistic, liberal democracies where civil society is an integral part of the social fabric are or should become the norm; as well as from CSOs' important contributions to health, education, culture, economic development, and a host of other publicly beneficial objectives. Reflecting this, in September 2000, the United Nations General Assembly adopted the Millennium Declaration. Among other provisions, the Declaration emphasized the importance of human rights and the value of "non-governmental organizations and civil society, in general."

This changed after the terrorist attacks of September 11, 2001. As President Bush launched the "War on Terror," discourse shifted away from human rights and the positive contributions of civil society, and CSOs instead became a target. "Just to show you how insidious these terrorists are," Bush stated in his September 2001 remarks on the executive order freezing assets of terrorist and other organizations, "they oftentimes use nice-sounding, non-governmental organizations as fronts for their activities."[28] President Bush then launched a "Freedom Agenda" to advance democratic transitions in the Middle East, which included support for civil society as a key component, giving rise to the perception that CSOs were linked to a foreign agenda. For both reasons – the association of civil society with terrorism and the association of civil society with Bush's Freedom Agenda – governments around the world became increasingly concerned about civil society,

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24   ICNL, Environmental Advocacy: Challenges to Environmental Groups' Rights to Assemble, Associate and Express their Opinions, Global Trends in NGO Law, Vol. 7, Iss. 1, March 2016.

25   ICNL, Closing Civic Space: Impact on Development and Humanitarian CSOs, Global Trends in NGO Law, Vol. 7, Iss. 3, September 2016.

26   Julian Oram and Deborah Doane, Why shrinking civil society space matters in international development and humanitarian action, Funders Initiative for Civil Society (FICS) and the European Foundation Centre (EFC), June 2017.

27   Lester Salamon, "The Rise of the Nonprofit Sector," Foreign Affairs 74 (July–August 1994), www.foreignaffairs.com/articles/50105/lester-m-salamon/the-rise-of-the-nonprofit-sector.

28   George W. Bush, "President Freezes Terrorists' Assets," Remarks on Executive Order, U.S. Department of State Archive, 24 September 2001, http://2001-2009.state.gov/s/ct/rls/rm/2001/5041.htm.

particularly CSOs that received international support.[29]

In many ways, 2005 marked the beginning of the "associational counter-revolution." Because of changes in the geopolitical environment, the Bush Administration's "War on Terror," concerns over "color revolutions," and other factors, governments felt empowered to enact legislation restricting civic space. Countries such as Russia, Zimbabwe, and Venezuela were early adopters, and over the following years, scores of countries have followed suit. Another wave of legislative constraints emerged after the so-called "Arab Awakening," which began in late 2010.

The specific driver(s) of closing space restrictions will, of course, vary from country to country, as government and political leaders act from a variety of motivations. At the same time, one can identify several drivers that have fueled the global crackdown against civil society,[30] including the following:

- The dramatic growth and demonstrated power of civil society and civil society organizations during the 1990s;

- The increasing priority given to counter-terrorism and national security by governments around the world;

- A shift in global power relations, which has reduced the influence of western governments and traditional multilateral institutions and resulted in challenges to the liberal democratic model;

- The increasing collusion between political and economic elites to protect their interests against oversight or criticism;[31] and

- The rise in ideological and religious extremism, resulting in increasingly hostile environments for defenders of vulnerable groups, including those representing women, LGBTI, minorities and others.

In recent years, a number of countries have seen a rise in intolerant political populism. These populist movements seem to portend a further narrowing of civic space, including in established democracies.   This may embolden authoritarian governments to further constrain civil society. Indeed, the civic space challenge is embedded into a much larger struggle relating to democratic recession and the emboldening of autocrats. Since we are likely on the cusp of a new wave of restrictions on civil society, the engagement of donor governments, as principled, credible voices on civic space issues, is more important than ever.

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29   Douglas Rutzen, Aid Barriers and the Rise of Philanthropic Protectionism, International Journal for Not-for-Profit Law, vol. 17, no. 1, March 2015.

30   This question has been explored frequently in recent years. See, e.g., Doug Rutzen, A Global Assault on Non-profits, November 30, 2015; Thomas Carothers and Saskia Brechenmacher, Closing Space: Democracy and Human Rights Support Under Fire, Carnegie Endowment for International Peace, February 20, 2014; Sarah Mendelson, Why Governments Target Civil Society and What Can Be Done in Response, Center for Strategic and International Studies, April 2015.

31   See, e.g., Transparency International, Corruption and Inequality: How Populists Mislead People, January 25, 2017, citing an influential 2014 report by Oxfam, titled "Working for the Few" ("Left unchecked, political institutions become undermined and governments overwhelmingly serve the interests of economic elites to the detriment of ordinary people.").

II. DONOR MOTIVATIONS

Just as there are multiple drivers of closing civic space, so donor governments that would defend civic space have multiple reasons for doing so. There are strong value-based arguments positing that civil society is a pillar of healthy democratic states and necessary to tolerant, pluralistic societies. There are also strong interest-based arguments focusing on security and stability, humanitarian assistance, and development goals. On the one hand, civil society has inherent value in and of itself; on the other hand, civil society is a vehicle for the achievement of development goals.

Civil society groups bring significant human, political, and financial resources to bear on the same foreign policy and development challenges facing donor governments.[32] Working in concert with non-state actors (including both civil society and private sector actors) can extend the reach and effectiveness of donors' diplomatic and development efforts. Civil society groups offer local expertise and possess domestic political constituencies that states, operating on their own, often lack. CSOs, when permitted to operate freely, have the ability to mobilize citizens within recipient countries to hold domestic authorities accountable, contribute to economic development, expand access to services such as education and healthcare, and advocate on behalf of universal human rights and vulnerable groups.

Donor cooperation with civil society has the potential not only to bring benefits to people living in aid recipient countries, but also to donor states themselves. As the 2017 Global Risks Report of the World Economic Forum highlighted, "a new era of restricted freedoms and increased governmental control could undermine social, political and economic stability and increase the risk of geopolitical and social conflict."[33] The effect of closing space for citizen engagement can lead to a weakening of the bond between citizen and state, which can in turn increase the likelihood that citizens will engage in extra-legal or even violent opposition to government policies. The risks can be exacerbated when the ability of civil society groups to provide essential services is also cut off, leaving citizens without access either to policymakers or to basic services such as healthcare, education, and humanitarian assistance. The net effect is likely to be an increased risk of state fragility, which can lead to security challenges directly impacting donor governments, such

> **Donor cooperation with civil society has the potential not only to bring benefits to people living in aid recipient countries, but also to donor states themselves.**

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32   This is not to suggest that all CSO actions are supportive of human rights, democracy, and development, but rather that in a pluralistic sector, many CSOs will share these values and goals with donor governments.

33   The World Economic Forum, Global Risks Report 2017, "Fraying Rule of Law and Declining Civic Freedoms: Citizens and Civic Space at Risk".

as increases in international terrorism and large scale migration flows.[34]

Governments wishing to promote democracy, good governance, and human rights for reasons relating to their values and their own security interests must recognize and adjust to the historical trends that have increased the importance of civil society actors in international relations. Fortunately, many have already begun to do so, recognizing both the opportunity and the necessity of moving beyond historical concepts of international diplomacy and development as an exclusively state-centric endeavor.

Recognizing the Importance of Civil Society

Expanded recognition of the role played by civil society in contributing to health, education, culture, economic development, and a host of other publicly beneficial objectives predates the "associational counter-revolution."

As noted above, in September 2000, the United Nations General Assembly adopted the Millennium Declaration, which committed its members to working toward inclusive governance, recognized the right of the public to information, and acknowledged the need to "develop strong partnerships with the private sector and with civil society organizations" in order to effectively pursue development goals. Building on this foundation, the 2030 Agenda for Sustainable Development contains several references and mandates for engaging civil society and other stakeholders in its implementation.[35] Notably, the 2030 Agenda also sets a goal to "protect fundamental freedoms, in accordance with national legislation and international agreements" (Goal 16.10), which forms the basis for governments and civil society to monitor and advocate for protecting civil society freedoms.[36]

The governments of the Global Partnership for Effective Development Cooperation (GPEDC) have also addressed the issue, by promoting, and monitoring progress on, commitments made by more than 100 countries in the 2011 Busan Partnership for Effective Development Co-operation. This agreement sets out development effectiveness commitments that embrace the participation of all state and non-state development actors, including civil society.[37] In the 2016 Nairobi Outcome Document from the GPEDC's Second High-Level Meeting, governments acknowledged both the critical role of civil society in development and the need to reverse the trend towards closing space:

> "We recognise the importance of civil society in sustainable development and in leaving no-one behind; in engaging with governments to uphold their commitments; and in being development actors in their own right. We

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34 Thomas Carothers, "Closing Space and Fragility," Fragility Study Group Policy Brief No. 5, October 2016.

