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# Why Governments Target Civil Society and What Can Be Done in Response

*A New Agenda*

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**Sarah E. Mendelson**

*A Report of the CSIS Human Rights Initiative*

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INTERNATIONAL STUDIES



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# Why Governments Target Civil Society and What Can Be Done in Response

## A New Agenda

Sarah E. Mendelson<sup>1</sup>

Chief among the current challenges facing the global human rights community (and broader civil society) is a contagion growing in intensity described best—if inelegantly—as the closing space around civil society.<sup>2</sup> Since Russian President Vladimir Putin first came to power in the early 2000s, the space for civil society has been shrinking. Although the violence in Russia that accompanies the trend is an extreme form, the pressures on civil society are by no means just a Russian problem. According to Douglas Rutzen, the president and CEO of the International Center for Not-for-Profit Law (ICNL), “since 2012, more than ninety laws constraining the freedoms of association or assembly have been proposed or enacted.”<sup>3</sup> The closing space for civil society, in other words, is a global problem.

Government harassment of independent organizations is as old as the state system itself, but this wave of targeting has a twenty-first-century twist. Specifically, as citizens find new ways to organize, assemble, and express themselves through the use of affordable technology, governments have found new ways to restrict public political space, suppress information, and label anything that they do not like as “foreign.” From Russia to Venezuela, from Ethiopia to Egypt, dozens of governments are pushing back in systematic ways against the enhanced power that citizens have amassed since game-changing,

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<sup>2</sup> This essay is adapted from Sarah E. Mendelson, “Dark Days for Civil Society: What’s Going Wrong—And How Data Can Help,” *Foreign Affairs*, March 11, 2015, <http://www.foreignaffairs.com/articles/143235/sarah-e-mendelson/dark-days-for-civil-society>. The essay was prepared for the Mario Einaudi Center for International Studies’ Foreign Policy Distinguished Speaker Series at Cornell University (February 23, 2015); for a conference at Arizona State University titled “How do we know what we know? Charting the future for human rights documentation and analysis” (January 22–24, 2015); and for a conference that explored, among other issues, how to get better alignment of international relations scholars and practitioners on human rights, held at the College of William and Mary (January 14–16, 2015) titled “Strengthening the Links: TRIP [Teaching, Research & International Policy] Conference on the Theory-Policy Divide.” I thank participants in the meetings for thoughtful comments; Jack Snyder, Jim Ron, Warren Krafchik, Martin Tisné, Tom Carothers, Danny Sriskandarajah, Matt Evangelista, Sid Tarrow, and Monette Zard for comments on earlier drafts; Sarah Mohamed for research assistance; and the Oak Foundation for support.

<sup>3</sup> Douglas Rutzen, “Aid Barriers and the Rise of Philanthropic Protectionism,” *International Journal of Not-For-Profit-Law* 17, no. 1 (March 2015): 5–44. See also CIVICUS, *State of Civil Society 2013: Creating an Enabling Environment* (Johannesburg: CIVICUS, 2013), [http://socs.civicus.org/wp-content/uploads/2013/04/2013StateofCivilSocietyReport\\_full.pdf](http://socs.civicus.org/wp-content/uploads/2013/04/2013StateofCivilSocietyReport_full.pdf); International Center for Not-for-Profit Law and World Movement for Democracy Secretariat at the National Endowment for Democracy, *Defending Civil Society Report*, 2nd ed. (Washington, DC: World Movement for Democracy, June 2012), [http://www.defendingcivsociety.org/dl/reports/DCS\\_Report\\_Second\\_Edition\\_English.pdf](http://www.defendingcivsociety.org/dl/reports/DCS_Report_Second_Edition_English.pdf).

affordable communication technologies have come to market. Beyond the basic challenges to running a nongovernmental organization (NGO), this phenomenon has several additional modalities affecting citizen bloggers, professional journalists, LGBT activists, and the physical security of human rights defenders.<sup>4</sup> It is not an exaggeration to say that the countermovement is affecting almost everyone in the global community advancing social justice and human rights.

