
The Great Civil Society Choke-out

Around the world, governments are doing their best to strangle funding for the civilian groups that dare to challenge their power and hold them to account.

- BY **KENNETH ROTH**

- JANUARY 27, 2016

Civil society is under **more aggressive attack** than at any time in recent memory. Facing independent civic groups that have further reach, and more outlets to publish their findings and make their case, governments around the world have begun working to silence them by depriving them of their right to seek funding abroad, even when domestic funds are unavailable. From Africa to Eastern Europe to Asia, autocrats have claimed that they are fighting foreign interference to brush aside domestic and international protest over these restrictions.

This effort to choke off funding of civil society is replete with hypocrisy and violates basic rights of expression and association. At its heart, it is an attempt to avoid organized oversight of governance. If the world allows it to succeed, it will leave empty shells of democracy — even when periodic elections are held, people will lack one of the principal tools to make their concerns heard.

A vigorous civil society helps to ensure that governments serve their people. Joining together in civic groups amplifies isolated voices and leverages their ability to influence governments — to ensure that they build schools, secure access to health care, protect the environment, and take countless other steps to pursue a popular vision of the common good. When leaders are primarily interested in advancing themselves, their families, or their cronies, however, an empowered public — able to investigate, publicize, protest, and rectify government corruption, malfeasance, or incompetence — becomes a threat.

Recently, it's become a more insistent one. The rise of social media, especially on mobile devices, has meant that people can bypass traditional media and speak to large numbers without a journalist intermediary. People's voices can reach broader audiences and, despite the efforts of pro-government trolls, are harder to censor or counter. The Arab uprisings that began in late 2010, Ukraine's 2014 Maidan revolution, and the Occupy Central movement in Hong Kong all demonstrate what can happen between a restless public and activists adept at using social media. From China to Venezuela to Malaysia, civil society groups have used this new microphone to pressure governments to be more accountable to the people below.

In a different era, autocrats might have dispensed with any pretense of democracy and simply ruled without elections. But just as authoritarian rulers learned to hold elections (while manipulating votes) to maintain a facade of democracy, they are now working between ballots to prevent an empowered public from impeding their authoritarian aims. By closing the political space in which civic groups operate — interfering with the funds that allow groups to organize, investigate, and agitate — autocrats are trying to suck the oxygen from organized efforts to challenge or even criticize their self-serving reign.

Such a strategy is extraordinarily dangerous for civil society. Many countries are too poor to have a pool of donors capable of significant financial contributions to civic groups. When individuals are wealthy enough to make such gifts to groups critical of the authorities, autocrats can often dissuade them, attacking their business interests, threatening a tax investigation, withholding necessary licenses, or restricting business with the government.

When would-be domestic donors are too frightened or lack the means to give very much, civic groups naturally exercise their right to seek support abroad — and this is where governments are breaking new ground. Often, the first move has been to cut off foreign sources of funding for groups that defend human rights or hold the government to account.

India, its democratic traditions notwithstanding, has been a long-time practitioner of this technique — its Foreign Contribution Regulation Act **requires** government approval before any civic group can receive a contribution from abroad. The government's willingness to allow such contributions tends to bear an inverse relationship to the sensitivity of the group's work: While groups that offer humanitarian services operate

relatively unhindered, human rights organizations are often restrained. More recently, under Prime Minister Narendra Modi, environmental groups have been particularly victimized because of perceived challenges to official development plans.

India is hardly the only bully, however.

Russia has applied such restrictions aggressively — first tarring Russian groups that accept contributions from abroad as “foreign agents” (which in Russian has the unsavory connotation of “traitor” or “spy”), then banning certain donors as “undesirable foreign organizations,” with criminal penalties applicable to anyone who cooperates with them. Donors that have been **banned** include the National Endowment for Democracy and George Soros’s Open Society Foundation.

Other former Soviet states have started to emulate Russia. Kyrgyzstan’s parliament is **considering** its own “foreign agents” law, which borrows heavily from Russia’s. Kazakhstan **adopted legislation** that requires funding for civic groups to be channeled through a single government-appointed “operator” with discretion over the dispersal of funds.