35 "The revitalized Global Partnership will facilitate an intensive global engagement in support of implementation of all the Goals and targets, bringing together Governments, civil society, the private sector, the United Nations system and other actors and mobilizing all available resources." United Nations General Assembly, A/RES/70/1, Transforming our world: the 2030 Agenda for Sustainable Development, September 25, 2015, para. 60. Furthermore, "We acknowledge the role of the diverse private sector, ranging from micro-enterprises to cooperatives to multinationals, and that of civil society organizations and philanthropic organizations in the implementation of the new Agenda." Id. at para. 41. Most importantly, civil society's role in implementing the 2030 Agenda is formalized in Goal 17.17, which aims to "[e]ncourage and promote effective…civil society partnerships…" Id. at page 27.
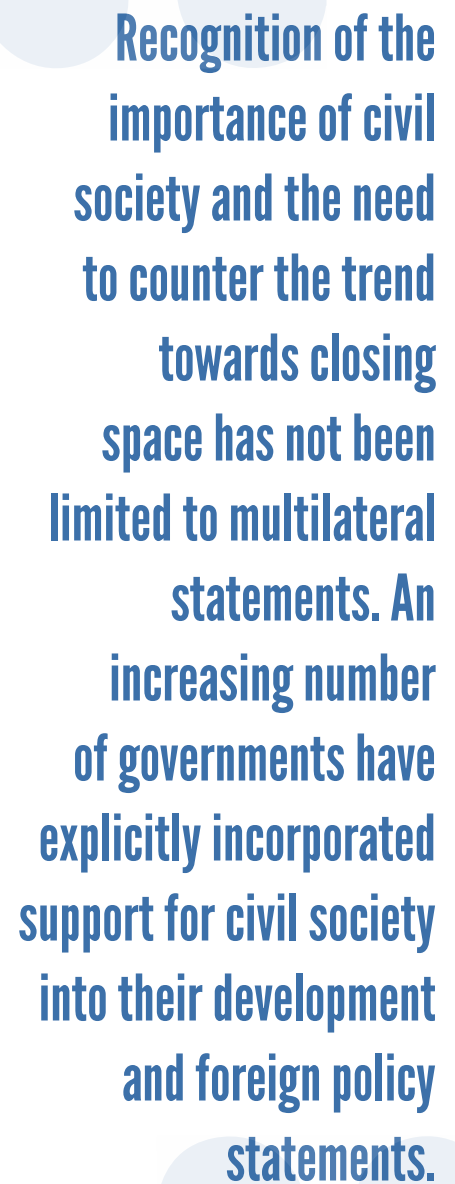
36 United Nations General Assembly, A/RES/70/1, Transforming our world: the 2030 Agenda for Sustainable Development, September 25, 2015, at page 26.

37 Specifically, these governments agreed to: "[i]mplement fully our respective commitments to enable CSOs to exercise their roles as independent development actors, with a particular focus on an enabling environment, consistent with agreed international rights, that maximises the contributions of CSOs to development." (para. 22)

are determined to reverse the trend of shrinking of civic space wherever it is taking place and to build a positive environment for sustainable development, peaceful societies, accountable governance and achievement of the SDGs and the 2030 Agenda."

Recognition of the importance of civil society and the need to counter the trend towards closing space has not been limited to multilateral statements. An increasing number of governments have explicitly incorporated support for civil society into their development and foreign policy statements:

- In 2009, the Government of Sweden adopted a new policy explicitly adopting a pluralistic approach to development cooperation that made direct and indirect support of civil society a key component of Sweden's development assistance. The policy stated that "Civil society actors have a key role in reducing poverty and a particular importance and special potential to contribute to democratic development and increased respect for human rights in developing countries."

- The U.S. State Department's 2010 Quadrennial Diplomacy and Development Review emphasized that "Today, non-state actors—from NGOs, religious groups, and multinational corporations to international cartels and terrorist networks—are playing an ever-greater role in international affairs. To be effective in the 21st century, American diplomacy must extend far beyond the traditional constituencies and engage new actors, with particular focus on civil society."[38]

- In 2014, a worldwide effort began to develop the EU Country Roadmaps for Engagement with Civil Society. Conceived as a joint initiative between the European Union and Member States, the Roadmaps were intended to strengthen Europe's engagement with civil society and to improve the impact and predictability of EU actions in relation to civil society.[39]

- Canada's 2017 development policy notes that "Peaceful and prosperous civil societies are more likely to achieve the Sustainable Development Goals, better able to respond to the effects of—and address the root causes of—extreme poverty, and better able to build economies that work for everyone."

- Denmark's strategy for development cooperation and humanitarian action, also released in 2017 emphasizes "shrinking civic space" and commits to "support and expand the role and capacity of civil society and promote advocacy by

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38   The US State Department's website contains a brief description of the purpose of the Quadrennial Diplomacy and Development Review (QDDR) and reference to the 2015 QDDR, which is currently in effect: https://www.state.gov/s/dmr/qddr/.

39   See EU Country Roadmaps for Engagement with Civil Society, June 28, 2017.

civil society actors in the developing countries."

From recognition of the importance of civil society in delivering positive outcomes in development, security, and other arenas of foreign policy, it is a short logical step to the conclusion that the closing space trend runs counter to donor government goals and interests. As civic space has been restricted in more and more countries, the need for an effective response has grown.

In September 2013, 24 governments[40] met on the margins of the UN Assembly in New York with civil society, foundations, and other non-state actors. The resulting Joint Statement on the Protection and Promotion of Civil Society "affirmed that the strength and vibrancy of nations depend on an active civil society and robust engagement between governments and civil society to advance shared goals of peace, prosperity, and the well-being of all people."[41] The signing states then committed themselves to "work together to respond to growing restrictions on civil society that undermine its ability to perform its crucial role" and to "develop new and innovative ways of providing technical, financial, and logistical support to promote and protect the right of citizens and civil society to freely associate, meaningfully engage with government, and constructively participate in processes to improve the well-being of their countries."

Unfortunately, the need for innovative ways to support CSOs is just as urgent now as it was in 2013, if not more so. As discussed in Section I of this paper, new manifestations of the closing space trend continue to emerge, including redoubled efforts by authoritarian governments to deny CSOs access to the UN, the very same space in which the Joint Statement on the Promotion and Protection of Civil Society was made. The dynamic nature of efforts to restrict space necessitates a dynamic response. One aspect of this response must be a continuous effort to assess and improve donor policies. The next section of this paper will explore how to improve the effectiveness of donor strategies and practices.

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40 Australia, Canada, Chile, Croatia, Czech Republic, Denmark, Estonia, Georgia, Ireland, Japan, Libya, Lithuania, Mexico, Mongolia, the Netherlands, Norway, Poland, Slovakia, South Korea, Sweden, Switzerland, Tunisia, the United Kingdom, and the United States.

41 See: https://obamawhitehouse.archives.gov/the-press-office/2013/09/23/joint-statement-promotion-and-protection-civil-society

III. DONOR STRATEGIES

Threshold Matters

As a threshold matter, we recognize that there is no single solution to the problem of closing civic space. The challenges faced by civil society are a result of diverse political, legal, cultural, social and economic factors. The motivations of law and policy makers and regulators are equally diverse and often conflicting. In short, **every country context is unique** and strategic approaches must be rooted in a clear understanding of the local context.

At the same time, there are ingredients to successful efforts to defend and expand civic space, particularly relating to legal reform.[42] Foremost among these ingredients is **local ownership of strategic responses.** In other words, programs promoting a more conducive civic environment are most likely to succeed where domestic institutions and individuals lead strategic responses. The role of donors and international organizations is therefore to serve as catalysts for the process, whether at the political level or at the grass roots level. Such catalytic support can be provided through multiple interventions, including technical assistance, capacity development, and diplomatic support, among others. By empowering domestic initiatives, donors reinforce the notions of accountability and self-reliance, promote democratic political values, and help ensure that response efforts are grounded in local realities.

The **supportive and catalyzing role of donors** is fundamental to efforts to defend and expand civic space. Before considering specific responsive strategies, we highlight three starting points:

1. Donors must affirm their commitment to supporting a strong and vibrant civil society, in recognition of the inherent value of civil society and informed by a vision of civil society helping to address critical issues of conflicts, social stability and development.

2. The need for innovation – both in the way donors support civil society and in the way civil society responds to closing civic space – is apparent as we consider the confluence of contemporary challenges, including rising populism, fundamentalism, poverty and income inequality, HIV/AIDS, climate change, and other constraints on human development.