Lateral learning between governments seeking to inhibit the work of human rights activists and civil society more generally is evident. In the last few years, numerous governments have mimicked or simply copied laws that shrink the administrative and legal space in which NGOs work. They make it difficult or impossible to get foreign funding, sometimes the only source of revenue for an organization. They make it administratively difficult to get registered or require that all events and plans be filed ahead of time with the government. They use smear campaigns, labeling organizations “foreign agents” and implying or claiming that organizations are working on behalf of a foreign source, thus calling into question the organization’s loyalty and credibility.<sup>5</sup> This trend occurs even in countries where the government itself relies overwhelmingly on foreign assistance funding to operate.<sup>6</sup>

This issue has consumed human rights defenders in many parts of the world for over a decade, and practitioners inside and outside government increasingly view this phenomenon as an enormous threat to civil society. Despite high-level attention from, among others, the president of the United States and the United Nations, for the larger foreign policy community, closing space is an often overlooked or even unknown threat to peaceful and prosperous development. Yet it has multiple policy ramifications affecting global health, humanitarian assistance, climate change, and conflict prevention. Consider our own history: in the United States, civil society generated change fundamental to our political evolution, from the antislavery movement to women’s rights. Internationally, if Liberia or Guinea had adopted laws that made it difficult or impossible for NGOs to function or receive funding from foreign sources, how would these countries have coped with the Ebola virus? If Kenya adopts such laws, how will the country respond to another famine, and what will the next national election cycle there look like if the hundreds of organizations that helped create citizen demand for a nonviolent election in 2013 no longer exist? The closing of space around civil society merits attention well beyond those who are directly affected.

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<sup>4</sup> Borislav Petranov and Monette Zard, *Keeping Defenders Safe: A Call to Donor Action* (New York: International Human Rights Funders Group, n.d.), [https://ihrfg.org/sites/default/files/Keeping\\_Defenders\\_Safe\\_Report.pdf](https://ihrfg.org/sites/default/files/Keeping_Defenders_Safe_Report.pdf).

<sup>5</sup> Darin Christensen and Jeremy M. Weinstein, “Defunding Dissent: Restrictions on Aid to NGOs,” *Journal of Democracy* 24, no. 2 (April 2013): 77–91; Thomas Carothers and Saskia Brechenmacher, *Closing Space: Democracy and Human Rights Support under Fire* (Washington, DC: Carnegie Endowment for International Peace, 2014), [http://carnegieendowment.org/files/closing\\_space.pdf](http://carnegieendowment.org/files/closing_space.pdf).

<sup>6</sup> Sisay Alemahu Yeshanew, “CSO Law in Ethiopia: Considering Its Constraints and Consequences,” *Journal of Civil Society* 8, no. 4 (December 2012): 373, 378–79.



Why is space closing around civil society, and what can be done about it? CSIS will be exploring these issues in the coming years, helping to form an international consortium of experts and thinkers from think tanks and universities around the world, and especially the Global South. In this essay, drawing on a literature review and on discussions with activists from around the world, five factors that affect closing space—in some cases hastening it, in other cases, helping to keep it at bay—are highlighted and merit extensive, systematic inquiry. These include:

- Business model of dependency on foreign funding;
- Degree to which NGOs are viewed as relevant or legitimate by local populations;
- Success of international or transnational efforts at solidarity to keep space open;
- Increased connectivity of citizens in the digital era; and
- Impact of the post-9/11 security and transnational crime frames.

With more questions than answers at this stage, unpacking this set of issues through the international consortium's research (and no doubt other initiatives) and adopting remedies could help put civil society on a more sustainable course in the twenty-first century. Doing so will, however, require paradigmatic and behavioral change.

## Disrupting the Business Model

Many scholars writing in development journals suggest that closing space correlates with weak links between NGOs, local populations, and the heavy reliance on external sources of funding—with development aid in particular having a negative impact.<sup>7</sup> Fernande Raine argues that “any organization that depends on a narrow number of donors and does not have a broad base of citizen support risks losing touch with the people whom it is trying to serve.”<sup>8</sup> Sisay Alemahu Yeshanew explains restrictive laws, in the case of Ethiopia, as a result of the “accountability deficit” and “constituency-deficit” of NGOs, although acknowledges the severity of the Ethiopian law.<sup>9</sup> Denis Tushabomwe writes of the lack of “accountability” and “authenticity” to justify the NGO laws in Uganda.<sup>10</sup> He adds:

This dependence syndrome [on foreign funding] undermines the independence and internal decision making capacity of NGOs . . . [and] contributes to further weaken

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<sup>7</sup> Masooda Bano, “Dangerous Correlations: Aid’s Impact on NGOs’ Performance and Ability to Mobilize Members in Pakistan,” *World Development* 36, no. 11 (2008): 2297–313; Nicola Banks, David Hulme, and Michael Edwards, “NGOs, States, and Donors Revisited: Still too close for comfort?,” *World Development* 66 (2015): 707–18; Rita Jalali, “Financing Empowerment? How Foreign Aid to Southern NGOs and Social Movements Undermines Grass-Roots Mobilization,” *Sociology Compass* 7, no. 1 (2013): 55–73.