Belarus **requires** registering all foreign funding with a government agency that can reject it if its purpose is not on a narrow officially approved list. Azerbaijan **opened a criminal investigation** into a handful of the most prominent foreign donors, froze the bank accounts of dozens of their grantees, jailed key veterans of the human rights movement, and required government licensing of all foreign donors and official approval of each funded project.

Some of China’s most important organizations — particularly those that try to uphold human rights — are largely dependent on outside funding, but the government is **expected** to soon adopt a foreign NGO management law that in all likelihood would enable it to exert tighter control of overseas funding. Organizations that engage in advocacy — rather than service delivery — would be particularly vulnerable.

Some African regimes have been at the cutting edge of these efforts. In 2009, Ethiopia began restricting the foreign funding of any group working on human rights or governance to 10 percent of its revenue, effectively shutting down most organizations that monitored the government’s conduct. Kenya, **claiming** that backers of the International Criminal Court’s prosecution of officials for violence after the 2007 elections are promoting a “foreign agenda,” is **considering** a similar 15 percent cap.

Angola **banned** funding from foreign entities that are not approved by a government body. And Morocco is prosecuting five civil society activists for “harming internal security” for accepting foreign funding to organize a workshop to empower citizen journalism through a smartphone app. In Latin America, Venezuela’s Supreme Court ruled in 2010 that any group receiving foreign funding could be prosecuted for “treason,” while the National Assembly, then ruled by a pro-government majority, prohibited international assistance to any group that would (in a transparent display of its fear) “defend political rights” or “monitor the performance of public bodies.”

Autocrats who favor restricting access to foreign donors for civic groups that monitor their conduct often dress it up as fighting foreign interference. Yet these same governments actively promote foreign investment and foreign trade deals, while allowing those businesses to lobby for beneficial laws and regulations and to take part in debates about public policy. Many eagerly solicit foreign aid, for themselves and encourage such aid to groups that provide services that the government otherwise would have to deliver — even when that aid comes with conditions attached.

Ironically, many of the same governments that restrict civil society’s right to seek funding abroad themselves spend copiously on lobbyists or public relations firms to spruce up their own images overseas. Governments such as those of Russia, China, Egypt, and Azerbaijan have spent millions of dollars in Washington alone to put a benign face on their repression, while starving civil society as it tries to alleviate that repression at home. Their concerns about cross-border funding influencing the public debate thus seem to depend on whether the funding contributes to scrutinizing or reinforcing the government line.

When seeking to justify new restrictions, autocratic governments often compare them to policies in established democracies. For example, some democracies bar political candidates from receiving foreign contributions. Yet the restrictions preventing civic groups from receiving funds from abroad extend well beyond the electoral context. They limit civil society’s ability to organize and speak out on a wide variety of issues that have nothing to do with elections. Neither international human rights law nor any proper understanding of democracy permits restricting independent groups from seeking foreign funding, as U.N. Special Rapporteur Maina Kiai explained in a 2013 **report**.

In other cases, governments invoke laws such as the U.S. **Foreign Agents Registration Act**, which requires those acting on behalf of a foreign government to register as its agent. Yet that law addresses only people or entities that act as “agents” of a foreign government or at its “direction or control.” Few if any contributions to civil groups are sufficiently directive to establish anything remotely like an agency relationship. Moreover, in many cases, the foreign funder is not a government at all but a private individual or foundation.

Some governments — including Cambodia, Egypt, Tajikistan, and India — justify restrictions on foreign contributions to civic groups as necessary to fight terrorism. China, Pakistan, and Bangladesh also invoked the terror threat in introducing draft measures containing similar foreign-donor restrictions. But since terrorist groups can as easily set up businesses as voluntary organizations to finance their crimes, the differential treatment again reveals other concerns.

Efforts to restrict civil society’s access to foreign donors are not about transparency or good governance. They are about avoiding organized oversight of governance, about blocking what is often the sole source of independent funding for such efforts when domestic sources do not exist or have been scared off. If governments really wanted to shelter their societies from foreign funds, they could emulate the reclusiveness of North Korea. But what these governments truly desire is a selective cutoff, enabling commercial funds and international aid they deem beneficial while restricting those that might be used to hold them accountable. Any such governmental distinction between commercial and charitable funds, or between aid to themselves and aid to civic groups, should be seen for what it is: an effort to block citizens’ rights to freedom of expression and association, and the accountable governments they foster.