3. While some donor responses are focused – helpfully and necessarily – on short-term, rapid-response, crisis-oriented interventions, donors must, at the same time, be committed to long-term support, as defending civic space is an ongoing challenge and expanding civic space a long-term goal.

This section seeks to provide insight into the question of what, concretely, the donor community can do in order to defend and expand civic space more effectively. Section A

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42   ICNL and the UN Development Programme (UNDP), The Role of Legal Reform in Supporting Civil Society, August 2009.
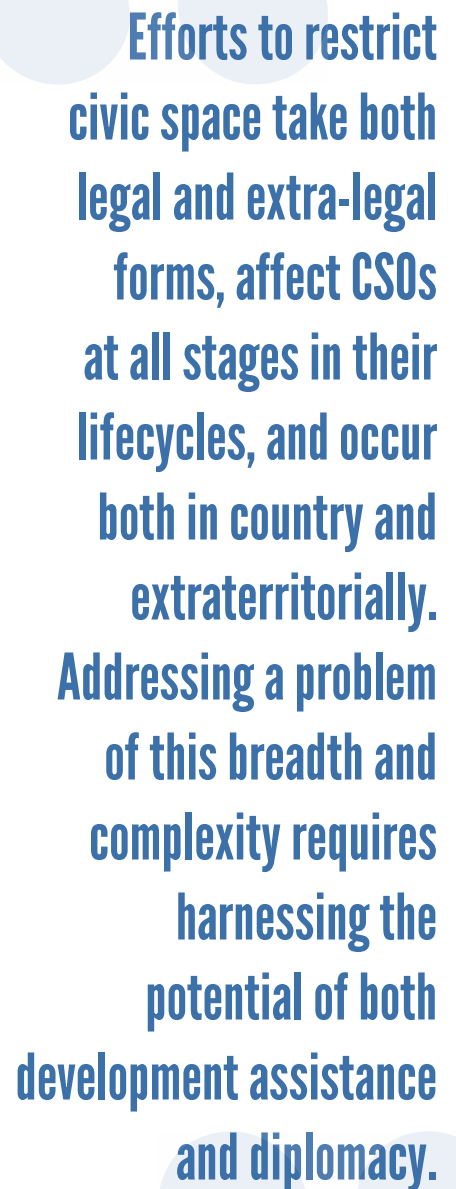
considers the importance of improved policy coherence and coordination within and among donor governments. Section B explores support to and cooperation with civil society. Section C examines support to and cooperation with government institutions. Section D explores the potential for cooperation with the private (business) sector.

A. Policy Coherence and Coordination

As discussed in Section I of this paper, efforts to restrict civic space take both legal and extra-legal forms, affect CSOs at all stages in their lifecycles, and occur both in country and, increasingly, extraterritorially. Effectively addressing a problem of this breadth and complexity requires a policy response that harnesses the potential of both development assistance and diplomacy. ICNL recognizes that governments are organized in radically different ways and each individual government can best decide how to ensure coordination among development agencies, foreign ministries, and other agents of foreign policy.[43] But while the means may vary, the goal of closer policy coordination on issues of civic space merits consideration and has the potential to increase the utility of many of the recommendations included in this paper.

One goal of policy coordination within government and across government agencies should be to ensure that the government speaks with a unified voice. A foreign policy emphasis on trade may conflict with development priorities relating to civil society, for example; internal mechanisms should be in place to identify and, where possible, resolve such conflicts. In the case of anti-money laundering efforts aimed at restricting terrorist access to funds, it may be necessary to coordinate not only between diplomats and development experts, but also the lawyers and economists of the finance ministry. If such coordination is unsuccessful, the efforts of the former may be undermined by the latter, who may have less familiarity with the complexities of closing space issues.

Equally important is the intragovernmental coordination to ensure policy coherence across countries. Donor governments undermine the persuasiveness of their own arguments when they react inconsistently to similar developments in different countries. These differing reactions arise from delegation of authority to different decision-makers or differing circumstances and, in some cases, variable responses may be necessary. But because inconsistency has the potential to undermine diplomatic responses to closing space and may even harm efforts to strengthen international civic space norms, an effort should be made to ensure consistency where possible.

" Efforts to restrict civic space take both legal and extra-legal forms, affect CSOs at all stages in their lifecycles, and occur both in country and extraterritorially. Addressing a problem of this breadth and complexity requires harnessing the potential of both development assistance and diplomacy. "

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43   For some ideas governments might consider, "Ten Ideas for Governments Working to Safeguard Civic Space", a report prepared through the Sida-supported Civic Space Initiative.

B. Support to and Cooperation with Civil Society

To effectively defend and expand civic space, a crucial focus must be the empowerment of civil society. In this section we outline the priority areas of support for civil society. Donors are already providing substantial support to several of these priority areas, while other priority areas may call out for additional investments, more effective support, and/or broader donor engagement. Because these priority areas are mutually reinforcing, it is important that donors view them holistically and ensure coordination and complementarity among their support strategies.

1. More effective monitoring and publication of threats, opportunities and trends relating to civic space

A fundamental way in which donors can empower civil society is to help ensure that civil society organizations have the information they need to design an appropriate response to threats and opportunities facing them. By supporting civil society efforts to monitor civic space and share information among themselves, donors make a critical contribution to civic space protection. Aware of emerging threats, CSOs can develop and coordinate their responses. Aware that others in the non-profit sector have been subjected to pressure or harassment, CSOs can offer solidarity. Aware of proposed changes to laws and regulations, CSOs can mobilize more effectively against legal impediments.

We note that several monitoring and assessment tools exist.[44] Some directly focus on civil society and the environments in which it operates, including related topics such as philanthropy, charity and volunteerism.[45] Others more broadly focus on the strength of democracy, individual freedoms, or aspects of good governance, all of which may affect the overall health of civil society.[46] Taken together, these monitoring and assessment tools offer a wealth of information about the current state of civil society and the environments in which they operate.

There is an inevitable tradeoff between methodology, geographical scope and cost to be considered. Assessment tools relying on primary data can provide invaluable detail and significant depth, but can be expensive, time-consuming and difficult to administer. Conversely, tools relying on secondary data are easier and cheaper to conduct, and thus can cover a larger geographical scope, but are typically incapable of offering the same level of nuance and specificity as those relying on primary source, on-the-ground data collection.

At the same time, these tools may not address all the information needs of CSOs formulating an appropriate strategic response. Information gaps exist at the country level in particular, where global monitoring tools may fail to offer the level of granular detail needed by local CSOs. To help fill this gap, CSOs in Cambodia are implementing the Fundamental Freedoms Monitoring Program, which seeks to measure the impact of all laws and regulations in Cambodia on the freedoms of association, expression and peaceful

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44   For an overview of eight assessment tools that seek to measure the state of the enabling environment for civil society, see ICNL, Assessment Tools for Measuring Civil Society's Enabling Environment, Global Trends in NGO Law, Vol. 5, Iss. 1, August 2014.

45   For example, see the CIVICUS Monitor (https://monitor.civicus.org/) and the ICNL Civic Freedom Monitor (http://www.icnl.org/research/monitor/index.html).

46   For example, Freedom House's Nations in Transit Report available here: https://freedomhouse.org/report/nations-transit/nations-transit-2017; Freedom House's Freedom in the World Report available here: https://freedomhouse.org/report/freedom-world/freedom-world-2017.

assembly.[47] In another example, an EU-funded project seeks to support local CSOs from 6 countries to develop a monitoring tool that will allow CSOs, public officials, donors, media and others to monitor and assess the state of the legal environment for civil society, and its implementation in practice.[48] Thus, while continued support for global monitoring tools is crucial, donors could expand country-based monitoring initiatives to help fill information gaps at the country level. In considering what type of tools to support in a particular context, donors would be well served by coordinating closely with local actors to assess the specific operating environment, map the key stakeholders, and customize an approach to monitoring that is responsive to local needs.

2. More effective collaboration among civil society actors, including across borders and across sub-sectors, in order to better promote civic space

Effective responses to closing civic space challenges are often marked by CSO cooperation and collaboration – for example, by broad coalitions among various sub-sectors of civil society. Conversely, divided civil societies are far less able to respond effectively. Where human rights organizations are separated from development organizations, and development organizations from humanitarian organizations, the response from civil society in response to a government crackdown on the sector is more likely to be muted. Whether working on democratic governance, children's rights, or environmental issues, or simply coming together as chess clubs, all CSOs have a shared interest in an operating environment where rights are protected. Donor support can therefore be crucial in building bridges among the "silos" of CSOs, in order to enable diverse organizations to recognize the shared threat and develop a more coherent, collective response.