<sup>8</sup> Fernande Raine, “The measurement challenge in human rights,” *Sur* 3, no. 4 (June 2006): 22.

<sup>9</sup> Yeshanew, “CSO Law in Ethiopia: Considering its Constraints and Consequences,” 369, 379.

<sup>10</sup> Denis Tushabomwe, “NGO Accountability in Uganda: Analyzing the Reasons, Challenges, and Remedial Postulates,” *International Journal of Humanities and Social Studies* 2, issue 7 (July 2014): 390–8.

any social bases NGOs may have and makes them not accountable to the communities they serve, or any other domestic constituencies, but to the funder who in most cases are in foreign countries.<sup>11</sup>

Foreshadowing the concerns expressed by the global alliance of civil society leaders, CIVICUS, in 2014, John Clark suggests “shifts in tactics” and argues that civil society is becoming less relevant with a loss of citizen support.<sup>12</sup>

Such observations from a diverse set of scholars leads one to ask: Is the twentieth century business model of Global North (or West) donor supporting Global South (or East) NGO outdated and itself part of the problem driving closing space? To what extent have Global South NGOs largely replicated Global North models of elite-led, capital-based, and mainly legally focused approaches to human rights? What models would be more suited to different contexts? What would a twenty-first-century business model look like? What role does technology and innovation play in both pushing back space and advancing sustainability? Does it make a difference if the funds are from private philanthropy, bilateral donors, or multilateral sources? Is funding from the United Nations seen as more legitimate by governments? Is funding from certain countries, such as the United States, seen as especially problematic or is there no real distinction in source? In cases where external funding has ended or been shut down, what has happened to civil society? In terms of generating domestic sources of philanthropy, what works best? How does an organization build on local conceptions of charity? How do organizations find potential constituents, and what forms of support are people most likely to adopt—in-kind support, financial, and at what level? Does giving help grow connectivity? And what have we learned about crowd sourcing from efforts such as the Skoll Foundation’s global work?

This line of inquiry, in addition to benefiting from the work that has already been done on best practices in generating domestic philanthropy, would combine case studies from specific countries, case studies of experimental efforts, and opinion surveys.<sup>13</sup> Data on both attitudes of civil society leaders as well as the public would help uncover fears, biases, and areas of latent support including attitudes toward human rights, and human rights activists.<sup>14</sup>

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<sup>11</sup> Ibid., 394.

<sup>12</sup> John Clark, “Civil Society in the Age of Crisis,” *Journal of Civil Society* 7, no. 3 (September 2011): 241–63.

<sup>13</sup> This line of inquiry would seek to build on the lessons that the Global Alliance for Community Philanthropy (<http://www.globalfundcommunityfoundations.org/about-the-gacp/>) and the Charles Stewart Mott Foundation’s microsite (<http://cf100.mott.org/key-lessons/>) are advancing.

<sup>14</sup> James Ron, “Closing Space and Human Rights Perception Polls” (presentation at CSIS, Washington, DC, March 2, 2015) cites widespread fear among civil society activists about foreign funding being cut off. CIVICUS’s planned “Civic Pulse” might be a tool to help gauge the willingness of NGO leaders to experiment with domestic efforts at fundraising.



## Broadening Domestic Constituencies

The mood in civil society in many parts of the world is grim. A vivid example of the crisis mentality came in the months before the 2014 International Civil Society Week: CIVICUS and other NGOs signed a letter suggesting the “vision” of human rights embodied in the Universal Declaration “lies in tatters” and that informal movements were deeply challenging the more organized NGOs and calling for a “radical re-haul of civil society.”<sup>15</sup> The fear, to put it bluntly, is that space is closing in part because governments can put restrictions in place with little response or reaction by citizens. (The events in Ukraine in early 2014, the Revolution of Dignity, stand as a stark contrast where the balance of power between then-president Viktor Yanukovich and the society shifted starkly through the efforts of the Euromaidan movement.<sup>16</sup>) This topic, of weak links to local communities, features also in the special edition of *Sur*, the international journal of human rights funded by the United Nations Foundation and the Ford Foundation.<sup>17</sup>

This line of inquiry would test the hypothesis that closing space is a result in some places of a lack of connectivity, legitimacy, and relevance of NGOs to the larger population. Are organizations less vulnerable if they work on issues that either have traction or are framed in ways that resonate with public support? Are certain sectors of the NGO community better at constituent building than others, such as those working on women’s rights or land rights, and how can that knowledge or expertise be transferred between civil society groups? How do the myriad mothers organizations around the world fair? Again, public opinion data offer an intriguing possibility as a tool to understand what citizens think, know, and experience in terms of human rights. The data can be used to help reframe agendas and build up NGO resilience and efficacy. Indeed, public opinion surveys can become a useful tool to increase NGOs’ ties with the populations they are meant to serve through social-marketing campaigns.

Here lies a potential paradigm shift that will be controversial to some and embraced by others: advancing and protecting human rights need not only (or even mainly) be about methodical assessments of governments’ noncompliance with the Universal Declaration of Human Rights that NGOs such as Human Rights Watch have made central to their mandate. However important that approach, organizations ought to also make a robust effort to move rights “from the margins to the mainstream” (to borrow human rights activists Paul Mageean and Martin O’Brien’s phrase about the Good Friday Agreement) in this case by

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<sup>15</sup> “An open letter to our fellow activists across the globe: Building from below and beyond borders,” CIVICUS blog, August 6, 2014, <http://blogs.civicus.org/civicus/2014/08/06/an-open-letter-to-our-fellow-activists-across-the-globe-building-from-below-and-beyond-borders/>.

<sup>16</sup> Sarah E. Mendelson and John R. Harvey, “Responding to Putin’s Plan Post-Crimea,” *CSIS Commentary*, July 24, 2014, <http://csis.org/publication/responding-putins-plan-post-crimea>; Andrew Higgins and Andrew E. Kramer, “Ukraine Leader Was Defeated Even before He Was Ousted,” *New York Times*, January 3, 2015, <http://www.nytimes.com/2015/01/04/world/europe/ukraine-leader-was-defeated-even-before-he-was-ousted.html?ref=europe>.

<sup>17</sup> Interview with Salil Shetty, “‘Human Rights Organizations Should Have a Closer Pulse to the Ground’ Or How We Missed the Bus,” *Sur* 11, no. 20 (June 2014), 531–38.

using large, random-sample surveys of populations' experiences with human rights. Based on my own work with surveys on human rights in Russia, and the work that scholars such as University of Minnesota's James Ron and his team are doing with human rights' perception surveys, this approach seems promising.<sup>18</sup>

The focus on survey data, and ideally, randomized control trials, need not come at the expense of work on human rights issues that are contested or viewed as marginal; on the contrary, to be more effective and to build constituents, data about people's real-life experiences and knowledge of human rights issues can help build support for rights. Certainly in terms of addressing specific human rights abuses, such as combatting human trafficking and modern slavery, the lack of data has been a widely recognized problem in building a truly global movement, as well as in designing effective programs. The 2015 World Development Report puts heavy emphasis on paying "close attention to how humans *actually* think and decide" using survey data rather than just making assumptions in designing development programs.<sup>19</sup> CIVICUS also notes the importance of "public attitudes, trust, tolerance and participation" as elements that help create a healthy "enabling environment" for civil society.<sup>20</sup> With enough demand from activists and supply from social scientists, this work stream has the potential to greatly expand the sharing of survey data on how populations think about rights for use in social-marketing campaigns and randomized control trials drawing on the data.<sup>21</sup>

## Growing International and Transnational Solidarity

While the term "solidarity" has a proud and specific history, it is one that perhaps should be refashioned for the twenty-first century. On some level, it already has; President Obama hosted "Stand with Civil Society" during the high-level week at the United Nations General Assembly in 2013 and 2014 and issued a Presidential Memorandum directing a number of US government agencies, well beyond the U.S. Agency for International Development (USAID) and the State Department, to increase engagement with civil society around the world and push back when repressive measures are taken. The 2015 US National Security Strategy addresses the issue of restrictions on civil society, and the United Nations adopted a resolution on the issue in 2013 and 2014.<sup>22</sup> Numerous organizations are meeting to discuss

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<sup>18</sup> Sarah E. Mendelson and Theodore P. Gerber, "Activist Culture and Transnational Diffusion: An Experiment in Social Marketing among Human Rights Groups in Russia," *Post-Soviet Affairs* 23, no. 1 (January-March 2007): 50–75; James Ron, David Crow, and Shannon Golden, "The struggle for truly grassroots human rights movement," Open Democracy.net, November 18, 2014, and for the expanded article, see Ron, Crow, and Golden "Human Rights Familiarity and Socio-Economic Status: A Four-Country Study," *Sur* 11, no. 20 (June 2014), <http://conectas.org/en/actions/sur-journal/issue/20/1007335-human-rights-familiarity-and-socio-economic-status-a-four-country-study?secao=15>.