Concretely, donors can support the creation of new spaces for civic collaboration and information-sharing regarding civic space and responsive strategies:

- Through supporting global or regional networks or communities of practice around civic space issues, through which CSOs can exchange learning on specific challenges;[49]

- Through the convening of CSO actors at the national, regional and global levels to share experiences and lessons learned and to formulate response strategies;

- Through running innovation labs to develop new ideas on civic

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47   For copies of the Fundamental Freedoms Monitoring Program reports, please contact ICNL.

48   The Monitoring Progress, Empowering Action project is being implemented by the European Center for Not-for-Profit Law (ECNL) and partners in Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine from 2017 to 2020, and measures compliance with fundamental freedoms and essential conditions for CSO operations.

49   For example, the European Center for Not-for-Profit Law (ECNL), ICNL and the Human Security Collective convened an expert hub of practitioners on anti-money laundering and counter-terrorism financing, which is a newly convened resource group of local CSO leaders from 16 countries, who are committed to lead initiatives in their own countries and regions.

participation, civic collaboration and robust strategic responses.[50]

In addition, donors can continue to support effective collaboration among international civil society organizations; the Sida-funded Civic Space Initiative is an excellent example. At the same time, more could be done to encourage global south and global north CSOs to work together to identify and counter threats to civic space.[51]

3. Expanding CSO engagement to include support for progressive social movements

Traditionally, donor agencies have directed the bulk of their civil society support to formally organized CSOs. Less attention and less funding has been directed to support for another component of civil society: social movements. Social movements are broad-based coalitions of individuals and organizations that act collectively over time to promote change. Unlike traditional CSOs or CSO networks, membership in social movements is based on a shared commitment to change rather than formal relationships. Membership in social movements is generally self-defined and diverse, encompassing individuals and groups such as community organizations, labor unions, professional associations, artists, and activists. Social movements may persist even while their membership, leadership, methods, and goals change with time.

The openness and diversity of social movements can be a strength, allowing them to attract a broader base of support to their causes. It can also lend legitimacy to the movements and promote resilience and adaptability in the face of governmental opposition. Historically, non-violent social movements have played a key role in the emergence of democracy and equality in a number of contexts, including the Anti-Apartheid Movement in South Africa and the Civil Rights Movement in the United States. Empirical studies have also highlighted the correlation between the strength of non-violent social movements and the consolidation of democracy.[52]

The same characteristics that give social movements their strength – including their informality and fluidity – can also present challenges to donors. To support social movements effectively, donors will have to demonstrate flexibility and find new approaches to civil society support. Among the steps donors might take are the following:

- Hold internal policy discussions with a specific focus on social movements, recognizing that traditional development assistance methodologies, such as provision of direct funding, may be detrimental to social movement legitimacy and cohesion or may be beyond the capabilities of social movements to absorb;

- Continue to support CSOs whose efforts underpin and complement social movements by providing access to information, offering capacity development, material support, and small grants to social movement members;

- Support more enabling legal environments that facilitate effective social movements, through improved laws and regulations affecting the freedoms of expression and peaceful assembly and digital communications;

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50 For example, Innovation for Change (I4C) is a global network of people and organizations who want to connect, partner and learn together to defend and strengthen civic space and overcome restrictions to our basic freedoms of assembly, association and speech. I4C is curated by CIVICUS and Counterpart International.

51 "Vuka!" is a recently launched initiative, facilitated by CIVICUS and including a coalition of organizations from the global south and north, seeking to combat civic space restrictions.

52 Maria J. Stephan, Sadaf Lakhani, and Nadia Naviwala, Aid to Civil Society: A Movement Mindset, February, 2015.

- Convene diverse groups within social movements to provide them with repeated opportunities to form and refine common positions, develop strategies, and build relationships of trust among movement members;

- Consider ways to provide more flexible support to social movements, including the provision of mini-grants, legal assistance, training opportunities, non-monetary or in-kind support (such as equipment and office supplies), and modified or waived M&E requirements for trusted partners within social movements; and

- Promote social movement sustainability by encouraging domestic philanthropy and innovative resource mobilization, such as crowdfunding and impact investing in countries where social movements are present.

4. More effective CSO engagement with policy actors shaping civic space, including parliaments, relevant government agencies and regulatory bodies

Engagement with policy actors – that is, parliaments, relevant government agencies and regulatory bodies – is fundamental to defending and expanding civic space. Specifically, engagement with policy actors can result in less restrictive laws, more progressive implementation of law, and an improved relationship with regulatory and decision-making authorities. We recognize, of course, that in many countries such engagement may not be feasible or fruitful. At the same time, even if such engagement does not or cannot lead to immediate results in terms of legal reform, there may be value, over the long term, drawn from the consultative process.

Donor support for CSO capacity to engage and influence policy actors is therefore of crucial importance. The concrete goals of donor support may include:

- Creating platforms and learning hubs that facilitate the CSO exchange of lessons and experience on engagement;

- Supporting reform processes that prioritize inclusive and cross-sectoral approaches to legislative drafting and policy development, whereby CSOs have the opportunity to work with government or parliamentary colleagues early in the process;

- Ensuring that domestic CSOs leading reform efforts receive appropriate technical assistance in pursuing their reform goals;

- Supporting parliamentary steps to protect and defend civil society;[53] and

- Facilitating, where relevant and feasible, the formation of cross-sectoral alliances in which CSOs cooperate with business, media, academics and others to address closing or restrictive space.

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53 See Susan Dodsworth and Nic Cheeseman, Defending Democracy: When Do Parliaments Protect Political Space?, Westminster Foundation for Democracy and the International Development Department at the University of Birmingham.

5. Supporting national-level implementation of multilateral commitments and standards

An ongoing need is to connect what's happening at the global and regional levels – through the development of norms, standards, and commitments relating to civic space – with challenges at the country level. National-level CSOs may be unaware of opportunities to shape the content of national-level plans and commitments made by their governments, or to promote multilateral and regional standards nationally. CSOs may lack knowledge of state commitments or international norms made through various processes, including:

- UN processes like the Universal Periodic Review (UPR) and the Sustainable Development Goals (SDGs);[54]

- Global multilateral processes like the Open Government Partnership (OGP), the Global Partnership for Effective Development Cooperation (GPEDC),[55] or the Financial Action Task Force (FATF);[56] or

- Regional processes like the African Commission on Human and Peoples' Rights (ACHPR)[57] or the Inter-American Commission on Human Rights (IACHR).[58]

CSOs may also lack the capacity to monitor or participate in national-level implementation or state follow-up on their obligations. In other words, CSOs can more effectively defend and protect civic space through informed reliance on multilateral commitments and international and regional norms.

Thus, there is an important role for donors in empowering civil society to influence and support the national-level implementation of multilateral commitments. Specifically, donors can support civil society to:

- Advocate for the adoption of state commitments under these mechanisms – such as through OGP National Action Plan development – that promote more enabling legal and operating environments for CSOs and increased citizen participation in decision-making processes;[59]

> There is an ongoing need is to connect what's happening at the global and regional levels – through the development of norms, standards, and commitments relating to civic space – with challenges at the country level.

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54   Goals 16 and 17 respectively include protecting "fundamental freedoms" and promoting effective "civil society partnerships" in SDG implementation: United Nations General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1, September 25, 2015.

55   Global Partnership for Effective Development Cooperation, http://effectivecooperation.org/

56   See Financial Action Task Force, "International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, Recommendation 8 Interpretive Note" revised June 2016.

57   See, e.g. African Commission on Human and Peoples' Rights, Guidelines on Freedom of Association and Assembly in Africa, adopted by the Commission in May 2017.

58   Inter-American Commission on Human Rights (IACHR), http://www.oas.org/en/iachr/

59   Open Government Partnership, Civic space in Europe – declining but defendable?, November 29, 2017.

- Promote meaningful participation of a diverse range of CSOs in national level processes to enforce international norms or implement state commitments of global and regional initiatives;

- Monitor progress made towards commitments or adherence to standards – as just one example, post-UPR consultation meetings help in following up on UPR recommendations and government commitments flowing from those recommendations;

- Utilize these commitments and norms to advocate for protection and promotion of civic space, such as relying on FATF Special Recommendation 8 to advocate against money laundering or counter-terrorism measures targeting civil society that do not adhere to a risk-based approach for such measures; and

- Form coalitions of local and national level independent CSOs to undertake the above actions.