<sup>19</sup> World Bank, *World Development Report 2015: Mind, Society, and Behavior* (Washington, DC: World Bank, 2015), 3 and chapter 10, <http://www.worldbank.org/content/dam/Worldbank/Publications/WDR/WDR%202015/WDR-2015-Full-Report.pdf>.

<sup>20</sup> CIVICUS, *State of Civil Society 2013*.

<sup>21</sup> Mendelson, "Dark Days for Civil Society."

<sup>22</sup> White House Office of the Press Secretary, "Remarks by President Obama at Civil Society Roundtable," September 23, 2013, <http://www.whitehouse.gov/the-press-office/2013/09/23/remarks-president-obama-civil-society-roundtable>; White House Office of the Press Secretary, "Remarks by the President at Clinton Global

restrictions around civil society including but not limited to the International Human Rights Funders Group, the Organization for Security and Cooperation in Europe (OSCE)-wide NGO coalition “Civic Solidarity Platform,” the Community of Democracies in collaboration with numerous convenings of the UN Special Rapporteur on freedoms of peaceful assembly, the Open Government Partnership, and the Global Forum 2015 organized by ICNL.

To date, however, there has been no systematic inquiry into what impact international or transnational solidarity has on state behavior or NGO advocacy. We do not have a sense of what works best in terms of constructive international engagement or rapid response. Anecdotal evidence suggests that efforts to stop NGO laws in Cambodia, Kenya, and South Africa were at different times effective. If so, why? Was it the result of local advocacy or did international efforts play a role? More broadly, how widely and coherently is closing space understood across and within governments; are parts of governments talking positively about civil society and others delivering negative messages? Are there international (religious, cultural) figures that need to mobilize to make the case that closing space is a threat to peace and prosperity? When are quiet diplomatic efforts better than public ones? How can we grow more international solidarity around this issue, especially with regard to some of the worst cases, such as Russia, where the lives of activists are at stake? In such cases, is asylum, also a concept from earlier eras now enshrined as a right in the Universal Declaration (or in laypersons terms, exile), actually a strategy that activists and donors should deliberately pursue in instances to help preserve civil society in the most extreme cases? Does exposing the lateral learning by governments make any difference? Are there examples of twenty-first-century social-media campaigns that have been tried or worked? For this work stream, case studies are needed including interviewing policymakers and process tracing decisionmaking. The consumers of the findings will be the many governments concerned about the destabilizing effects of closing space around civil society, as well as civil society organizations working to keep space open.

## Examining the Open Agenda and Closing Space

In a sense, the digital era has disrupted the power balance between state and citizens, and has made sovereignty more elastic. This pattern is, again, most evident in Russia; Putin views the Internet as a “CIA project.” Innovators such as Pavel Durov who created the Russian version of Facebook, *VKontakte*, have fled Russia, but other countries such as Egypt, Tunisia, Turkey, and China have at various times restricted Internet access as an

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Initiative,” September 23, 2014, <http://www.whitehouse.gov/the-press-office/2014/09/23/remarks-president-clinton-global-initiative>; White House Office of the Press Secretary, “Presidential Memorandum—Civil Society,” September 23, 2014, <http://www.whitehouse.gov/the-press-office/2014/09/23/presidential-memorandum-civil-society>; White House, *National Security Strategy, February 2015* (Washington, DC: White House, February 2015), [http://m.whitehouse.gov/sites/default/files/docs/2015\\_national\\_security\\_strategy\\_2.pdf](http://m.whitehouse.gov/sites/default/files/docs/2015_national_security_strategy_2.pdf); UN Human Rights Council, “Civil society space: creating and maintaining, in law and in practice, a safe and enabling environment,” HRC/RES/24/21, October 9, 2013, <http://www.ishr.ch/sites/default/files/article/files/g1317957.pdf>; UN Human Rights Council, “Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development,” A/HRC/27/L.24, September 23, 2014, [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/HRC/27/L.24](http://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/27/L.24).

element of closing space.<sup>23</sup> Power seems fluid, if not shifting.<sup>24</sup> *New York Times* columnist Tom Friedman goes so far as to claim “we’re in the midst of a Gutenberg-scale change in how information is generated, stored, shared, protected and turned into products and services. We are seeing individuals become superempowered to challenge governments and corporations.”<sup>25</sup> That power shift has many governments hostile to civil society, fearful of greater transparency revealing ill-gotten gains by corrupt government officials.<sup>26</sup> Not surprisingly, activists also trace a decline in Internet freedom.<sup>27</sup>

If state sovereignty and power are shifting, it is enabled not only by information technology but an organic, widespread demand for greater government transparency. Referred to as “open government,” this agenda has traversed the globe, migrating from Brazil to Indonesia, from Mexico to South Africa, and most recently, to Ukraine. Initiatives such as the “Open Government Partnership” (OGP) launched by President Barack Obama and Brazilian President Dilma Rousseff in September 2011 with 8 countries and growing by 2015 to 65, are emblematic of the energy emanating from this movement.

Given the global trends, systematic inquiry needs to be conducted into the relationship and tensions between opening and closing agendas. While there may be a symbiotic relationship between open government and closing space, to date, the open government community has had relatively few connections with the human rights community, to the detriment of both.<sup>28</sup> To date, there is a lack of congruity on key terms such as transparency

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<sup>23</sup> Danny Hakim, “Once Celebrated in Russia, the Programmer Pavel Durov Chooses Exile,” *New York Times*, December 2, 2014, <http://www.nytimes.com/2014/12/03/technology/once-celebrated-in-russia-programmer-pavel-durov-chooses-exile.html>; Vindu Goel and Andrew E. Kramer, “Web Freedom Is Seen as a Growing Global Issue,” *New York Times*, January 1, 2015, <http://www.nytimes.com/2015/01/02/business/international/web-freedom-is-seen-to-be-growing-as-a-global-issue-in-2015.html>; Andrew Jacobs, “China Further Tightens Grip on the Internet,” *New York Times*, January 29, 2015, <http://www.nytimes.com/2015/01/30/world/asia/china-clamps-down-still-harder-on-internet-access.html>.

<sup>24</sup> Moisés Naím, *The End of Power: From Boardrooms to Battlefields and Churches to States, Why Being in Charge Isn’t What It Used to Be* (New York: Basic Books, 2013). For an earlier argument on the rise of global civil society as a cause of the power shift, see Jessica T. Mathews, “Power Shift,” *Foreign Affairs* 76, no. 1 (January/February 1997), <http://www.foreignaffairs.com/articles/52644/jessica-t-mathews/power-shift>; and Margaret E. Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics* (Ithaca, NY: Cornell University Press, 1998), for the power of transnational advocacy networks.

<sup>25</sup> Thomas L. Friedman, “Time for a Pause,” *New York Times*, January 6, 2015, <http://www.nytimes.com/2015/01/07/opinion/thomas-friedman-time-for-a-pause.html?rref=collection%2Fcolumn%2Fthomas-l-friedman>.

<sup>26</sup> Darin Christensen and Jeremy M. Weinstein, “Defunding Dissent: Restrictions on Aid to NGOs,” *Journal of Democracy* 24, no. 2, (April 2013): 77–91. These authors also find evidence that there is some correlation between anti-American sentiment and closing space.

<sup>27</sup> For a discussion of “Internet freedom” versus “Internet restriction,” see Jaclyn Kerr, “The Digital Dictator’s Dilemma: Internet Regulation and Political Control in Non-Democratic States,” Social Science Seminar Series, Center for International Security and Cooperation (CISAC), Stanford University, October 16, 2014, [http://cisac.fsi.stanford.edu/sites/default/files/kerr\\_-\\_cisac\\_seminar\\_-\\_oct\\_2014\\_-\\_digital\\_dictators\\_dilemma.pdf](http://cisac.fsi.stanford.edu/sites/default/files/kerr_-_cisac_seminar_-_oct_2014_-_digital_dictators_dilemma.pdf); and Sanja Kelly et al., “Tightening the Net: Governments Expand Online Controls,” Freedom House, 2014, <https://freedomhouse.org/report/freedom-net/2014/tightening-net-governments>.