6. Enhanced CSO accountability to the community

The need to enhance CSO accountability is a common refrain, often used by governments to justify the introduction of regulatory measures that may lead to a more restrictive environment. As a starting point, CSO accountability flows in multiple directions and may include accountability to members, beneficiaries, donors, other CSOs, and, of course, to their mission and values.[60] At the same time, many CSOs can benefit from greater accountability to their communities and constituencies. Accountability can help strengthen public trust in civil society, thereby making CSOs less vulnerable to stigmatizing narratives. Greater accountability to constituencies may also result in greater resiliency against external threats posed by increasing governmental restrictions.[61] Donors can support CSOs – and in some cases perhaps lessen the likelihood of harmful government-led restrictions – by supporting voluntary efforts by CSOs to increase their accountability to their constituents, beneficiaries and the community at large. Notably, donors need to recognize that their own accountability requirements, if not carefully structured, may create conflicting incentives that discourage community accountability.

To encourage greater community accountability, donors can, where appropriate, support CSO partners in their efforts to:

- expand their constituencies through more effective outreach;

- raise funds domestically through membership dues, fundraising events, economic activities and other business models, which reduce dependency on external funding and strengthen linkages with the community;

- engage in voluntary self-regulatory initiatives, which may include information-sharing services, national platforms, codes of conduct, or certification schemes; and

- support and nurture CSO accountability networks and cross-border, non-

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60   IBON International, Civil society accountability: To whom and for whom?, prepared for the 2014 Development Cooperation Forum.

61   Related to this, CIVICUS has recently launched Resilient Roots, an initiative examining whether CSOs who are more accountable and responsive to their roots - namely, their primary constituencies - are more resilient against external threats.

governmental CSO accountability mechanisms, which contribute to a shared understanding of what accountable CSO behavior looks like and, in turn, strengthen existing accountability efforts at the national or sub-national level.[62]

7. Enhancing CSO capacity to navigate hostile operating environments

The problem of closing civic space is not a short-term phenomenon. Recognizing that it may indeed be what Carnegie Endowment scholar Thomas Carothers has called the "new normal",[63] CSOs must enhance their resiliency and capacity to not only survive but also to pursue their missions as effectively as possible, even in hostile operating environments.

Donors have a crucial role to play in helping to enhance the capacity of CSOs to navigate and cope with closing civic space challenges. Specifically, donors can:

- empower CSOs to analyze risks and design responsive strategies, including through collective efforts and networks that facilitate an exchange of experience regarding what may work well and what may not in similar circumstances;

- provide space for dialogue and discussion among civil society actors and between civil society and donors, by facilitating civil society participation at the UN and other multilateral fora, by convening in-country meetings to address civic space concerns, and by influencing recipient countries of donor assistance to preserve spaces for civic participation.

- provide rapid emergency support to human rights defenders at immediate risk, through such mechanisms as the Lifeline Assistance Fund for Embattled Civil Society Organizations;

- provide longer-term emergency support that might include the ability to continue work remotely, participate in fellowships or research, and/or opportunities for family support.

- facilitate, by issuing visas and paying for travel costs, the engagement of vulnerable civil society practitioners and human rights defenders with colleagues in international settings; and

- empower embattled CSOs to adapt to changing circumstances by heightening awareness of their rights and obligations under the law, and by facilitating access to sound legal and accounting advice, among others.

Indeed, legal defense and litigation is becoming increasingly important, particularly in countries where the executive branch may be cracking down on civic space, but the courts remain sufficiently independent to provide some measure of protection. Networks of lawyers may provide critical hubs of support for the defense of CSOs at the national level, as well as at the regional level.[64]

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62   See, e.g., Accountable Now, an initiative of nine well-established CSO accountability networks from across the world; in December 2017, the Global Standard for CSO Accountability was officially launched at the International Civil Society Week in Suva, Fiji.

63   Thomas Carothers and Saskia Brechenmacher, Closing Space: Democracy and Human Rights Support Under Fire, Carnegie Endowment for International Peace, ©2014, p. 31.

64   The Pan-African Lawyers' Union (PALU) provides a useful platform through which to engage formal lawyers' associations, regional lawyers' networks and individual lawyers on civic space issues. PALU has specialized knowledge of the African legal and human rights system and has been building a body of jurisprudence and knowledge on African international law and international (continental) institutions.

8. Raising awareness of civic space issues among the general public

With the rise of populist movements and decreasing trust in civil society, the need to raise awareness of civic space issues takes on great importance. An important aspect of public messaging has been focused on developing a 'counter-narrative' – that is, a narrative that counters the stigmatizing and hostile government rhetoric about civil society actors working as "foreign agents" or casting CSOs as "traitors" seeking to undermine national interests. Instead of a counter-narrative, it may be more appropriate to speak of a positive narrative that does not depend on the government's stigmatizing framing of an issue, but proactively conveys a positive message, such as why civil society matters and why civic space is important.

Of course, much of this work requires leadership from CSOs and communications specialists, who will define the appropriate messages and means for such narratives. We take note of suggestions that messages could help persuade the general public:

- that individuals have the right to exercise rights, including, among others, the freedoms of association, expression and peaceful assembly;

- that these civic rights and freedoms are fundamental to democratic societies;

- that these civic rights and freedoms are fundamental to development;

- that these civic rights and freedoms have a significant positive effect on economic growth;[65]

- that civic engagement is important and that civil society makes positive contributions to society;

- that those countries that respect press freedom, encourage open dialogue, and allow for full participation of CSOs in the public arena tend to be more successful at controlling corruption;[66]

- that the exercise of these civic rights and freedoms help reduce social conflict;[67] and

- that an enabling environment for civil society tends to nurture creativity and innovation, which are both a means to sustainable growth and an end in themselves.

We recognize that efforts may be necessary and may occur at the national level (or even within certain subnational districts, regions or provinces), at the regional level, or through a broader global campaign. In Kenya, CSOs successfully responded to restrictive legal initiatives by communicating both the positive impact of civil society as a whole and by spotlighting individual activists and the important work they do.[68] Similar narrative efforts

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65 See, e.g., https://www.humanrights.dk/publications/human-rights-economic-growth.

66 See, e.g., Transparency International, Digging deeper into corruption, violence against journalists and active civil society, February 21, 2018.

67 See, e.g., https://voxeu.org/article/democracy-and-growth-new-evidence ("When we disentangle what components of democracy matter the most for growth, we find that civil liberties are what seem to be the most important. We also find positive effects of democracy on economic reforms, private investment, the size and capacity of government, and a reduction in social conflict.")

68 See, e.g., http://enemyofthestateke.blogspot.com.es/2014/03/is-julius-owino-enemy-of-state.html and http://enemyofthestateke.blogspot.com.es/2014/12/is-regina-utita-opondo-enemyofthestateke.html.

were used by civil society actors in Kyrgyzstan to push back, successfully, against the draft "Foreign Agents Law", which was rejected by the Kyrgyz Parliament in 2016.

The donors' role in this may go beyond funding, if politically appropriate and feasible. CSOs may also need substantive and technical input into civic space messaging in order to mount a successful narrative campaign. In addition, there may be efforts when direct donor messaging on civic space, which could target affected communities, would help reinforce the civil society narrative and support efforts to challenge the propaganda of governments attacking civil society. In such cases, though, donors should be cognizant of the need to coordinate with local actors who can offer guidance on the political resonance of donor engagement.