<sup>28</sup> There are signs this may be changing; during the 2014 OGP regional summit in Costa Rica, Mexican NGOs protested the disappearance of 43 students in Ayotzinapa, elevating attention to human rights. Zara Rahman, writing about the protest, lamented that “there is very little placing of open government within a rights based framework.” See Zara Rahman, “Reflections from the OGP Americas Summit,” blog, November 16, 2014, <http://zararah.net/blog/2014/11/16/ogp-americas-summit/>. The focus on open data in the extractives industry is one area in which human rights organizations have partnered with transparency groups.

and accountability.<sup>29</sup> When human rights activists or scholars of human rights are talking about data, often they are referring to compliance with or lack thereof with treaties or laws protecting rights. Much of the “data” is actually culled from qualitative human rights monitoring reports.<sup>30</sup> On the other hand, to the extent that the open government movement problematizes data, it is mainly about recognizing that governments are unable to keep up with the massive amounts of data now generated daily, and citizens can also have trouble understanding, accessing, and using the data governments are sharing.

Are there conditions under which increased citizen demand and lawful release of government data have unintended negative consequences, and if so, how do we anticipate these and handle risk for rights activists?<sup>31</sup> Conversely, are there types of data that can help mitigate these risks for NGOs and become a potential source of resilience and robustness? A definitive consideration of the different forces driving closing space, and what role (if any) data transparency plays will be answered over the next several years with an international consortium examining responses and remedies to closing space. If such a tension exists, how widespread is it? How many sectors of NGOs are affected?

The working hypothesis advanced for this line of inquiry begins with the premise that closing space occurs for different reasons in different contexts. The open government trend may have had an impact on closing space in some contexts insofar as the movement has elevated the power of citizens and allows people access to information in real-time. Where governments are interested in greater empowerment of citizenry, there is no (or relatively little) negative consequence for human rights or other civil society organizations. But in places where the government is deeply threatened by exposure, where authorities view greater access to information and increased transparency as a threat to their sovereignty (and are in danger of being exposed as corrupt), this trend has been met with a countertrend, with a backlash, and a closing of space.

The trend of closing space has become so pervasive that the OGP Steering Committee, after some initial opposition, has had to formally acknowledge it. Importantly, in September 2014, the OGP adopted a “Response Policy”:

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<sup>29</sup> Thomas Carothers and Saskia Brechenmacher, *Accountability, Transparency, Participation, and Inclusion: A New Development Consensus?* (Washington, DC: Carnegie Endowment for International Peace, October 2014), [http://carnegieendowment.org/files/new\\_development\\_consensus.pdf](http://carnegieendowment.org/files/new_development_consensus.pdf).

<sup>30</sup> See Emilie M. Hafner-Burton and James Ron, “Seeing Double: Human Rights Impact through Qualitative and Quantitative Eyes,” *World Politics* 61, no. 2 (April 2009): 360–401. These authors make the case that qualitative case studies yield more favorable findings than do quantitative studies, and that the quantitative work is based on coding from qualitative State Department and Amnesty International reports. State Department reports in particular are based on reporting from political officers in embassies around the world and not statistics. On p. 380, the authors note these reports may be self-referential. Note also there is a rich discussion among activists about the need for more data and better measurement in human rights work. See, for example, Fernande Raine, “The measurement challenge in human rights,” *Sur* 3, no. 4 (2006): 7–30.

<sup>31</sup> Tiago Peixoto, “Does Transparency Lead to Trust? Some evidence on the subject,” *Democracy Spot*, June 19, 2013, [www.democracyspot.net/2013/06/19/does-transparency-lead-to-trust-some-evidence-on-the-subject/](http://www.democracyspot.net/2013/06/19/does-transparency-lead-to-trust-some-evidence-on-the-subject/). See also Ronald Deibert and Rafal Rohozinski, “Liberation vs. Control: The future of cyberspace,” *Journal of Democracy* 21, no. 4 (October 2010): 43–57.

[The Open Government] Declaration includes a commitment to “protecting the ability of not-for-profit and civil society organizations to operate in ways consistent with our commitment to freedom of expression, association, and opinion.” In addition, OGP’s theory of change in the 2015–18 strategy document highlights the importance of having an engaged civil society with the space to participate and influence National Action Plans.<sup>32</sup>

The Response Policy allows for the possibility that governments that do not comply with norms and values concerning the importance of civil society enshrined in the Open Government Declaration could be asked to leave OGP. Advocates and adversaries of the open agenda will closely watch how this policy is implemented.