9. Diplomatic support to civil society

Donor governments provide crucial diplomatic support to civil society. This happens in a variety of ways, dependent on the government and its relationship with the host country. There is a role for public condemnations (e.g., of reprisals against civil society actors, of attacks against human rights defenders, of threats against journalists); for the raising of concerns about civic space threats through private channels; and for visible support for civil society's diverse and positive contributions to all spheres of life. While diplomatic efforts are often made on a bilateral basis, the coordination of diplomatic efforts among like-minded donors and governments can strengthen such efforts.
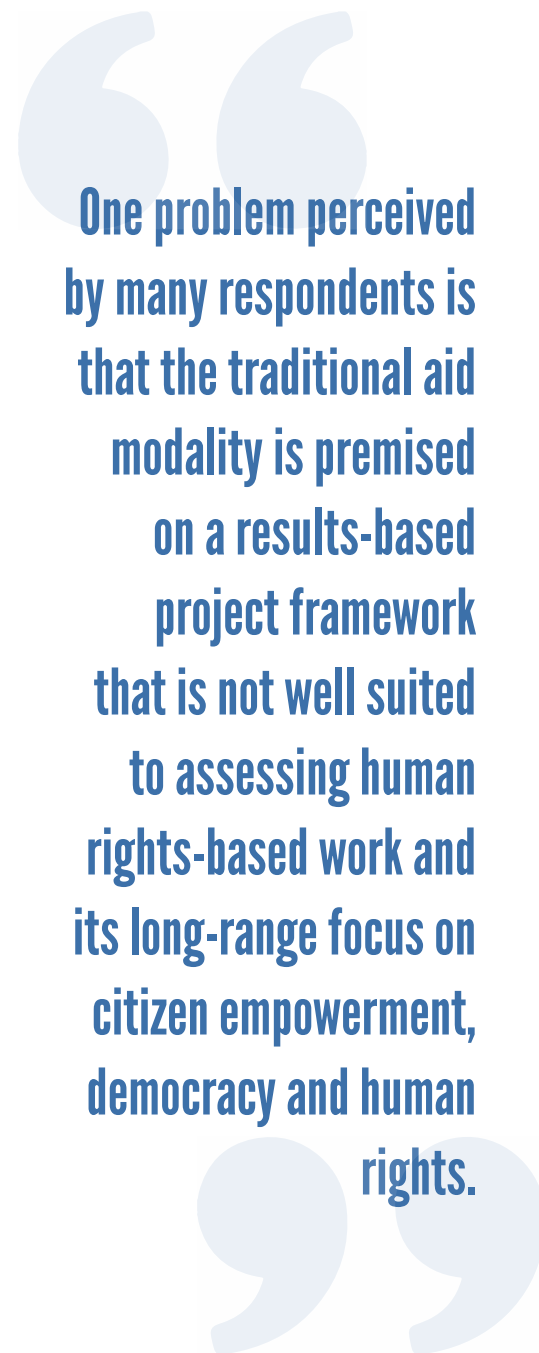
Donors should continue to support multilateral platforms and other vehicles for enhanced donor coordination and voice regarding civic space. We note the importance of the Community of Democracies Working Group on Enabling and Protecting Civil Society, the GPEDC and the Task Team on CSO Development Effectiveness and Enabling Environment, and the Open Government Partnership, among other multilateral vehicles addressing civic space. An ongoing challenge is to deepen cooperation with newly emerging donor countries through such multilateral vehicles, as well as more generally.

10. Design appropriate aid modalities

ICNL takes note of the emphasis placed by respondents on designing more effective aid modalities – including, for example, more flexible funding, core support, and non-financial support, among others.

The problem, as perceived by many, is that the traditional aid modality is premised on a results-based project framework that is not well suited to assessing human rights-based work and its long-range focus on citizen empowerment, democracy and human rights. The traditional, results-based, aid modality may entail:

- Greater emphasis on supporting project-based work rather than core support;

- A perception of greater risks in supporting the work of smaller,

> "One problem perceived by many respondents is that the traditional aid modality is premised on a results-based project framework that is not well suited to assessing human rights-based work and its long-range focus on citizen empowerment, democracy and human rights."

grass-roots organizations, whether through intermediaries or directly, since the level of supervisory control typically exercised over larger CSOs cannot be easily applied to them;

- Fewer possibilities for working with informal (unregistered) and small organizations;

- A focus on short-term versus long-term results;

- Difficulty finding effective ways to support loosely organized and fluid social movements; and

- Reporting obligations that result in increased homogeneity among recipient groups working on human rights and governance.

New aid modalities would, it is suggested, better sustain a diverse array of CSOs in the changing environment. Such a result would be consistent with the emphasis of some donors on a pluralistic civil society, but could also help lead to meeting development goals more effectively. Indeed, it is no longer sufficient for donors to work only with traditional CSOs, some of which may have diminished capacity to influence social transformation; to be effective, donors should find ways to engage with informal groups, movements, social media activists, and others. A broad and diverse civic sector that includes all of these actors is also more likely to be resilient and adaptable in the face of the closing civic space challenge.

Here we provide an illustrative list of key recommendations regarding how donor assistance might be provided in more effective and strategic ways:

- Devote more funding to long-term core support for CSOs operating in hostile contexts to allow them to build organizational strength and to defend and protect civic space over the long term;

- Ensure flexible funding support that allows organizations to respond quickly to civic space threats and adjust to changing local realities;

- Provide non-financial support that helps CSOs and social movements exchange knowledge, acquire skills and forge new alliances;

- Use creative approaches to fund and strengthen informal associations, social movements, social media and online activists that may lack registration or incorporation or other formal legal structure, but have proven to be legitimate and effective, and may need donor support over the longer term;

- Reduce the administrative burdens imposed on partner CSOs (such as the results-based framework and its appropriateness for CSO work focused on civic space, democracy and human rights);

- Ensure resourcing decisions are made closer to the ground, including by supporting CSOs as "fundermediaries"[69] that can issue smaller and more flexible grants; and

- Work with a diversity of organizations/initiatives that are truly rooted in their

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69 See, e.g., Dhananjayan Sriskandarajah, Five reasons donors give for not funding local NGOs directly, The Guardian, November 9, 2015.

societies and accept the different yet complementary means they have of pursuing a shared goal.

Increasingly, both donors and CSOs are developing principles relating to donor support, which address, among other priorities, appropriate aid modalities.[70] We understand that not all donors will find it politically feasible to adopt such recommendations and deploy new aid modalities. Rather, the desired outcome would be the availability of a diverse range of funding approaches within the universe of available donors, which in turn would reinforce the need for increased cooperation among donors.

C. Support to and Cooperation with Government Institutions

Responding effectively to closing civic space cannot consist of support to civil society alone. Donors and CSOs both must work with recipient country governments to defend and expand civic space. Direct financial support remains a primary mechanism to provide bilateral support to the recipient countries.[71] In addition to providing financial support, there are several important ways that donors can support and influence governments and government institutions:

Support independent institutions

Donors can support the creation and capacity of independent institutions within recipient governments, particularly those, like ombudsmen and National Human Rights Institutions that monitor human rights within the country. Other oversight institutions such as Supreme Audit Institutions and knowledge producers like National Statistics Offices may also be of critical importance.

Support improved implementation by regulatory bodies

Where possible, donors can support the improvement of implementation practices by government regulatory bodies affecting civil society. The impact of enabling laws may be undermined through poor or inadequate implementation; similarly, the impact of restrictive laws may be mitigated through enlightened implementation. Either way, governments benefit from trainings for regulators, regular opportunities for dialogue with civil society, and other forms of capacity support.

Convey positive messaging on civil society

The importance of civil society and of enabling frameworks for CSOs to operate is often not well understood, recognized or accepted by many in government. Donor governments and their representatives therefore have a crucial role to play in conveying to their counterparts that strong, successful states need strong, vibrant civil societies. Messaging can focus on the inherent value of civil society to a tolerant and pluralistic society that allows for the expression of diverse interests, or highlight the instrumentalist role of civil society in keeping government accountable, in helping to resolve conflict and ensure social stability, and in meeting community needs. Donors may wish to refer to statements on the role of civil society

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70   See, e.g., Human Rights House Foundation, Funding Civil Society: How adaptable international donors can support organisations under increasing restriction, Oslo and Geneva, October 2017.

71   The Organization for Economic Co-operation and Development (OECD), Should OECD Donors Deliver Aid through Poor Country Government Budgets? OECD donor countries now channel about US$ 5 billion – some 5 per cent of their aid – directly to the budgets of developing country governments. An independent evaluation shows that this system of delivering aid can be an effective way to strengthen the management of public financial systems in developing countries, and has helped to improve access to services like healthcare and education.

in the UN's Agenda 2030, which was adopted unanimously. In addition, donors can promote discussion with government counterparts of issues relating to civic space and security, and the implications of the increasing securitization of government policy.

Consider trade and aid conditionality

Donors should consider whether and how they might incorporate within cooperation agreements with recipient countries clear criteria relating to respect for civil society and human rights. This might involve including provisions on the formation of not-for-profit organizations in trade agreements; provisions on freedom of expression in intellectual property agreements; and access to funding provisions in international taxation and finance agreements. In such cases, the consequences of restrictions on civic space could be made to match the consequences for other deviations from agreements. Where donors provide development assistance, they should include language in the treaties on the importance of civil society in development effectiveness and, when possible, link the form and amount of aid to recipient country treatment of civil society. Such provisions should be carefully considered to ensure, to the extent possible, that harmful steps taken by governments do not result in decreased assistance to their citizens, but rather trigger alternative aid delivery modalities or other steps calibrated not to undermine humanitarian assistance or development effectiveness.

Promote cross-sectoral dialogue

Donors can promote meaningful engagement and dialogue on civic space issues between CSOs and government authorities to foster greater trust and understanding. In relation to this goal, if and when politically appropriate, donors can seek to open up space for domestic civil society to engage in dialogue with government ministries, who may be reluctant to recognize the benefits of dialogue (e.g., like ministries focused on trade, budget support, and development).

Promote multi-stakeholder dialogue

Donors can provide support for multi-stakeholder dialogue and collaboration in order to build trust and understanding across sectors and between donor countries and recipient countries, if and when politically appropriate and possible. In relation to these efforts, donors can increase efforts to identify a more diverse range of governments to champion civic space.

Support norm-building at UN Level

Donor support for UN-level processes that establish global norms protecting civic space has proven crucial. The ongoing challenge is to monitor the implementation of these norms at the country level in a consistent and effective manner. Such a challenge must be met through enhanced capacity of aid recipient governments to recognize international norms and ensure national law and practices comply with these norms; and through enhanced CSO capacity to engage in monitoring (both at the country level and through engagement at the UN and other multilateral fora). Ideally, both the relevant government regulatory bodies and CSO sector should have greater ability to collaborate toward shared goals.

Support norm-building through regional mechanisms

Promoting CSO engagement with regional, multilateral mechanisms is also a pivotal means to influence policy actors and the operating environment for civil society. Regional bodies like the African Commission on Human and People's Rights and the Inter-American Commission on Human Rights can be helpful in building norms, setting standards, and demanding accountability from states.

Leverage Agenda 2030

The 2030 Agenda for Sustainable Development offers entry points for donor engagement with other states. The Sustainable Development Goals (SDGs) include sub-goals on good governance, including participation, access to information, and protection of fundamental freedoms, as well as on promotion of civil society partnerships to achieve the development agenda. In order to achieve the goals envisioned in Agenda 2030, the full and equal participation of all persons is essential. Donors have a pivotal role to play in engaging with states to reduce or eliminate the many structural barriers to participation that remain in place; in supporting the monitoring and implementation of the sub-goals; and in building the monitoring capacity of CSOs.

Support research on socio-economic impact

Donors can support research into the impact of civic space restrictions on a country's revenue, and conversely, what there is to gain from protecting civic space freedoms. As but one example, in 2016, government-directed internet outages in Africa became the rule rather than the exception. Throughout the year, numerous African governments intentionally disrupted internet or electronic communication, exerting control over the flow of information and interfering with the freedom of expression, and notably, costing African countries hundreds of millions of dollars in much-needed revenue.[72] Conversely, research on human rights and economic growth released by the Danish Institute for Human Rights in 2017 states that "Rights to freedom of speech, freedom and assembly and association and electoral self-determination have a significant positive effect on economic growth."[73]

D. Cooperation with the Private Sector

An area of increasing attention in discussions of closing civic space is the importance of enhancing cooperation with the private sector. Many donors, civil society representatives and human rights defenders have recently been looking to businesses to play a greater leadership role around global challenges, including those affecting civic space. Notably, businesses often do not play such a leadership role and have been much criticized for harmful practices.[74]

At the same time, there are businesses who have acted in defense of human rights and civic space issues.[75] To be clear, the benefits of enhanced cooperation flow both ways; a strong civil society contributes significantly to a more conducive business environment. Civil society's capacity to address gaps in governance, climate change, youth unemployment, and rising inequality, among other issues, make it a natural ally of business, whose success

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72   See: http://qz.com/875729/how-african-governments-blocked-the-internet-to-silence-dissent-in-2016/.

73   See: https://www.humanrights.dk/news/human-rights-have-positive-effect-economic-growth.

74   Human Rights Watch investigates human rights abuses linked to the economic activities of businesses, including harmful practices by multinational corporations that can devastate vulnerable communities. https://www.hrw.org/topic/business.

75   We have seen companies stand up for human rights defenders. For example, Tiffany & Co. supported Rafael Marques, a renowned Angolan journalist who faced years in jail for exposing human rights abuses in the Angolan diamond mining industry, even though the company does not source from Angola. And we have seen companies stand against discriminatory laws. In 2016, the US state of North Carolina passed the so-called 'bathroom bill', which required people to use only the public toilets that correspond to their sex at birth, thereby discriminating against transgender people. The opposition from US corporations was strong, as 68 companies, including IBM, General Electric and Nike, said the bill was undermined their ability to retain a diverse workforce; under corporate pressure, the same Republican majority that adopted the bill repealed it.

depends on a stable and enabling environment. Thus, a vibrant civil society, even where it may stand opposed to short-term interests of private companies, is vital to their long-term sustainability.

Donors can help facilitate and encourage more frequent and effective cooperation with private sector actors in several ways:

Identify and connect private sector allies

Donors can help support CSO partners in identifying allies within the private sector, who recognize that an open and enabling rule-of-law environment is crucial for business development, as well as civil society growth. As but one example, there may be opportunities to engage with IT companies on civic space issues since many are concerned about how IT – and governmental measures relating to IT – are affecting human rights and civic space; an example is Microsoft.[76] Beyond identification, donor governments can encourage private sector allies to speak collectively on behalf of open civic space. The concept of "corporate human rights defenders"[77] has been called the next frontier of business and human rights; through the work of the Business and Human Rights Resource Centre, the first steps have been taken towards the creation of a strong network of multinationals willing to collectively raise their voices in support of human rights defenders.

Integrate businesses into multi-stakeholder spaces

Donors' role in supporting multi-stakeholder approaches, such as the GPEDC, is crucial. While continuing to play that role, donors could consider additional outreach and inclusion of private sector allies within those spaces, where appropriate. Businesses can help manage the risks of engagement on human rights issues through a multi-stakeholder approach – by working with governments and NGOs. Engaging with civil society will help businesses understand the local context. Engaging with governments can be helpful in determining how to take a stand – and whether speaking out publicly or behind the scenes would be more effective.

Promote civil society input into business standard-setting and monitoring processes

Where businesses invite the opinions and concerns of many different groups — including those, like CSOs, that challenge them — governments should give added weight where possible to the standards and certifications that result from these processes. This preference is defensible, since the diverse viewpoints help advance best practices related to responsible business practices and lead to more credible standards. For example, the Initiative for Responsible Mining Assurance
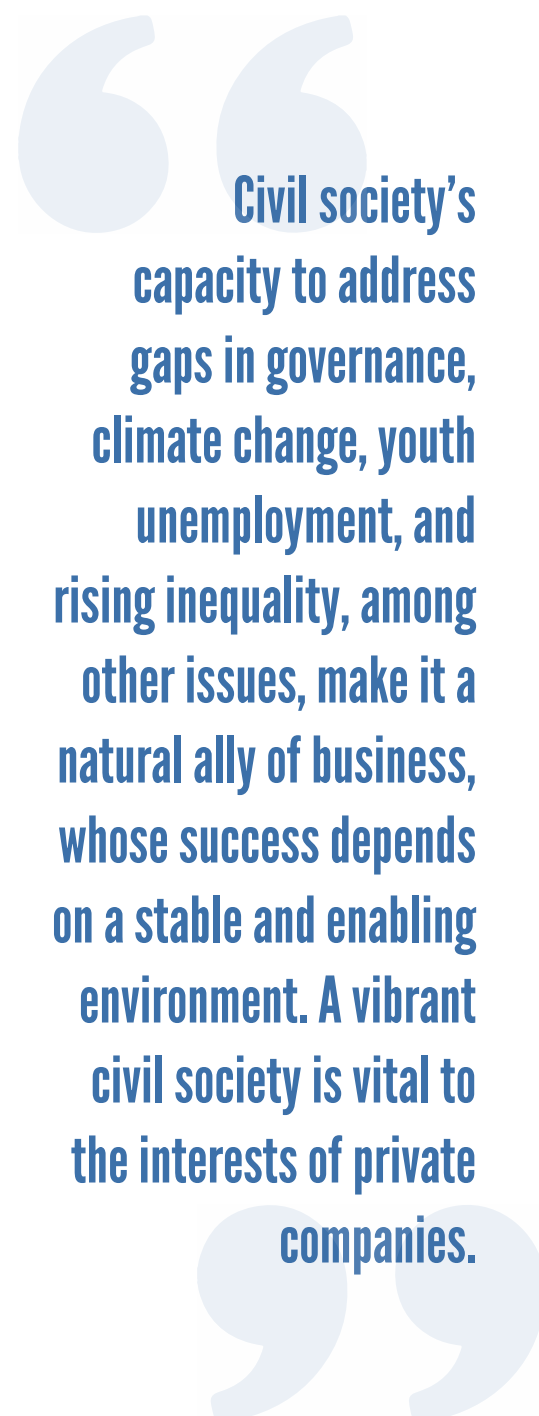
> "Civil society's capacity to address gaps in governance, climate change, youth unemployment, and rising inequality, among other issues, make it a natural ally of business, whose success depends on a stable and enabling environment. A vibrant civil society is vital to the interests of private companies."