## Addressing Transnational Crime and Security Frames

Governments are generating laws that impede the work of civil society by citing imperatives to stem transnational crime such as money laundering, and security reasons such as counterterrorism. This line of inquiry would examine the use and abuse of criminal and counterterrorism policies that close space for civil society actors. Governments have a responsibility to protect citizens, and there are concerns that some individuals or organizations have used NGOs to transfer illicit flows. How can legitimate and lawful civil society protect itself and distinguish itself from nefarious activity? Is a more active dialogue with the government or greater transparency concerning funding sources an answer? Is there a reasonable response from reputable NGOs that can help address government concerns such as generating codes of conduct? How do more adversarial strategies play out such as strategic litigation? These are highly contested issues with some governments using laws to constrain what would be considered elsewhere to be protected, legitimate oppositional struggle. In places where the government clearly uses the security threat as a cover for larger, anti-liberal sentiments, what are possible solutions for NGOs? How frequently are governments using the national security or criminal frame to cut off foreign funding that poses no threat beyond exposing poor records of governance? What role has the Financial Action Task Force (FATF), a highly influential intergovernmental organization, played in enabling some governments to close space as it develops recommendations concerning money laundering and counterterrorist financing?<sup>33</sup> Case studies are most likely needed for this effort as well as engaging a range of international experts with backgrounds on counterterrorism and illicit financial flows.

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<sup>32</sup> Joe Powell, “OGP Steering Committee Agrees New Response Policy,” Open Government Partnership (blog), October 27, 2014, <http://www.opengovpartnership.org/blog/joe-powell/2014/10/27/ogp-steering-committee-agrees-new-response-policy>.

<sup>33</sup> See Financial Action Task Force (FATF), *Risk of Terrorist Abuse in Non-Profit Organisations* (Paris: FATF, June 2014), <http://www.fatf-gafi.org/media/fatf/documents/reports/Risk-of-terrorist-abuse-in-non-profit-organisations.pdf>. See also the work of the Charity and Security Network addressing these issues available at [www.charityandsecurity.org](http://www.charityandsecurity.org).

## In Summary

This essay has laid out numerous factors that contribute to the closing of space around civil society and that require systematic inquiry. Largely overlooked by the broader foreign policy community, civil society in many parts of the world is imperiled. The stakes are high and likely require paradigmatic and behavioral shifts to build resilience and grow local support to stop the trend. The answers to the questions raised in the essay necessitate exploration by an international collective of experts in different contexts and with varying methodologies. Such a consortium would be focused on understanding what motivates and enables states to close space and what specific remedies might be tried, including identifying the conditions under which having more (and which types of) data could help human rights organizations build domestic constituencies.<sup>34</sup> This essay has considered whether it is possible to identify cases where citizens empowered by data have actually stimulated a backlash by governments and how to anticipate or mitigate such conditions. It argues for the elevated use of public opinion survey data as a tool to increase the connectivity of NGOs to the populations they are meant to serve as well as to help generate new sources of funding including domestic ones. In making this argument, the essay elevates the role that social scientists would need to play, working with NGOs to undertake large, random-sample surveys but leaves plenty of room for case studies, tracing of decisions, and other qualitative methodologies that explore which international efforts at solidarity have proven most effective at keeping space open for civil society, and what governments are doing in the name of security that inadvertently or intentionally negatively affect NGOs.

Together, these various lines of inquiry provide a rich, new agenda that if addressed can help generate remedies to improve the conditions under which citizens organize in support of human rights. While the immediate environment is challenging in many parts of the world, new paradigms and changes in behavior may actually dramatically broaden constituencies for human rights, ultimately strengthening the movement. And while social science is invoked throughout the essay, these issues are hardly academic. If new approaches are adopted, the twenty-first century might eventually be better known as the rights era rather than the era of closing space around civil society. If not, the late twentieth century may in retrospect be viewed as the zenith of civil society's influence. Either way, as both the White House and the United Nations have realized, what's at stake goes well beyond civil society and human rights activists: closing space around civil society threatens peaceful and prosperous development.

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<sup>34</sup> This approach differs from previous studies that have looked at what data say about how well human rights standards are being applied. See Hafner-Burton and Ron, "Seeing Double: Human Rights Impact through Qualitative and Quantitative Eyes."









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