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76   See https://www.microsoft.com/en-us/about/corporate-responsibility/human-rights.

77   See Speech by the Minister for Foreign Trade and Development Cooperation of the Netherlands, Lilianne Ploumen, at the International Business and Human Rights Conference (19 April 2017): https://www.government.nl/documents/speeches/2017/04/19/speech-minister-ploumen-on-international-business-and-human-rights

(IRMA) is preparing the IRMA Standard for Responsible Mining to address industrial-scale mines. IRMA was built on a multi-stakeholder process, including sectors who have long been champions and advocates of human rights — specifically NGOs and communities affected by mining. Consequently, the protection of human rights has been central to the IRMA Standard; when implemented, IRMA will offer a platform for CSOs and human rights defenders to be heard.

Support global frameworks and voluntary standards

The development of strong, rigorous standards for responsible business practices is crucial, in order to encourage better business behavior. Performance standards commonly require businesses to consult with communities, including CSOs, which promotes a participatory process and leads to enhanced regard for human rights. Even where compliance falls short of such standards, the existence of the standards empowers watchdogs to measure business practices and hold them accountable. Frameworks like the UN Guiding Principles on Business and Human Rights (UNGPs) as well as the Sustainable Development Goals help to provide tools and guidance. The Corporate Human Rights Benchmark (CHRB) ranks 98 of the world's largest companies in terms of their performance on human rights. It has been embraced by a coalition of investors representing the staggering amount of 5.3 trillion dollars.

Promote civil society involvement in national action plans

The UN Working Group on Business and Human Rights strongly encourages all states to develop, enact and update a national action plan on business and human rights as part of the state responsibility to disseminate and implement the Guiding Principles on Business and Human Rights. Some 15 States have produced a national action plan, including, most recently, Spain in July 2017. For example, the Netherlands' National Action Plan requires Dutch companies to uphold the same high human rights standards wherever they operate. In 2016, the Netherlands concluded groundbreaking agreements with the garment and banking sectors, and recently added the vegetable protein and timber sectors to the list. These voluntary agreements enable companies to conduct proper due diligence, with the help of the government and civil society and to solve problems collectively that they cannot solve alone.

Promote cooperation with private sector associations

Private sector associations, including chambers of commerce, manufacturers' associations, media owners' associations, etc. can play an important role in influencing the behavior of the member organizations and the industry as a whole. The 2030 Agenda for Sustainable Development has identified the private sector as a main partner in sustainable development. As such, they are natural partners for civil society on relevant issues. As but one example, the International Chamber of Commerce (ICC) is the world's largest business organization with a global network that spans over 6 million members in more than 100 countries. In the run-up to the 2017 UN Forum on Business and Human Rights, the ICC highlighted three areas in which business is making a difference, including on gender equality, rights online, and responding to refugees.[78]

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78 See: https://iccwbo.org/media-wall/news-speeches/3-ways-business-is-promoting-human-rights/.

E. "Out-of-the-Box" Ideas

Innovative "out-of-the-box" ideas may present new opportunities to address the challenges of closing civic space.[79] We offer a few ideas here but welcome others:

- In newly opened spaces, donors could support the emergence of CSOs by establishing a small grant program for start-up CSOs or support micro-projects awarded on the basis of oral project pitches and by limiting final reports to interviews and simplified summaries of work performed and outcomes achieved (the idea being to minimize the administrative burden and to make grants available to people who otherwise would not have the education or skill set to receive them through traditional grantee selection processes). Consideration would need to be given to the administrative burden this might impose on donors.

- Donors could coordinate more closely around elected positions in the UN that affect civil society participation in multilateral structures, such as seats on the ECOSOC NGO Committee, and devise ways to lighten the burden on states that agree to assume these roles. It is currently a significant commitment and sometimes a daunting one for smaller missions. At the same time, incentive structures linked with the desire of non-democratic states to exclude civil society voices in the UN encourage those states that oppose liberal participation to pursue key positions.

- Donors could identify issues and partners working in emerging areas. One example would be protecting academic freedoms, as we witness an increase in government regulation of universities. Others might choose to prioritize the role and importance of free and independent media, trade unions, or social movements. And still others might focus on the freedom of movement.

- Donors could identify ways to reduce oversight requirements for a set period of time (perhaps subject to audits) for repeat grantees or those who have undergone trainings identified by donors. This would ideally be a coordinated effort among donors. Consideration would have to be given to concerns about erecting a barrier to new applicants and groups without existing relationships with international donors.

- Recognizing that the the phrase "closing civic space" may obscure the fact that the problem is the result of deliberate actions, donors could help facilitate deeper discussions on the motivations and incentives for governments to restrict civic space; and how these same governments could be influenced to take a more enabling approach toward civil society.

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79   ICNL acknowledges that private donors and foundations may already be exploring some of the suggested approaches in this section.

IV. RECOMMENDATIONS

The wave of civic space constraints is not likely to recede soon. Those who aim to defend and protect civic space will continue to seek the most effective strategies and tactics for doing so. That there is no formula or guarantee for success is obvious. That there have been successful efforts to counter restrictions and/or to expand civic space is also clear.

Based on the strategies and approaches outlined in this paper, we distil the following key recommendations to donors:

- Donors should articulate a **clear vision** of support for civil society as part of their development and foreign policy statements.

- Donors should demonstrate **commitment to long-term support**, as defending civic space is an ongoing challenge. Crisis-oriented support, while necessary and important, is not sufficient.

- Donors should strive toward **policy coherence and coordination** between development agencies, foreign ministries, and other agents of foreign policy.

- Donors should continue to **empower civil society**. There are multiple areas of potential engagement, but all engagement must seek to support local leadership, and should recognize the advantages of multi-pronged responsive strategy. Empowering civil society actors to build coalitions and alliances within the sector may be linked with efforts to facilitate CSO engagement with policy actors, such as parliaments and government bodies, or with initiatives that support national-level implementation of UN or multilateral commitments. Efforts to enhance CSO accountability may reinforce narrative messages that seek to improve the public image of civil society.

- As the nature of global challenges evolve, donors should be nimble and ready to **adapt responses in innovative ways**. This includes adapting aid modalities to current realities, including the emergence of social movements, social media, youth activists, and others as key change actors.

- Donors should seek to **support recipient country governments** to defend and expand civic space through support for independent governmental institutions; through support for **multi-stakeholder mechanisms** that help build trust across sectors; and through engagement with states to implement their international commitments (e.g, the 2030 Agenda for Sustainable Development) at the country level.

- Donors should be alert to opportunities to engage with **private sector allies** on issues affecting human rights and civic space.

Countering the closing civic space challenge is a shared responsibility of civil society, government, the private sector and, of course, citizens themselves. As this paper demonstrates, there is a broad range of possibilities through which government donors can share in this responsibility in recipient countries.

ICNL is grateful to Sida for its support in making this paper possible and we welcome feedback.

LIST OF RESPONDENTS

Organizations

ActionAid • AidWatch Canada • Ariadne Network • Article 19 • Association for Women's Rights in Development • Carnegie Endowment for International Peace • Child Rights International Network • Church of Sweden • CIVICUS • Civil Rights Defenders • CONCORD • CSO Partnership for Development Effectiveness • Dag Hammarskjöld Foundation • Danish Ministry of Foreign Affairs • DefendDefenders • European Foundation Centre • Folke Bernadotte Academy • Forum Syd • Front Line Defenders • Fund for Global Human Rights • Global Affairs Canada • Hunger Project • IBON Foundation • The International Center for Not-for-Profit Law • International Freedom of Expression Exchange • IM Swedish Development Partner • Institute of Development Studies • International Human Rights Funders Group • International IDEA • Kvinna till Kvinna • Life & Peace Institute • Minority Rights Group International • National Council of Swedish Youth Organisations • National Democratic Institute • Office of the United Nations High Commissioner for Human Rights • Olof Palme International Center • Oxfam • Plan International Sweden • PMU InterLife • SOS Children's Villages Sweden • Swedish Association for Sexuality Education (RFSU) • Swedish Fellowship of Reconciliation • Swedish International Liberal Centre • Swedish Ministry of Foreign Affairs • Swedish Mission Council • Swedish Society for Nature Conservation • Union to Union • United Nations International Civil Service Commission • Uniting Church in Sweden • We Effect • World's Children's Prize Fund

Individuals

Hacking, Cornelius; the Netherlands Ministry of Foreign Affairs • Kiai, Maina; Former UN Special Rapporteur on the rights to freedom of peaceful assembly and of association • Waty, Marie Odile; the French Development Agency • Wood, Jacqueline; Carleton University, Ontario, Canada

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